

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
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Nancy L. Lancaster, Managing Editor

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.

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

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

Office of Administrative Rules, Salt Lake City 84114

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# SPECIAL NOTICES

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## Environmental Quality Air Quality

### Notice of Public Comment for Wildfire Exceptional Events on August 6 - 7, 2017

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

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

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

<u>Monitoring Station</u>	<u>Date</u>	<u>PM2.5 microgram/m3</u>	<u>Standard microgram/m3</u>
Smithfield	08/06/2017	40.6	35
	08/07/2017	39.6	35

The documentation for public review and comment to support removing these data from use in regulatory determinations will be available beginning October 1, 2017 at: <https://deq.utah.gov/ProgramsServices/programs/air/exceptionalevents/index.htm> or at the Multi Agency State Office Building, 195 North 1950 West in Salt Lake City.

In compliance with the American with Disabilities Act, individuals with special needs (including auxiliary communicative aids and services) should contact Brooke Baker, Office of Human Resources at 801-536-4412 (TDD 536-4414).

*The comment period will close at 5:00 p.m. on November 1, 2017. Comments postmarked on or before that date will be accepted. Comments may be submitted by electronic mail to [jkarmazyn@utah.gov](mailto:jkarmazyn@utah.gov) or may be mailed to:*

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

**Environmental Quality  
Air Quality**

**Notice of Public Comment for Fireworks Exceptional Events on July 4, 2017**

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

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

Federal regulations (40 CFR Part 50.14) require that all relevant flagged data, the reasons for the data being flagged, and a demonstration that the flagged data are caused by exceptional events be made available by the State for 30 days of public review and comment. These comments will be considered in the final demonstration of the event that is submitted to EPA. The following monitored values have been attributed to exceptional events:

1. July 4, 2017, Ogden Monitor Station, 77.3 microgram/m<sup>3</sup> PM<sub>2.5</sub> (Due to Firework Display Emissions)
2. July 4, 2017, Lindon Monitor Station, 46.6 microgram/m<sup>3</sup> PM<sub>2.5</sub> (Due to Firework Display Emissions)
3. July 4, 2017, Rose Park Monitor Station, 37.8 microgram/m<sup>3</sup> PM<sub>2.5</sub> (Due to Firework Display Emissions)

The documentation to support removing this data from use in regulatory determinations will be available by October 1 for public review and comment. It can be viewed at: <https://deq.utah.gov/ProgramsServices/programs/air/exceptionalevents/index.htm> or at the DEQ Building located at 195 North 1950 West in Salt Lake City.

In compliance with the American with Disabilities Act, individuals with special needs (including auxiliary communicative aids and services) should contact Sharyn Dobson, Office of Human Resources at 801-536-4281 (TDD 536-4281).

*The comment period will close at 5:00 p.m. on November 1, 2017. Comments postmarked on or before that date will be accepted. Comments may be submitted by electronic mail to [Jkarmazyn@utah.gov](mailto:Jkarmazyn@utah.gov) or may be mailed to:*

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

**End of the Special Notices Section**



# EXECUTIVE DOCUMENTS

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

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

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## Calling the Sixty-Second Legislature Into the First Special Session, Utah Proclamation No. 2017-1S

### PROCLAMATION

**WHEREAS**, since the adjournment of the 2017 General Session of the Sixty-second Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

**WHEREAS**, Article VII, Section 6 of the Constitution of the State of Utah provides that the Governor may, by proclamation, convene the Legislature into Special Session;

**NOW, THEREFORE**, I, Gary R. Herbert, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and the laws of the State of Utah, do by this Proclamation call the Sixty-second Legislature of the State of Utah into a First Special Session at the Utah State Capitol, in Salt Lake City, Utah, on the 20th day of September 2017, at 2:00 p.m., to consider the following:

1. The clarification of the statutory authority of municipalities to close class C roads for specified reasons;
2. The approval of the proposed settlement of Utah Department of Transportation's SR-92 litigation with the Flatiron/Harper Joint Venture;
3. The authorization and implementation of a transfer of unused prior year funds from the Department of Corrections to the General Fund and from the General Fund to the Department of Workforce Services for the purpose of supporting Operation Rio Grande; and
4. The modification, consistent with audit findings, of requirements related to the Department of Transportation's imposition of fines for overweight vehicles in Utah Code Section 72-7-404.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the Utah State Capitol in Salt Lake City, Utah, this 15th day of September 2017.

(Seal)

**Gary R. Herbert**  
Governor

ATTEST:

**Spencer J. Cox**  
**Lieutenant Governor**

2017/1/S

**End of the Executive Documents Section**

## NOTICES OF PROPOSED RULES

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A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between September 02, 2017, 12:00 a.m., and September 15, 2017, 11:59 p.m. are included in this, the October 01, 2017, issue of the *Utah State Bulletin*.

In this publication, each **PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **PROPOSED RULE** is usually printed. New rules or additions made to existing rules are underlined (*example*). Deletions made to existing rules are struck out with brackets surrounding them (*[example]*). Rules being repealed are completely struck out. A row of dots in the text between paragraphs (. . . . .) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not usually printed. If a **PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of each rule that is too long to print is available from the filing agency or from the Office of Administrative Rules.

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least October 31, 2017. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through January 29, 2018, 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.

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

**Commerce, Occupational and  
Professional Licensing  
R156-26a  
Certified Public Accountant Licensing  
Act Rule**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 42082

FILED: 09/12/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule filing is to make the following changes recommended by the Utah Board of Accountancy: 1) change the reporting system for continuing professional education (CPE) from a manual to an online process; 2) remove the prorated CPE requirement for the first renewal period following initial licensure or reinstatement of licensure; 3) define carryover of CPE hours; 4) incorporate the newest "Standards for Performing and Reporting on Peer Reviews" promulgated 04/01/2017, by the AICPA (American Institute of Certified Public Accountants); 5) incorporate the updated AICPA Code of Professional Conduct, as revised, effective 12/15/2014; 6) align the CPE reporting period with the license renewal deadline, so that both end on December 31 of even years; and implement this new date by: a) extending the current renewal date from 09/30/2018 to 12/31/2018 and requiring renewal on December 31 of even years thereafter; and b) prorating the CPE hours required for the first renewal period after implementation; and 7) make nonsubstantive technical changes throughout the rule to reorganize and renumber the rule for clarity.

**SUMMARY OF THE RULE OR CHANGE:** In Subsection R156-26a-303a(5), this proposed amendment incorporates the newest "Standards for Performing and Reporting on Peer Reviews" promulgated 04/01/2017 by the AICPA to be utilized when conducting peer reviews. These standards are available online at <http://www.aicpa.org>. In Subsection R156-26a-303b(2)(a), these proposed amendments: 1) increase the CPE requirement from 80 to 120 hours for the reporting period ending on 12/31/2018 to accommodate the three-year reporting period following implementation and the effective date of the adopted rule; 2) eliminate CPE from being required at the first renewal after initial licensure; and 3) make formatting changes for clarification. In Subsection R156-26a-303b(5), this proposed amendment changes the CPE reporting period from January 31 of even-numbered years to December 31 of even-numbered years, in order to align the CPE reporting period with the license renewal deadline. In Subsection R156-26a-303b(8)(a), first, these proposed amendments remove the CPE requirement of 10 hours per calendar quarter for individuals who become licensed or certified between renewal periods. Second, these proposed

amendments provide an implementation period for discontinuing the existing September 30 CPE reporting date, and instituting the new December 31 reporting date, by: 1) extending all license renewal dates from 09/30/2018 to 12/31/2018; and 2) extending the first CPE reporting deadline from 12/31/2017 to 12/31/2018 and allowing all CPE hours completed from 12/31/2015 through 12/31/2018 to be carried forward to the 12/31/2018 reporting period. In Subsection R156-26a-303b(8)(b), this proposed amendment further defines the CPE carry forward provision to include that any CPE hours carried forward from the previous reporting period shall qualify as CPE hours only for the current reporting period. In Subsection R156-26a-303b(8)(c), this proposed amendment deletes unnecessary language for better comprehension, and deletes the extra "penalty" CPE hour requirement for licensees who do not timely complete their minimum required CPE. New language states that a licensee who does not complete the CPE requirement will be unable to renew their license until the CPE has been completed and reported. In Subsection R156-26a-303b(8)(d), this proposed amendment mandates online CPE reporting on the Division website to streamline the reporting process for licensees and the Division. In Section R156-26a-307, this proposed amendment deletes the provision for prorated CPE hours per full calendar quarter remaining in the current CPE renewal period after reinstatement. Minor formatting changes are made for clarification. In Section R156-26a-501, this proposed amendment incorporates the updated AICPA "Code of Professional Conduct", as revised, effective 12/15/2014 which defines Unprofessional Conduct. These standards are available online at <http://www.aicpa.org>.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 58-26a-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

**MATERIALS INCORPORATED BY REFERENCE:**

- ◆ Updates AICPA Standards for Performing and Reporting on Peer Reviews, published by American Institute of Certified Public Accountants (AICPA), April 1, 2017
- ◆ Updates AICPA Code of Professional Conduct, published by American Institute of Certified Public Accountants (AICPA), December 15, 2014

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** The following proposed changes will have a fiscal impact on the state budget: first, the changes to Subsection R156-26a-303b(8)(d) mandating online reporting will require an online reporting system to be created to accommodate the process for CPA licensees. This system will be created by the IT staff of the Department of Commerce. The cost estimate includes 100 hours of staff time at a billing rate of \$77.58/hour, for a one-time cost to the Division of \$7,758. There will also be substantial ongoing savings to the Division with these proposed changes. The current rule requires the Division to manually audit and upload the CPE record of each CPA licensee. This requires

approximately five minutes per CPA license in each two-year reporting period. There are approximately 5,200 licensees which results in approximately 433 staff hours to process the CPE records. At an average staff rate of \$27/hour based on an estimated \$18/hour employee auditor wage and the cost of employment taxes and benefits, these changes will result in an ongoing savings to the Division of \$11,691 each two-year period. Second, the proposed changes to Rule R156-26a will necessitate written notification to all licensees. Currently, there are approximately 5,200 CPA licensees and 670 CPA firms. At a printing/ mailing cost of \$1 per licensee, this will be a one-time cost of \$5,870. Third, the proposed amendments extending the renewal period one time from 09/30/2018 to 12/31/2018 may result in a one-time cost to the Division from license fee reductions. Each CPA firm may realize a 25% or \$13 license fee reduction on a one-time basis; with approximately 670 licensed CPA firms, this could amount to a potential maximum of \$8,710 in savings for these businesses, with a corresponding cost to the state. Similarly, each licensed CPA may realize a 25% or \$15.75 license fee reduction on a one-time basis, and with approximately 5,200 licensed CPAs, this could amount to a potential maximum of \$81,900 in savings for these CPAs, with a corresponding cost to the Division. However, the exact amount of this potential one-time cost cannot be determined as it will vary depending on circumstances. The cost will only reach these maximum estimates if every single licensee utilizes the three-month extension and then renews their license, and not all licensees are expected to do so. Finally, the Division will also incur minimal costs of \$75 to print and distribute the rule once the proposed rule becomes effective. The Division will not incur any costs resulting from incorporating the AICPA's "Standards for Performing and Reporting on Peer Reviews" promulgated 04/01/2017 or the AICPA's "Code of Professional Conduct", as revised, effective 12/15/2014, because both of these standards are available online at <http://www.aicpa.org>.

◆ **LOCAL GOVERNMENTS:** This rule change does not affect local governments, nor will it require any services from local governments; therefore, there will be no cost impact on local governments.

◆ **SMALL BUSINESSES:** The proposed changes to Rule R156-26a will provide a minimal cost savings to those small businesses who are licensed in Utah as a CPA (certified public accountant) firm. With the initial extension of the renewal period from 09/30/2018 to 12/31/2018 each CPA firm may realize a 25% or \$13 license fee reduction on a one-time basis. The Division does not track the size of a CPA firm for licensing purposes. With approximately 670 licensed CPA firms, this savings could amount to an aggregate maximum of \$8,710 in savings for businesses, if every licensed firm utilizes the three-month extension and then renews the firm's license. The Division estimates that all other changes to the rule will have no other cost effect on small businesses or businesses of any size. Those businesses who provide CPA services will continue to provide services at the same pricing schedule regardless of when the CPAs and/or CPA firms report their CPE hours and renew their licenses. On the other side of the coin, those businesses who utilize CPA services will continue to receive services at the same pricing

schedule they are currently experiencing, regardless of when the CPAs and/or CPA firms report their CPE hours and renew their licenses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Proposed changes to Rule R156-26a may provide some cost savings for individual CPA licensees. With the initial extension of the renewal period from 09/30/2018 to 12/31/2018 each CPA may realize a 25% or \$15.75 license fee reduction on a one-time basis. With approximately 5,200 licensed CPAs, this savings could amount to an aggregate maximum savings of \$81,900 for these other persons, if every CPA utilizes the three-month extension and then renews their license. Additionally, the proposed changes will also result in a cost savings to CPAs who obtain initial licensure during any renewal cycle. It provides an exemption of the CPE requirement for the first renewal after their initial licensure. Currently, the requirement prorates the CPE to 10 hours per calendar quarter for partial two-year renewal periods following initial licensure or reinstatement. This change results in a cost savings of approximately \$20/CPE hour and would have a potential savings impact between \$200 and \$1,200 per new/reinstated licensee, realized at the time of the first renewal, based upon date of initial licensure or reinstatement.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The proposed changes to Rule R156-26a will have no other cost effect on individuals. Those individuals who utilize CPA services will continue to receive services at the same pricing schedule they are currently experiencing, regardless of when the CPAs or CPA firms report their CPE hours and renew their licenses.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The proposed amendments to Rule R156-26a change certain matters relating to continuing professional education (CPE) for certified public accountants, and the reporting of the CPE. Reporting is now to be made online; the reporting period is now to end on December 31st of each even year; and the rule incorporates the newest "Standards for Performing and Reporting on Peer Review", effective 04/01/2017 and the updated AICPA "Code of Professional Conduct", effective 12/15/2014. None of these rule changes will increase any costs to small businesses. A one time insignificant (\$13) windfall of savings will accrue to each accounting firm whose reporting period is changed by the rule from September 30th to December 31st.

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:

◆ Robyn Barkdull by phone at 801-530-6727, by FAX at 801-530-6511, or by Internet E-mail at rbarkdull@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/31/2017

## INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 10/04/2017 01:30 PM, Heber Wells Bldg, 160 E 300 S, Conference Room 402 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2017

AUTHORIZED BY: Mark Steinagel, Director

**R156. Commerce, Occupational and Professional Licensing.****R156-26a. Certified Public Accountant Licensing Act Rule.****R156-26a-303a. Renewal Requirements - Peer Review.**

## (1) General.

In accordance with Subsections 58-1-308(3)(b) and 58-26a-303(2)(b), there is created a peer review requirement as a condition for renewal of licenses issued under the Certified Public Accountant Licensing Act, providing for review of the work products of CPA and CPA firm licensees.

(a) The purpose of the program is to monitor compliance with professional standards.

(b) The program shall emphasize education and may include other remedial actions when non-compliance is found.

(c) If a licensee is unwilling or unable to comply with or intentionally disregards professional standards, the administering organization shall refer the matter to the Division for consultation and determination of appropriate action.

## (2) Scheduling of the Peer Review.

(a) A firm's initial peer review shall be assigned a due date to require that the initial review be started no later than 18 months after the date of the issuance of its initial report as defined in Subsection 58-26a-102(20).

(b) Not less than once in each three years a firm engaged in the practice of public accounting shall undergo, at its own expense, a peer review commensurate in scope with its practice.

(c) The administering organization will assign the year of review.

(d) A portion of the peer review may be performed by a regulatory body if the Utah Board of Accountancy approves the regulatory body as an administering organization. This does not by itself satisfy the peer review requirement unless the other standards as specified in this rule are fulfilled by the regulatory body.

(3) Selection of a Peer Reviewer or inspector in the case of inspections mandated by law or regulatory bodies.

A firm scheduled for peer review shall engage a reviewer qualified to conduct the peer review. Regulatory bodies will assign inspectors.

## (4) Qualifications of a Peer Reviewer and inspectors.

(a) Peer reviewers must provide evidence of one of the two following minimum qualifications to the administering organization:

(i) acceptance as a peer reviewer by the AICPA; or  
(ii) compliance with the qualifications required by the AICPA to qualify as a peer reviewer.

(b) Peer reviewers must be licensed or hold a permit to practice as a CPA in the state of Utah or another state or jurisdiction of the United States.

(c) The administering organization will approve reviewers for those reviews not administered by the AICPA.

(d) Regulatory bodies will determine the qualifications of inspectors.

(5) Conduct of the Peer Review or inspection. Peer reviews shall be conducted as follows:

(a) Peer reviews shall be conducted according to the "Standards for Performing and Reporting on Peer Reviews" promulgated by the AICPA, effective [~~January 1, 2009~~] April 1, 2017 as amended, which are hereby incorporated by reference and adopted as the minimum standards for peer reviews of all firms. This section shall not require any firm or licensee to become a member of the AICPA or any administering organization.

(b) The Utah Board of Accountancy may review the standards used by the regulatory body to determine if those standards are sufficient to satisfy all or part of the peer review requirements, or what additional review may be required to meet the peer review requirements under this rule.

(6) If an administering organization finds that a peer review was not performed in accordance with this rule or the peer review results in a pass with deficiencies or fail report, the Peer Review Committee may require remedial action to assure that the review or performance of the CPA or CPA firm being reviewed meets the objectives of the peer review program.

## (7) Review of Multi-State Firms.

(a) With respect to a multi-state firm, the Division may accept a peer review based solely upon work conducted outside of this state as satisfying the requirement to undergo peer review under this rule, if:

(i) the peer review is conducted during the year scheduled or rescheduled under R156-26a-303a(2);

(ii) the peer review is performed in accordance with requirements equivalent to those of this state;

## (iii) the peer review:

(A) studies, evaluates and reports on the quality control system of the firm as a whole in the case of system reviews; or

(B) results in an evaluation and report on selected engagements in the case of engagement reviews;

(iv) the firm's internal inspection procedures require that the firm's personnel from another office outside the state perform the inspection of the office located in this state not less than once in each three year period; and

(v) at the conclusion of the peer review, the peer reviewer issues a report equivalent to that required by R156-26a-303a(5) or in the case of an approved regulatory body, a report is issued under their standards.

(b) A multi-state firm seeking approval under R156-26a-303a(7)(a) shall submit an application to the administering organization by February 1 of the year of review establishing that the peer review it proposes to undergo meets all of the requirements of R156-26a-303a(5).

(8) A firm which does not perform services encompassed in the scope of minimum standards as set out in R156-26a-303a(5)

(a) or (b) is exempt from peer review and shall notify the Division of Occupational and Professional Licensing of the exemption at the time of renewal of its registration. A firm which begins providing these services must commence a peer review within 18 months of the date of the issuance of its initial report as defined in Subsection 58-26a-102(16).

(9) Mergers, Combinations, Dissolutions or Separations.

(a) Mergers or combinations: In the event that two or more firms are merged or sold and combined, the surviving firm shall retain the year of review of the largest firm.

(b) Dissolutions or separations: In the event that a firm is divided, the new firms shall retain the year of review of the former firm. In the event that this period is less than 12 months, a new year shall be assigned so that the review occurs after 12 months of operation.

(c) Upon application to the administering organization and a showing of hardship caused solely by compliance with R156-26a-303a(10), the Division may authorize a change in a firm's year of review.

(10) If the firm can demonstrate that the time established for the conduct of a peer review will create an unreasonable hardship upon the firm, the Division may approve an extension not to exceed 180 days from the date the peer review was originally scheduled. A request for extension shall be addressed in writing by the firm to the Division with a copy to the administering organization responsible for administration of that firm's peer review. The written request for extension must be received by the Division and the administering organization not less than 30 days prior to the date of scheduled review or the request will not be considered. The Division shall inform the administering organization of the approval of any extension.

(11) Retention of Documents Relating to Peer Reviews.

(a) All documentation necessary to establish that each peer review was performed in conformity with peer review standards adopted by the Board, including the peer review working papers, the peer review report, comment letters and related correspondence indicating the firm's concurrence or nonconcurrence, and any proposed remedial actions and related implementation shall be maintained.

(b) The documents described in R156-26a-303a(11)(a) shall be retained for a period of time corresponding to the designated retention period of the relevant administering organization. In no event shall the retention period be less than 120 days.

(12) Costs and Fees for Peer Review.

(a) All costs associated with firm-on-firm reviews will be negotiated between the firm and the reviewer and paid directly to the reviewer. All costs associated with committee assigned review team (CART) reviews will be set by the administering organization. The administering organization will collect the fees associated with CART reviews and pay the reviewer.

(b) All costs associated with the administration of the review process will be paid from fees charged to the firms. The fees will be collected by the administering organization. The schedule of fees will be included in the administering organization's proposal. The fee schedule will specify how much is to be paid each year and will be based on the firm size.

(13) All financial statements, working papers, or other documents reviewed are confidential. Access to those documents

shall be limited to being made available, upon request, to the Peer Review Committee or the technical reviewer for purposes of assuring that peer reviews are performed according to professional standards.

**R156-26a-303b. ~~[Renewal and Reinstatement Requirements--]~~ Continuing Professional Education (CPE).**

(1) All CPAs are required to maintain current knowledge, skills, and abilities in all areas in which they provide services in order to provide services in a competent manner. To maintain or to obtain the knowledge, skills and abilities to competently provide services, a CPA may be required to obtain CPE above and beyond the 80 minimum CPE credits specified in Section 58-26a-304.

The following standards have been broadly stated in recognition of the diversity of practice and experience among CPAs. They establish a framework for the development, presentation, measurement, and reporting of CPE programs and thereby help to ensure that CPAs maintain the required knowledge, skills and abilities necessary to competently provide services and to enable to the CPA to provide evidence of meeting the minimum CPE requirements specified under this rule.

(2) General Standards for CPAs.

(a) Standard No. 1. All CPAs must participate in CPE learning activities that maintain and/or improve their professional competence. This CPE must include a minimum of 80 hours of CPE in each two-year period ending on December 31 of each ~~odd~~ even-numbered year, except that no CPE hours shall be required at the first renewal after initial licensure and except that 120 hours of CPE shall be required for the extended reporting period ending on December 31, 2018.

(i) The ~~[80]~~ minimum required CPE hours shall include at least:

(A) one hour of education on the Utah Certified Public Accountant Licensing Act and Certified Public Accountant Licensing Act Rule; and

(B) ~~[at least]~~ three hours of ethics education ~~[which shall]~~ covering one or more of the following areas:

(I) the AICPA Code of Professional Conduct;

(II) case-based instruction focusing on real-life situational learning;

(III) ethical dilemmas faced by accounting professionals;

(IV) business ethics.

(ii) The term "must", as used in these standards, means departure from those specific standards is not permitted. The term "should", as used in these standards, means that CPAs and CPE program sponsors are expected to follow such standards as written and are required to justify any departures from such standards when unusual circumstances warrant such departures.

(iii) Selection of CPE learning activities should be a thoughtful, reflective process addressing the individual CPA's current and future professional plans, current knowledge and skills level, and desired or needed additional competence to meet future opportunities and/or professional responsibilities.

(~~iii~~) iv) A CPA's field of employment does not limit the need for CPE. CPAs performing professional services need to have a broad range of knowledge, skills, and abilities. Thus, the concept of professional competence should be interpreted broadly. Accordingly, acceptable continuing education encompasses

programs contributing to the development and maintenance of both technical and non-technical professional skills.

(iv) Acceptable CPE subjects include accounting, assurance/auditing, consulting services, specialized knowledge and applications, management, taxation, and ethics. Other subjects, including personal development, may also be acceptable if they maintain and/or improve the CPA's professional competence. Such subjects may include, but are not limited to: accounting and auditing, taxation, management advisory services, information technology, communication arts, mathematics, statistics, probability and quantitative analysis, economics, business law and litigation support, functional fields of business such as finance, production, marketing, personnel relations, development and management, business management and organizations, social environment of business, and specialized areas of industry such as film industry, real estate, or farming.

(v) To help guide their professional development, CPAs may find it useful to develop a learning plan. The learning plan can be used to evaluate learning and professional competence development.

(A) A learning plan means a structured process that helps guide CPAs in their professional development. A learning plan is used to evaluate and document learning and professional competence development. A learning plan should be reviewed regularly and modified as a CPA's professional competence needs change. A learning plan should include:

(I) a self-assessment of the gap between current and needed knowledge, skills, and abilities;

(II) a set of learning objectives arising from this assessment; and

(III) learning activities to be undertaken to fulfill the learning plan.

(b) Standard No. 2. CPAs should comply with all applicable CPE requirements and should claim CPE credit only for CPE programs when the CPE program sponsors have complied with the Standards for CPE Program Presentation (Nos. 8 - 11) and Standard for CPE Program Reporting No. 17.

(i) In addition to minimum CPE requirements specified in this rule, CPAs are responsible for compliance with all applicable CPE requirements, rules, and regulations of other state licensing bodies, other governmental entities and other professional organizations or bodies who have standard setting authority. CPAs should contact each appropriate entity to which they report to determine its specific requirements or any exceptions it may have to the standards presented herein.

(ii) Periodically, CPAs may participate in learning activities which do not comply with all applicable CPE requirements, for example specialized industry programs offered through industry sponsors. If CPAs propose to claim credit for such learning activities, they should retain all relevant information regarding the program to provide documentation to the Division, other state licensing bodies, and/or all other professional organizations or bodies showing that the learning activity is equivalent to one which meets all these or other applicable Standards.

(c) Standard No. 3. CPAs are responsible for accurate reporting of CPE credits earned and should retain appropriate documentation of their participation in learning activities, including: name and contact information of CPE program sponsor, title and

description of content, date of program, location and number of CPE credits, all of which should be included in documentation provided by the CPE program sponsor.

(i) Although CPAs are required to document a minimum level of CPE hours, through periodic reporting of CPE, the objective of CPE must always be maintenance/enhancement of professional competence, not just attainment of minimum credits.

(ii) Compliance with regulatory and other requirements mandates that CPAs keep documentation of their participation in activities designed to maintain and/or improve professional competence. In the absence of legal or other requirements for longer retention, a CPA must retain documentation for a minimum of five years from the end of the year in which the learning activities were completed.

(iii) Participants must document their claims of CPE credit. Examples of acceptable evidence of completion include:

(A) For group and independent study programs, a certificate or other verification supplied by the CPE program sponsor.

(B) For self-study programs, a certificate supplied by the CPE program sponsor after satisfactory completion of an examination.

(C) For instruction credit, a certificate or other verification supplied by the CPE program sponsor.

(D) For a university or college course that is successfully completed for credit, a record or transcript of the grade the participant received.

(E) For university or college non-credit courses, a certificate of attendance issued by a representative of the university or college.

(F) For published articles, books, or CPE programs, (1) a copy of the publication (or in the case of a CPE program, course development documentation) that names the writer as author or contributor, (2) a statement from the writer supporting the number of CPE hours claimed, and (3) the name and contact information of the independent reviewer or publisher.

(d) Standard No. 4. CPAs who complete sponsored learning activities that maintain or improve their professional competence should claim the CPE credits recommended by CPE program sponsors.

(i) CPAs may participate in a variety of sponsored learning activities, such as workshops, seminars and conferences, self-study courses, Internet-based programs, and independent study. While CPE program sponsors determine credits, CPAs should claim credit only for activities through which they maintained or improved their professional competence. CPAs who participate in only part of a program should claim CPE credit only for the portion they attended or completed.

(ii) In order to qualify as CPE, an Internet-based program must qualify as a group program as provided in Subsection R156-26a-303b(3)(b)(i) or as a self-study program as provided in Subsection R156-26a-303b(3)(g).

(e) Standard No. 5. CPAs may engage in independent study under the direction of a CPE program sponsor who has met the applicable standards for CPE program sponsors when the subject matter and level of study maintain or improve their professional competence.

(i) Independent study is an educational process designed to permit a participant to learn a given subject under the guidance of



a CPE program sponsor one-on-one. Participants in an independent study program should:

(A) Enter into a written learning contract with a CPE program sponsor who must comply with the applicable standards for CPE program sponsors.

(B) Accept the written recommendation of the CPE program sponsor as to the number of credits to be earned upon successful completion of the proposed learning activities. CPE credits will be awarded only if:

(I) all the requirements of the independent study as outlined in the learning contract are met;

(II) the CPE program sponsor reviews and signs the participant's report;

(III) the CPE program sponsor reports to the participant the actual credits earned; and

(IV) the CPE program sponsor provides the participant with contact information.

(ii) The credits to be recommended by an independent study CPE program sponsor should be agreed upon in advance and should be equated to the effort expended to improve professional competence. The credits cannot exceed the time devoted to the learning activities and may be less than the actual time involved.

(iii) Retain the necessary documentation to satisfy regulatory requirements as to the content, inputs, and outcomes of the independent study.

(iv) Complete the program of independent study in 15 weeks or less.

(3) Standards for CPE Program Sponsors (Standard 1), Standards for CPE Program Development (Standards 2-7), Standards for CPE Program Presentation (Standards 8-11), Standards for Program Measurement (Standards 12-16), and Standards for CPE Program Reporting (Standards 17-18). "CPE sponsor", as used herein, means the individual or organization responsible for setting learning objectives, developing the program materials to achieve such objectives, offering a program to participants, and maintaining the documentation required by these standards. The term "CPE program sponsor" may include associations of CPAs, whether formal or informal, as well as employers who offer in-house programs.

(a) Standard No. 1. CPE program sponsors are responsible for compliance with all applicable standards and other CPE requirements.

(i) In addition to the minimum requirements under this rule, CPE program sponsors may have to meet specific CPE requirements of other state licensing bodies, other governmental entities, and/or other professional organizations or bodies. CPE program sponsors should contact the appropriate entity to determine requirements.

(b) Standard No. 2. Sponsored learning activities must be based on relevant learning objectives and outcomes that clearly articulate the knowledge, skills, and abilities that can be achieved by participants in the learning activities.

(i) Learning activities, meaning an educational endeavor that improves or maintains professional competence, provided by CPE program sponsors for the benefit of CPAs, should specify the level, content, and learning objectives so that potential participants can determine if the learning activities are appropriate to their professional competence development needs. Learning activity

levels include, for example, basic, intermediate, advanced, update, and overview as defined as follows:

(A) Advanced. Learning activity level most useful for individuals with mastery of the particular topic. This level focuses on the development of in-depth knowledge, a variety of skills, or a broader range of applications. Advanced level programs are often appropriate for seasoned professionals within organizations; however, they may also be beneficial for other professionals with specialized knowledge in a subject area.

(B) Basic. Learning activity level most beneficial to CPAs new to a skill or an attribute. These individuals are often at the staff or entry level in organizations, although such programs may also benefit a seasoned professional with limited exposure to the area.

(C) Intermediate. Learning activity level that builds on a basic program, most appropriate for CPAs with detailed knowledge in an area. Such persons are often at a mid-level within the organization, with operational and/or supervisory responsibilities.

(D) Overview. Learning activity level that provides a general review of a subject area from a broad perspective. These programs may be appropriate for professionals at all organizational levels.

(E) Update. Learning activity level that provides a general review of new developments. This level is for participants with a background in the subject area who desire to keep current.

(c) Standard No. 3. CPE program sponsors should develop and execute learning activities in a manner consistent with the prerequisite education, experience, and/or advance preparation of participants.

(i) To the extent it is possible to do so, CPE program sponsors should make every attempt to equate program content and level with the backgrounds of intended participants. All programs must clearly identify prerequisite education, experience, and/or advance preparation, if any, in precise language so that potential participants can readily ascertain whether they qualify for the program.

(d) Standard No. 4. CPE program sponsors must use activities, materials, and delivery systems that are current, technically accurate, and effectively designed, and may include discussions of ethical issues that may apply to the subject matter. CPE program sponsors must be qualified in the subject matter.

(i) To best facilitate the learning process, sponsored programs and materials must be prepared, presented and updated in a timely manner. Learning activities must be developed by individuals or teams having expertise in the subject matter. Expertise may be demonstrated through practical experience or education.

(ii) CPE program sponsors must review the course materials periodically to ensure that they are accurate and consistent with currently accepted standards relating to the program's subject matter.

(e) Standard No. 5. CPE program sponsors of group and self-study programs must ensure learning activities are reviewed by qualified persons other than those who developed them to ensure that the program is technically accurate and current and addresses the stated learning objectives. These reviews must occur before the first presentation of these materials and again after each significant revision of the CPE programs.

(i) Individuals or teams qualified in the subject matter must review programs. When it is impractical to review certain programs in advance, such as lectures given only once, greater reliance should be placed on the recognized professional competence of the instructors or presenters. Using independent reviewing organizations familiar with these standards may enhance quality assurance.

(f) Standard No. 6. CPE program sponsors of independent study learning activities must be qualified in the subject matter.

(i) A CPE program sponsor of independent study learning activities must have expertise in the specific subject area related to the independent study. The CPE program sponsor must also:

(A) Review, evaluate, approve and sign the proposed independent study learning contract, including agreeing in advance on the number of credits to be recommended upon successful completion.

(B) Review and sign the written report developed by the participant in independent study.

(C) Retain the necessary documentation to satisfy regulatory requirements as to the content, inputs, and outcomes of the independent study.

(g) Standard No. 7. Self-study programs must employ learning methodologies that clearly define learning objectives, guide the participant through the learning process, and provide evidence of a participant's satisfactory completion of the program.

(i) To guide participants through a learning process, CPE program sponsors of self-study programs must elicit participant responses to test for understanding of the material, offer evaluative feedback to incorrect responses, and provide reinforcement feedback to correct responses. To provide evidence of satisfactory completion of the course, CPE program sponsors of self-study programs must require participants to successfully complete a final examination with a minimum-passing grade of at least 70 percent before issuing CPE credit for the course.

(A) Evaluative feedback, as used in this subsection, means: specific response to incorrect answers to questions in self-study programs. Unique feedback must be provided for each incorrect response, as each one is likely to be wrong for differing reasons.

(B) Reinforcement feedback, as used in this subsection, means: specific responses to correct answers to questions in self-study programs. Such feedback restates why the answer selected was correct.

(ii) Examinations may contain questions of varying format (for example, multiple-choice, essay and simulations.) If objective type questions are used, at least five questions per CPE credit must be included on the final examination. For example, the final examination for a five-credit course must include at least 25 questions.

(iii) Self-study programs must be based on materials specifically developed for instructional use. Self-study programs requiring only the reading of general professional literature, IRS publications, or reference manuals followed by a test will not be acceptable. However, the use of the publications and reference materials in self-study programs as supplements to the instructional materials could qualify if the self-study program complies with each of the CPE standards.

(h) Standard No. 8. CPE program sponsors must provide descriptive materials that enable CPAs to assess the appropriateness of learning activities. To accomplish this, CPE program sponsors must inform participants in advance of: learning objectives, prerequisites, program level, program content, advance preparation, instructional delivery methods, recommended CPE credit, and course registration requirements. Instructional delivery methods, as used in this subsection, means: delivery strategies such as case studies, computer-assisted learning, lectures, group participation, programmed instruction, teleconferencing, use of audiovisual aids, or work groups employed in group, self-study, or independent study programs.

(i) For potential participants to effectively plan their CPE, the program sponsor should disclose the significant features of the program in advance (e.g., through the use of brochures, Internet notices, invitations, direct mail, or other announcements). When CPE programs are offered in conjunction with non-educational activities, or when several CPE programs are offered concurrently, participants should receive an appropriate schedule of events indicating those components that are recommended for CPE credit. The CPE program sponsor's registration policies and procedures should be formalized, published, and made available to participants.

(ii) CPE program sponsors should distribute program materials in a timely manner and encourage participants to complete any advance preparation requirements. All programs should clearly identify prerequisite education, experience, and/or advance preparation requirements, if any, in the descriptive materials. Prerequisites should be written in precise language so that potential participants can readily ascertain whether they qualify for the program.

(i) Standard No. 9. CPE program sponsors must ensure instructors are qualified with respect to both program content and instructional methods used.

(i) Instructors are key ingredients in the learning process for any group program. Therefore, it is imperative that CPE program sponsors exercise great care in selecting qualified instructors for all group programs. Qualified instructors are those who are capable, through training, education, or experience of communicating effectively and providing an environment conducive to learning. They should be competent and current in the subject matter, skilled in the use of the appropriate instructional methods and technology, and prepared in advance. As used in this subsection, Group Program means: An educational process designed to permit a participant to learn a given subject through interaction with an instructor and other participants either in a classroom or conference setting or by using the Internet.

(ii) CPE program sponsors should evaluate the instructor's performance at the conclusion of each program to determine the instructor's suitability to serve in the future.

(j) Standard No. 10. CPE program sponsors must employ an effective means for evaluating learning activity quality with respect to content and presentation, as well as provide a mechanism for participants to assess whether learning objectives were met.

(i) The objectives of evaluation are to assess participant satisfaction with specific programs and to increase subsequent program effectiveness. Evaluations, whether written or electronic, should be solicited from participants and instructors for each program session, including self-study, to determine, among other things, whether:

- (A) Stated learning objectives were met.
- (B) If applicable, prerequisite requirements were appropriate.
- (C) Program materials were accurate.
- (D) Program materials were relevant and contributed to the achievement of the learning objectives.
- (E) Time allotted to the learning activity was appropriate.
- (F) If applicable, individual instructors were effective.
- (G) Facilities and/or technological equipment was appropriate.
- (H) Handout or advance preparation materials were satisfactory.
- (I) Audio and video materials were effective.
- (ii) CPE program sponsors should periodically review evaluation results to assess program effectiveness and should inform developers and instructors of evaluation results.
- (k) Standard No. 11. CPE program sponsors must ensure instructional methods employed are appropriate for the learning activities. Instructional methods means: delivery strategies such as case studies, computer-assisted learning, lectures, group participation, programmed instruction, teleconferencing, use of audiovisual aids, or work groups employed in group, self-study, or independent study programs. Learning activities should be presented in a manner consistent with the descriptive and technical materials provided.
  - (i) CPE program sponsors should evaluate the instructional methods employed for the learning activities to determine if the delivery is appropriate and effective. Integral aspects in the learning environment that should be carefully monitored include the number of participants and the facilities and technologies employed in the delivery of the learning activity.
  - (ii) CPE program sponsors are expected to present learning activities that comply with course descriptions and objectives. Appropriate supplemental materials may also be used.
- (l) Standard No. 12. Sponsored learning activities are measured by program length, with one 50-minute period equal to one CPE credit. One-half CPE credit increments (equal to 25 minutes) are permitted after the first credit has been earned in a given learning activity.
  - (i) For learning activities in which individual segments are less than 50 minutes, the sum of the segments should be considered one total program. For example, five 30-minute presentations would equal 150 minutes and should be counted as three CPE credits.
  - (ii) When the total minutes of a sponsored learning activity are greater than 50, but not equally divisible by 50, the CPE credits granted should be rounded down to the nearest one-half credit. Thus, learning activities with segments totaling 140 minutes should be granted two and one-half CPE credits.
  - (iii) While it is the participant's responsibility to report the appropriate number of credits earned, CPE program sponsors must monitor group learning activities to assign the correct number of CPE credits.
  - (iv) For university or college credit courses that meet these CPE Standards, each unit of college credit shall equal the following CPE credits: semester system 15 credits; quarter system 10 credits.

- (v) For university or college non-credit courses that meet these CPE standards, CPE credits shall be awarded only for the actual classroom time spent in the non-credit course.
- (vi) Credit is not granted to participants for preparation time.
- (vii) Only the portions of committee or staff meetings that are designed as programs of learning and comply with these standards qualify for CPE credit.
- (m) Standard No. 13. CPE credit for self-study learning activities must be based on a pilot test of the average completion time.
  - (i) A sample of intended professional participants should be selected to test program materials in an environment and manner similar to that in which the program is to be presented. The sample group of at least three individuals must be independent of the program development group and possess the appropriate level of knowledge before taking the program.
  - (ii) The sample does not have to ensure statistical validity. CPE credits should be recommended based on the average completion time for the sample. If substantive changes are subsequently made to program materials, further pilot tests of the revised program materials should be conducted to affirm or amend, as appropriate, the average completion time.
- (n) Standard No. 14. Instructors or discussion leaders of learning activities should receive CPE credit for both their preparation and presentation time to the extent the activities maintain or improve their professional competence and meet the requirements of these CPE standards.
  - (i) Instructors, discussion leaders, or speakers who present a learning activity for the first time should receive CPE credit for actual preparation time up to two times the number of CPE credits to which participants would be entitled, in addition to the time for presentation. For example, for learning activities in which participants could receive 8 CPE credits, instructors may receive up to 24 CPE credits (16 for preparation plus 8 for presentation).
  - (ii) For repeat presentations, CPE credit can be claimed only if it can be demonstrated that the learning activity content was substantially changed and such change required significant additional study or research.
  - (iii) The maximum credit for instructors, discussion leaders or speakers cannot exceed 50 percent of the CPE requirement.
- (o) Standard No. 15. Writers of published articles, books, or CPE programs should receive CPE credit for their research and writing time to the extent it maintains or improves their professional competence.
  - (i) Writing articles, books, or CPE programs for publication is a structured activity that involves a process of learning. For the writer to receive CPE credit, the article, book, or CPE program must be formally reviewed by an independent party. CPE credits should be claimed only upon publication.
  - (ii) The maximum credit for books or articles cannot exceed 25 percent of the CPE requirement.
- (p) Standard No. 16. CPE credits recommended by a CPE program sponsor of independent study must not exceed the time the participant devoted to complete the learning activities specified in the learning contract.

(i) The credits to be recommended by an independent study CPE program sponsor should be agreed upon in advance and should be equated to the effort expended to improve professional competence. The credits cannot exceed the time devoted to the learning activities and may be less than the actual time involved.

(q) Standard No. 17. CPE program sponsors must provide program participants with documentation of their participation, which includes the following: CPE program sponsor name and contact information, participant's name, course title, course field of study, date offered or completed, if applicable, location, the name of the CPE registry issuing approval, and the approval number assigned to that program by the Registry, type of instructional/delivery method used, amount of CPE credit recommended, verification by CPE program sponsor representative.

(i) CPE program sponsors should provide participants with documentation to support their claims of CPE credit. Acceptable evidence of completion includes:

(A) For group and independent study programs, a certificate or other verification supplied by the CPE program sponsor.

(B) For self-study programs, a certificate supplied by the CPE program sponsor after satisfactory completion of an examination.

(C) For instruction credit, a certificate or other verification supplied by the CPE program sponsor.

(D) For a university or college course that is successfully completed for credit, a record or transcript of the grade the participant received.

(E) For university or college non-credit courses, a certificate of attendance issued by a representative of the university or college.

(F) For published articles, books, or CPE programs: (1) a copy of the publication (or in the case of a CPE program, course development documentation) that names the writer as author or contributor, (2) a statement from the writer supporting the number of CPE hours claimed, and (3) the name and contact information of the independent reviewer(s) or publisher.

(r) Standard No. 18. CPE program sponsors must retain adequate documentation for five years to support their compliance with these standards and the reports that may be required of participants.

(i) Evidence of compliance with responsibilities set forth under these Standards which is to be retained by CPE program sponsors includes, but is not limited to: records of participation, dates and locations, instructor names and credentials, number of CPE credits earned by participants, and results of program evaluations.

(ii) Information to be retained by developers includes copies of program materials, evidence that the program materials were developed and reviewed by qualified parties, and a record of how CPE credits were determined.

(iii) For CPE program sponsors offering self-study programs, appropriate pilot test records must be retained regarding the following:

- (A) When the pilot test was conducted.
- (B) The intended participant population.
- (C) How the sample was determined.
- (D) Names and profiles of sample participants.
- (E) A summary of participants' actual completion time.

(4) Programs or Activities Which Do Not Qualify. The following activities do not satisfy the standards for programs of this section and are not eligible for satisfaction of CPE requirements:

(a) Personal study: personal study includes reading professional journals and publications, studying and researching matters such as tax code revisions, practicing software programs on a computer and watching video movies of a conference; and

(b) Committee meetings, dinner and luncheon meetings, firm meetings or other activities that do not meet the standards outlined in this section.

(5) Reporting Requirements. Each licensee applying for license renewal shall report, by ~~January~~ December 31 of each even numbered year, demonstrating completion of at least the minimum number of credits required in Section 58-26a-304 for qualified continuing professional education hours completed for the preceding two ~~calendar~~ years. Each person applying for license reinstatement shall file a report at the time of application demonstrating completion of the CPE required under Subsection R156-26a-307.

(a) Such report shall be by means of one of the following:

(i) certification from an approved continuing professional education registry of the hours of qualified continuing education completed; or

(ii) a report to the Division for review and approval of continuing professional education.

(b) It is the responsibility of the applicant or licensee to demonstrate to the Division that the applicant or licensee successfully completed all CPE reported and meets the requirements of this section or that the CPE has been approved by an approved continuing professional education registry and that reported courses maintained or increased the professional competence of the applicant or licensee.

(6) Continuing Professional Education Registry. To obtain approval as a continuing professional education registry, an organization shall:

(a) be a professional association primarily consisting of individuals licensed as certified public accountants;

(b) be organized and in good standing according to the laws of the state;

(c) enter into a written agreement with the Division under which the organization agrees to:

(i) review and approve only those programs which meet the standards set forth under this section;

(ii) publish and disseminate to their members or other CPAs on request, listings of continuing professional education programs which meet the standards and are approved for qualified continuing professional education credit;

(iii) maintain accurate records of qualified continuing professional education completed by each of its registrants and provide each of its registrants with a certificate on a timely basis to permit the registrant to file that certificate with the registrant's application to the Division for renewal or reinstatement of his license as a certified public accountant. The certificate shall contain the name of the instructor, the date of the program, location of the program, title of the program, the name of the sponsor, the name of the CPE registry issuing approval, and the approval number assigned to that program by the Registry, and the number of CPE hours granted; and

(iv) make records of approved of qualified continuing professional education programs and records of qualified continuing professional education completed by registrants available for audit by representatives of the Division, the Board or peer advisory committees of the board.

(7) Fees. A registry may charge a reasonable fee to registrants for services provided for approval of courses. Sponsors of approved courses may charge a lower fee to members of the sponsoring association for participation as a registrant than it charges to non-members of the association.

(8) Other CPE requirements and failure to complete CPE requirements.

~~(a) [Interim Licensure CPE requirements. Those individuals who become licensed or certified between renewal periods shall be required to complete CPE based upon ten hours per calendar quarter for the remaining quarters of the reporting period.] Implementation of CPE reporting and license-renewal alignment, effective December 31, 2018.~~

~~(i) Effective December 31, 2018, the license renewal deadline and the CPE reporting period deadline shall have the same date of December 31 of even years.~~

~~(ii) For the reporting period ending December 31, 2018, the minimum CPE hour requirement under Subsection R156-26a-303b(2)(a) shall be 120 hours.~~

~~(iii) The CPE reporting period deadline of December 31, 2017, is extended to December 31, 2018.~~

~~(iv) A licensee may carry forward all CPE hours completed between December 31, 2015, and December 31, 2018, to the reporting period ending December 31, 2018.~~

~~(v) A license expiring September 30, 2018, shall be extended to December 31, 2018.~~

(b) Carry Forward Provision.

~~(i) A licensee who completes more than [80]the required hours of CPE during the [two year]reporting period may carry forward up to 40 hours to the next succeeding reporting period.~~

~~(ii) CPE taken in the current reporting period and CPE hours carried forward from the previous reporting period shall qualify as CPE hours only for the current reporting period.~~

(c) Failure to comply with CPE requirements.

~~(i) Failure to meet the [80]minimum hour requirement. An individual holding a current Utah license who fails to complete the required [80 hours of]minimum CPE by the reporting deadline will not be allowed to renew their license until the required CPE hours have been completed and reported. [unless they complete and report to the Division at least 30 days prior to their expiration date two times the number of CPE hours the license holder was short for the reporting period (penalty hours). The penalty hours shall not be considered to satisfy in whole or part any of the CPE hours required for subsequent renewal of the license.~~

~~(ii) Non-Qualifying or Disqualified CPE hours. An individual who reports nonqualifying hours or who has hours disqualified by the Utah Board of Accountancy shall not be allowed to renew their license unless they complete and report to the Division, within 60 days of receiving notification by the Division of their shortage and the relevant penalty hours requirement under R156-26-303b(8)(e)(i).~~

(ii[i]) Waiver for Medical Reasons. A licensee may request the Board to waive the requirements or grant an extension for continuing professional education on the basis that the licensee

was not able to complete the continuing professional education due to medical or related conditions confirmed by a qualified health care provider. Such medical confirmation shall include the beginning and ending dates during which the medical condition would have prevented the licensee from completing the continuing professional education, the extent of the medical condition and the effect that the medical condition had upon the ability of the licensee to continue to engage in the practice of accountancy. The Board in determining whether the waiver is appropriate shall consider whether or not the licensee continued to be engaged in the practice of accountancy practice on a full or part time basis during the period specified by the medical confirmation. Granting a waiver of meeting the minimum CPE hours shall not be construed as a waiver of a CPA being required to provide services in a competent manner with current knowledge, skill and ability. When medical or other conditions prevent the CPA from providing services in a competent manner, the CPA shall refrain from providing such services.

~~(d) Mandatory Online Reporting.~~

~~(i) Except as otherwise authorized by the Division, CPE shall be reported online on the Division website.~~

#### **R156-26a-307. Reinstatement of Licenses.**

(1) An individual having held a Utah license which has expired for failure to renew for nonpayment of fees, or an individual applying for reinstatement from emeritus status, may be relicensed upon satisfactory completion of:

(a) submission of an application on forms supplied by the Division which shall contain information as to why the person allowed their license to lapse;

(b) 80 hours of acceptable CPE, completed within the 12 months preceding the submission of an application for reinstatement, which shall include a minimum of 16 hours in accounting or auditing or both and shall include successful completion of the AICPA Ethics Self-Study Examination and the Utah Law and Rules Examination with a minimum score of at least the minimum score required for initial licensure. Successful completion of the two examinations will count as eight hours of CPE towards the 80 hour requirement.

(i) The requirements in Subsection R156-26-307(1)(b) are waived if the reinstatement applicant has not been practicing within the state of Utah since the expiration of the license being reinstated, the reinstatement applicant has continuously since the expiration been licensed and practicing in another state and the reinstatement applicant demonstrates that the applicant has met all the CPE requirements that would have been applicable in the state of Utah during the time the license was expired in the state of Utah.

(ii) The requirements in Subsection R156-26a-307(1)(b) are waived, if the applicant failed to renew because of inadvertent failure to pay the renewal fees, to sign application documents, or to meet similar technical application requirements and the application for reinstatement is filed with the Division within 24 months after expiration date of the license and at time of application for reinstatement the applicant demonstrates by proof of attendance at acceptable CPE courses that at all times the applicant was in full compliance with the CPE requirements.

~~(2) [A licensee who reinstates their license must obtain ten hours of CPE per full calendar quarter remaining in the current CPE reporting period after reinstatement is granted.~~

~~(3)~~—]The number of hours required to reinstate ~~the~~ a license shall not ~~be considered to~~ satisfy in whole or part any of the ~~80~~ minimum hours of CPE that may be required for subsequent renewal of the license.

**R156-26a-501. Unprofessional Conduct.**

"Unprofessional conduct" includes:

(1) ~~a licensee~~ willfully failing to comply with continuing professional education or fraudulently reporting continuing professional education; ~~or~~

(2) commission of an act or omission that fails to conform to the accepted and recognized standards and ethics of the profession including those stated in the [~~AICPA Code of Professional Conduct, effective December 15, 2014~~] ~~of the American Institute of Certified Public Accountants (AICPA) as adopted June 1, 2008~~, which is hereby incorporated by reference; or

(3) a CPA firm using the name of a person who is not a licensed certified public accountant as part of the CPA firm name, with the exception that a CPA firm may continue to use the name of a former owner who was a CPA but who has retired or is no longer active in the CPA firm.

**KEY: accountants, licensing, peer review, continuing professional education**

**Date of Enactment or Last Substantive Amendment: [February 11, 2016]2017**

**Notice of Continuation: October 6, 2016**

**Authorizing, and Implemented or Interpreted Law: 58-26a-101; 58-1-106(1)(a); 58-1-202(1)(a)**

Commerce, Occupational and  
Professional Licensing

**R156-55a**

Utah Construction Trades Licensing Act  
Rule

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 42086

FILED: 09/12/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule filing is to make substantive changes to comply with H.B. 313 and H.B. 273 passed during the 2017 General Session which became effective on 05/09/2017, and other technical changes as approved by the Construction Services Commission.

**SUMMARY OF THE RULE OR CHANGE:** In Section R156-55a-102, the technical changes correct the applicable cross-references to the statutory definitions. In Subsection R156-55a-301(2), the technical changes correct the applicable cross-references to the statutory definitions for the E100,

B100, R100, I101, I102, I103, and I104 classifications. S200 General Electrical Contractor classification has been renumbered to E200, and the definition for general electrical contractor has been edited to reference the newly-enacted statutory definition, and clarify the current limitation concerning radon mitigation. S201 Residential Electrical Contractor classification has been renumbered to E201, and the definition for residential electrical contractor has been edited to reference the newly-enacted statutory definition, and clarify the current limitation concerning radon mitigation. S202 Solar Photovoltaic Contractor classification has been renumbered to E202, and cross-references have been corrected based on the changes in this rule. S210 General Plumbing Contractor classification has been renumbered to P200, and the definition for General Plumbing Contractor has been edited to reference the newly-enacted statutory definition, and clarify the current limitation concerning radon mitigation. S217 Residential Plumbing Contractor classification has been renumbered to P201, and relocated in the rule after the General Plumbing Contractor classification. The definition for Residential Plumbing Contractor has been edited to reference the newly-enacted statutory definition, and clarify the current limitation concerning radon mitigation. S211 Boiler Installation Contractor classification has been renumbered to P202. S212 Irrigation Sprinkling Contractor classification has been renumbered to P203. S213 Industrial Piping Contractor classification has been renumbered to P204. S214 Water Conditioning Contractor classification has been renumbered to P205. S215 Solar Thermal Systems Contractor classification has been renumbered to P206. S216 Residential Sewer Connection and Septic Tank Contractor classification has been renumbered to P207. Finally, these changes clarify that a S350 HVAC Contractor may hire or subcontract a RMGA-certified licensed contractor for any gas-related work, that the scope of work for a S360 Refrigeration Contractor does not include installation of any gas fuel or electric trade work, and that the scope of work for a S440 Sign Installation Contractor does not include installation of any electrical trade work. In Subsection R156-55a-301(3), the current Subsection (3) is deleted and replaced with new provisions that limit a contractor licensee to a total of three specialty classifications in addition to any general contracting classifications, and implement a process for current non-compliant licensees. In Subsection R156-55a-301(4), the current Subsection (4) is renumbered as Subsection (5) and relocated to later in the section. This new provision: 1) establishes an updated license classifications table that updates numbering and consolidates specialty classifications, and provides that only certain classifications shall be issued after 11/07/2017; and 2) creates an implementation process for current non-compliant licensees. In Subsections R156-55a-301(5) through (7), the technical changes are made to these subsections because of the renumbering of this section and because of the renumbering of certain classifications in Subsection (2). In Section R156-55a-302a, in compliance with H.B. 313 (2017), this change removes the exam requirement for certain licensure classifications except as part of a 25-hour pre-license course or as part of an approved trade classification exam as listed.

This change also removes the exam requirement for all contractor license subclassifications and makes other technical and renumbering changes. In Section R156-55a-302b, the change removes the experience requirement for certain licensure classifications and makes other technical and renumbering changes. In Section R156-55a-302e, the technical change modifies and updates a cross-reference. In Section R156-55a-302f, the change provides an implementation period for discontinuing the 20-hour course and instituting the 25-hour course. The change clarifies that the 20-hour course shall satisfy the requirements for the 25-hour course for a certain period of time. This change also clarifies that the exam may be taken at the end of the pre-licensure course for no additional fee, and that an approved pre-license course provider shall offer the course at least six times in each year outside of the more populated counties. This change increases the number of hours of financial responsibility instruction from 10 hours to 15 hours. This change also includes a technical change changing the term throughout the rule from "pre-licensure education" to "pre-licensure course" for language consistency. In Section R156-55a-303b, the change clarifies continuing education requirements for HVAC contractor licensees. Additionally, this change provides a continuing education waiver for all Construction Services Commission members that regularly attend the Commission meetings, and makes other technical and renumbering changes. In Section R156-55a-304, the change increases the required remuneration for work performed by the qualifier for the contractor's licensee from 10 hours per week to 12 hours per week. This change also prohibits qualifiers from acting as a qualifier for more than three licensees at any one time, unless approved by the Commission and Division in writing. In Section R156-55a-306, the technical change modifies and updates a cross-reference. In Section R156-55a-312, the technical change makes definitional language consistent with the term "contractor classification examination". In Section R156-55a-503, based on H.B. 273 (2017), the change clarifies when the intent is to pursue multiple fines for multiple offenses or to pursue only one fine for multiple offenses, and makes other technical and renumbering changes.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 58-55-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a) and Subsection 58-55-102(39)(a) and Subsection 58-55-308(1)(a)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** First, the legislative analyst for H.B. 313 (2017) estimated that implementation would save the Department of Commerce \$1,500 annually from the Commerce Service Fund in application processing costs. However, these changes will also increase the Division's "soft" costs, due to increased phone calls and staff time spent related to questions concerning the changes. At least 20% of the phone calls now received by the Division's Bureau 4, the bureau responsible for the construction industry, concern at least in part the changes from H.B. 313 (2017). This equates to approximately 86.8 extra phone calls per week, for an

approximate increase of 3.4 hours per week of extra phone call time devoted to addressing questions resulting from H.B. 313 (2017). Based on the average staff salary of \$19.15 per hour, these changes are expected to result in an additional cost of \$65.11 per week or \$260.44 per month, totaling \$3,385.72 per year. This estimate is conservative, as the actual percentage for the current year and the next year will most likely be higher. However, this number is expected to reduce over time as applicants and licensees become more familiar with the rule changes. Secondly, the legislative analyst for H.B. 273 (2017) estimated that implementation would cost the General Fund from the Commerce Service Fund \$8,000 per year starting in FY2018, based on decreased fine revenue. This reduction is likely because the legislative changes limit the time frame from when a second or third offense may be issued based on the prior offense. Finally, the state will incur approximately \$75 in costs to republish the rule.

◆ **LOCAL GOVERNMENTS:** Local governments will neither enforce nor be affected by the processes and requirements implemented by these rules, nor will local governments be indirectly impacted because none of the amendments create a situation requiring services from local governments. Therefore, no cost or savings to local governments are anticipated.

◆ **SMALL BUSINESSES:** As an initial matter, the Division estimates that these proposed rules will not have any measurable fiscal impact on small businesses in excess of the fiscal impact from the underlying legislation other than the choice made to implement the legislative requirements in as cost-effective a manner as possible. For example, in these proposed rules the Division has chosen to phase in the new 25-hour course requirement over time, to ease the transition for candidates, and to allow the course providers enough time to amend their curriculum. However, it is impossible to segregate the fiscal impact of these proposed rules from the fiscal impact of the legislation, H.B. 313 (2017) and H.B. 273 (2017), because the rules are being implemented for the very purpose of carrying out the legislative mandates. Accordingly, the analysis that follows includes the impact of the underlying legislation. First, the rule changes made in accordance with H.B. 313 (2017) will make it easier for businesses, including small businesses, to obtain approximately 30 types of "specialty" contractor licenses by reducing the expenses incurred in order to obtain experience and to pass examinations previously required for licensure. It is impossible to determine the amount of savings with any certainty because of the uniqueness of each licensing situation. Additionally, any impact to small business as distinguished from larger business is difficult to establish as that distinction is not made in contractor licensing requirements. The Division anticipates that expanding the pre-licensure course hour requirement from 20 hours to 25 hours, as required under H.B. 313 (2017), will result in an increased cost for the pre-licensure course, which will most likely be passed on to the applicants. The Association of General Contractors (AGC) of Utah and the Utah Home Builders Association are the only currently authorized pre-licensure course providers. The cost of the course is

currently \$290. The fee approximates to about \$14.50 per hour. It is anticipated that an additional five hours will increase the cost of the pre-licensure course by approximately \$72. With the estimated influx of new specialty contractor licensees that were previously not qualified, but can now qualify if they take the pre-licensure course and meet certain other simple requirements, the estimated increase in fee revenue could be over approximately \$360,000 per year for the pre-license course providers. Notably, the pre-licensure course is only required once for a licensee, and as a result it is a one-time cost for the individual and one-time revenue for the course provider. Of particular note, the reduction in specialty contractor licensing requirements will impact the contractor support providers, which are all Utah small businesses. For example, the Utah Contractor License Center (UCLC) is a small business with only five full-time staff. With the elimination of testing for all specialties, the UCLC revenue stream is expected to be cut in half. Because the UCLC is so small and represents a small niche in the construction industry, this impact might be overlooked. Although a contractor license applicant is not required to use a contractor support provider to assist the applicant with the licensure process, many such applicants do rely on such support services. The small business/contractor support providers estimate that specialty contractor requirements added \$544 to the licensing process for their revenue, and as a corresponding cost to the applicant. The contractor support providers note that this is a significant amount of money for a first-time contractor business. Most specialty contractor applicants start off with zero employees, so the cost savings to small businesses will be substantial, at least for those applicants who no longer choose to use a contractor support provider. In contrast, the contractor support providers believe that any company applying for a license that already has 50 or more employees is well-established, and that this \$544 cost would either not be incurred or would be negligible for such applicants; accordingly, larger businesses are not expected to experience this type of cost savings. The contractor support providers indicate that they field around 300 calls a year from people inquiring about getting licensed but with no experience and they anticipate those callers may seek licensure resulting in increased applications for licensure. The contractor support providers estimate that price competition may increase but may also result in diminished quality of work and higher consumer repair costs. With respect to the rule changes made in accordance with H.B. 273 (2017), although the changes may increase the possibility of multiple citations and fines for violations of law, the impact to small businesses as distinguished from larger businesses will be difficult to establish as that distinction is not made in contractor licensing requirements. However, in any event, the impact of these fines cannot and should not be scaled to all businesses in the industry, as the fines will never affect the overwhelming majority of the businesses, small or large, who meet the normal standards of their profession and will never be assessed a fine. Stated another way, the nature of the misconduct proposed to be codified in the amended rule is such that the impact of the corresponding fines will never be

uniformly felt across the industry. Furthermore, based on the Division's historical review, a licensee sanctioned for misconduct is unlikely to be fined again in succeeding years. In short, after conducting a thorough analysis the Division has determined that the scope of these proposed amendments is so narrow that they will not affect the vast majority of businesses, and will not result in a measurable fiscal impact to small or large businesses. Finally, the rule changes based on H.B. 273 (2017) are also likely to save licensees a substantial amount of money by deterring unfair competition. The primary impact of these multiple fines and citations will fall on those businesses and individuals who are working in the industry without a license, or working outside of the scope or standards of their license. However, it is impossible to determine the amount of savings to those contractors who are properly licensed, as it will vary widely depending on circumstances.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Again, although the fiscal impact of this rule in and of itself is expected to be negligible, it is impossible to segregate the fiscal impact of H.B. 313 (2017) and H.B. 273 (2017) from this analysis because the rule carries out the mandate of this legislation. Accordingly, the analysis that follows includes the impact of the underlying legislation. First, because of the wide variability of circumstances between specialty contractors, the fiscal impact on other persons other than what has been described herein already is indeterminate. However, another impact that should be noted is to the Division's exams administrator. The Division's exams administrator is a large nationwide business that does business in Utah by and through its contract with the Division. The administrator estimates that the elimination of the specialty contractor exams in accordance with H.B. 313 (2017) will cause the administrator an ongoing loss of revenue. However, because the exam administrator does not have to incur the expense of updating the exams, this change may result in no net increase in costs or may result in cost savings to the test administrator. As far as individuals, because the statutory and instant rule changes removing specialty contractor licensure requirements make it easier to obtain licensure, the individual compliance costs will most likely be reduced. Individual circumstances vary among licensees and applicants, so it is difficult to determine the amount of savings that may be incurred; the rule implementing H.B. 313 (2017) will result in differing impacts on individual licensees and applicants, but will make it easier for existing licensees, as well as new applicants to be licensed as a specialty contractor. Individual specialty contractor costs will be reduced because they will not need to incur the costs associated with gaining experience prior to licensure. The cost savings could include avoiding reduced pay or experiencing less profit for a period of two years prior to licensure, because of the inability to be independently licensed and the financial burden of sharing compensation with other individuals (a qualifier that is not the applicant). This savings is hard to determine because it is unclear exactly how much it would cost an average individual licensee to gain two years of paid experience compared,



economically, to the pay and profits gained from an independent licensure. An applicant for licensure will have increased costs for the additional five hours for the now 25-hour pre-licensure course. These increased costs for the additional five hours of pre-licensure course are estimated to be about \$72 as a one-time cost per applicant, translating to an estimated annual aggregate cost of \$360,000 for all new applicants based on an estimated average of approximately 5,000 new applications per year. Finally, for current licensees, the rule changes based on H.B. 313 (2017) will increase the number of inexperienced but licensed contractors, which will increase competition among licensed contractors. This may result in inexperienced licensed contractors underbidding experienced licensed contractors but may also result in price competition to the benefit of consumers. Again, because of the wide variability between bids and types of specialty contractor work, it is impossible to determine an approximate impact to the average current licensee based on the influx of anticipated new inexperienced licensees.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** An applicant for licensure will have increased costs for the additional five hours for the now 25-hour pre-licensure course. These increased costs are estimated to be about \$72 as a one-time cost per applicant.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** Amendments are proposed to Sections R156-55a-102, R156-55a-301, R156-55a-302a, R156-55a-302b, R156-55a-302e, R156-55a-302f, R156-55a-303b, R156-55a-304, R156-55a-306, R156-55a-312, and R156-55a-503 of the Construction Trades Licensing Act Rule. The principal purpose of these rule changes is to comply with H.B. 313 and H.B. 273 passed during the 2017 General Session. Technical changes were also approved by the Construction Services Commission. Technical changes throughout the amended rules correct the applicable cross-references to the statutory definitions of various terms and classifications. The General Electrical Contractor, Residential Electrical Contractor, Solar Photovoltaic Contractor and General Plumbing Contractor classifications have been renumbered and the definitions have been edited to reference the newly-enacted statutory definitions. None of the technical changes have any fiscal impact to small businesses. Section R156-55a-302f changes the 20-hour pre-license course to a 25-hour pre-license course, with a liberal phase-in provision to lessen the impact of the change. Section R156-55a-303b clarifies continuing education requirements for HVAC contractor licensees. Section R156-55a-304 increases the required remuneration for work performed by the qualifier for the contractor's licenses from 10 hours to 12 hours per week and prohibits a person from acting as a qualifier for a business entity licensee for more than three licensees at any one time. These proposed rule amendments will not have any measurable fiscal impact on small businesses in excess of the fiscal impact from the underlying legislation. The cost to the licensee for the increase from a 20-hour pre-licensure course

to a 25-hour course is estimated to be less than \$75 per licensee. This would be only a one-time cost to the individual. Amendments to Sections R156-55a-302a and R156-55a-302b eliminate the experience requirement for approximately 30 types of specialty contractor licenses, providing cost savings to small businesses in amounts that are difficult to determine because of the uniqueness of each licensee's situation.

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:

♦ Chris Rogers by phone at 801-530-6720, by FAX at 801-530-6511, or by Internet E-mail at [crogers@utah.gov](mailto:crogers@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/31/2017

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 10/25/2017 09:00 AM, Heber Wells Bldg, 160 E 300 S, North Conference Room (first floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2017

AUTHORIZED BY: Mark Steinagel, Director

**R156. Commerce, Occupational and Professional Licensing.  
R156-55a. Utah Construction Trades Licensing Act Rule.  
R156-55a-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 55, as defined or used in this rule:

(1) "Construction trades instructor", as used in Subsection 58-55-301(2)(p) is clarified to mean the education facility which is issued the license as a construction trades instructor. It does not mean individuals employed by the facility who may teach classes.

(2) "Construction trades instruction facility" means the facility which is granted the license as a construction trades instructor as specified in Subsection 58-55-301(2)(p) and as clarified in R156-55a-102(1).

(3) "Employee", as used in Subsections 58-55-102(~~(12)~~) (~~(13)~~) and 58-55-102(~~(17)~~)(~~18~~), means a person providing labor services in the construction trades who works for a licensed contractor, or the substantial equivalent of a licensed contractor as determined by the Division, for compensation who has federal and state taxes withheld and workers' compensation and unemployment insurance provided by the person's employer.

(4) "Incidental", as used in Subsection 58-55-102(~~(40)~~)(~~45~~), means work which:

(a) can be safely and competently performed by the specialty contractor; and

(b) arises from and is directly related to work performed in the licensed specialty classification and does not exceed 10 percent of the overall contract and does not include performance of any electrical or plumbing work unless specifically included in the specialty classification description under Subsection R156-55a-301(2).

(5) "Maintenance" means the repair, replacement and refinishing of any component of an existing structure; but, does not include alteration or modification to the existing weight-bearing structural components.

(6) "Mechanical", as used in Subsections 58-55-102([2+]22) and 58-55-102([32]35), means the work which may be performed by a S350 HVAC Contractor under Section R156-55a-301.

(7) "Personal property" means, as it relates to Title 58, Chapter 56, factory built housing and modular construction, a structure which is titled by the Motor Vehicles Division, state of Utah, and taxed as personal property.

(8) "Qualifier", as used in Title 58, Chapter 55 and this rule, means the individual who demonstrates competence for a contractor or construction trades instruction facility license by ~~[passing the examinations, completing the experience requirements or holding the individual licenses that are prerequisite]~~ satisfying the requirements to obtain the contractor or construction trades instruction facility license.

(9) "School" means a Utah school district, applied technology college, or accredited college.

(10) "Unprofessional conduct" defined in Title 58, Chapters 1 and 55, is further defined in accordance with Section 58-1-203 in Section R156-55a-501.

#### **R156-55a-301. License Classifications - Scope of Practice.**

(1) In accordance with Subsection 58-55-301(2), the classifications of licensure are listed and described in this section. The construction trades or specialty contractor classifications listed are those determined to significantly impact the public health, safety, and welfare. A person who is engaged in work which is included in the items listed in Subsections R156-55a-301(4) and (5) is exempt from licensure in accordance with Subsection 58-55-305(1)(i).

(2) Licenses shall be issued in the following primary classifications and subclassifications:

E100 - General Engineering Contractor. A General Engineering contractor is a contractor licensed to perform work as defined in Subsection 58-55-102([22]24).

B100 - General Building Contractor. A General Building contractor is a contractor licensed to perform work as defined in Subsection 58-55-102([2+]22) and pursuant to Subsection 58-55-102([2+]22)(b) is clarified as follows:

(a) The General Building Contractor scope of practice does not include activities described in this Subsection under specialty classification [S]E202 - Solar Photovoltaic Contractor unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the North American Board of Certified Energy Practitioners.

(b) The General Building Contractor scope of practice does not include activities described in this Subsection under specialty classification S354-Radon Mitigation Contractor unless

(i) the work is performed under the immediate supervision of an employee who holds a current certificate issued by the National Radon Safety Board (NRSB) or the National Radon Proficiency Program (AARST-NRPP); or

(ii) the work is limited to installation of passive radon gas controls on new construction in accordance with Appendix F of the International Residential Code.

B200 - Modular Unit Installation Contractor. Set up or installation of modular units as defined in Subsection 15A-1-302(8) and constructed in accordance with Section 15A-1-304. The scope of the work permitted under this classification includes construction of the permanent or temporary foundations, placement of the modular unit on a permanent or temporary foundation, securing the units together if required and securing the modular units to the foundations. Work excluded from this classification includes installation of factory built housing and connection of required utilities.

R100 - Residential and Small Commercial Contractor. A Residential and Small Commercial contractor is a contractor licensed to perform work as defined in Subsection 58-55-102([32]35) and pursuant to Subsection 58-55-102([32]35) is clarified as follows:

(a) The Residential and Small Commercial Contractor scope of practice does not include activities described in this Subsection under specialty classification [S]E202 - Solar Photovoltaic Contractor unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the North American Board of Certified Energy Practitioners.

(b) The Residential and Small Commercial Contractor scope of practice does not include activities described in this Subsection under specialty classification S354-Radon Mitigation Contractor unless:

(i) the work is performed under the immediate supervision of an employee who holds a current certificate issued by the National Radon Safety Board (NRSB) or the National Radon Proficiency Program (AARST-NRPP); or

(ii) the work is limited to installation of passive radon gas controls on new construction in accordance with Appendix F of the International Residential Code.

R101 - Residential and Small Commercial Non Structural Remodeling and Repair. Remodeling and repair to any existing structure built for support, shelter and enclosure of persons, animals, chattels or movable property of any kind with the restriction that no change is made to the bearing portions of the existing structure, including footings, foundation and weight bearing walls; and the entire project is less than \$50,000 in total cost.

R200 - Factory Built Housing Contractor. Disconnection, setup, installation or removal of manufactured housing on a temporary or permanent basis. The scope of the work permitted under this classification includes placement of the manufactured housing on a permanent or temporary foundation, securing the units together if required, securing the manufactured housing to the

foundation, and connection of the utilities from the near proximity, such as a meter, to the manufactured housing unit and construction of foundations of less than four feet six inches in height. Work excluded from this classification includes site preparation or finishing, excavation of the ground in the area where a foundation is to be constructed, back filling and grading around the foundation, construction of foundations of more than four feet six inches in height and construction of utility services from the utility source to and including the meter or meters if required or if not required to the near proximity of the manufactured housing unit from which they are connected to the unit.

I101 - General Engineering Trades Instruction Facility. A General Engineering Trades Instruction Facility is a construction trades instruction facility authorized to teach the construction trades and is subject to the scope of practice defined in Subsection 58-55-102(~~22~~24).

I102 - General Building Trades Instruction Facility. A General Building Trades Instruction Facility is a construction trades instruction facility authorized to teach the construction trades and is subject to the scope of practice defined in Subsections 58-55-102(~~21~~22) or 58-55-102(~~32~~35).

I103 - Electrical Trades Instruction Facility. An Electrical Trades Instruction Facility is a construction trades instruction facility authorized to teach the electrical trades and subject to the scope of practice defined in Subsection R156-55a-301(~~S~~E200).

I104 - Plumbing Trades Instruction Facility. A Plumbing Trades Instruction Facility is a construction trades instruction facility authorized to teach the plumbing trades and subject to the scope of practice defined in Subsection R156-55a-301(~~S210~~P200).

I105 - Mechanical Trades Instruction Facility. A Mechanical Trades Instruction Facility is a construction trades instruction facility authorized to teach the mechanical trades and subject to the scope of practice defined in Subsection R156-55a-301(S350).

~~[S]E200 - General Electrical Contractor. A General Electrical Contractor is a contractor licensed to perform work as defined in Subsection 58-55-102(23). [Fabrication, construction, and/or installation of generators, transformers, conduits, raceways, panels, switch gear, electrical wires, fixtures, appliances, or apparatus which utilizes electrical energy.]~~ The General Electrical Contractor scope of practice does not include activities described in this Subsection under specialty classification S354-Radon Mitigation Contractor unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the National Radon Safety Board (NRSB) or the National Radon Proficiency Program (AARST-NRPP).

~~[S]E201 - Residential Electrical Contractor. A Residential Electrical Contractor is a contractor licensed to perform work as defined in Subsection 58-55-102(37). The Residential Electrical Contractor scope of practice does not include activities described in this subsection under specialty classification S354-Radon Mitigation Contractor unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the National Radon Safety Board (NRSB) or the National Radon Proficiency Program (AARST-NRPP). [Fabrication, construction, and/or installation of services, disconnecting means, grounding devices, panels, conductors, load centers, lighting and plug circuits, appliances and fixtures in any~~

~~residential unit, normally requiring non-metallic sheathed cable, including multiple units up to and including a four-plex, but excluding any work generally recognized in the industry as commercial or industrial.]~~

~~[S]E202 - Solar Photovoltaic Contractor. Fabrication, construction, installation, and replacement of photovoltaic ~~cell panels~~ modules and related components. Wiring, connections and wire methods as governed in the National Electrical Code and Subsection R156-55b-102(1) shall only be performed by an [S]E200 General Electrical Contractor or [S]E201 Residential Electrical Contractor. This classification is not required to install stand alone solar systems that do not tie into premises wiring or into the electrical utility, such as signage or street or parking lighting.~~

A contractor who obtained this classification of licensure between January 1, 2009 and April 25, 2011 and who holds an active license may, in addition to the above, perform the following activities as part of the scope of practice under this subsection: fabrication, construction, installation, and repair of photovoltaic cell panels and related components including battery storage systems, distribution panels, switch gear, electrical wires, inverters, and other electrical apparatus for solar photovoltaic systems. Work excluded from this classification includes work on any alternating current system or system component.

~~[S210]P200 - General Plumbing Contractor. A General Plumbing Contractor is a contractor licensed to perform work as defined in Subsection 58-55-102(25). [Fabrication and/or installation of material and fixtures to create and maintain sanitary conditions in buildings, by providing a permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, and provision of a safe and adequate supply of gases for lighting, heating, and industrial purposes. Work permitted under this classification shall include the furnishing of materials, fixtures and labor to extend service from a building out to the main water, sewer or gas pipeline.]~~ The General Plumbing Contractor scope of practice does not include activities described in this Subsection under specialty classification S354-Radon Mitigation Contractor unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the National Radon Safety Board (NRSB) or the National Radon Proficiency Program (AARST-NRPP).

~~P201 - Residential Plumbing Contractor. A Residential Plumbing Contractor is a contractor licensed to perform work as defined in Subsection 58-55-102(42). The Residential Plumbing Contractor scope of practice does not include activities described in this subsection under specialty classification S354-Radon Mitigation Contractor unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the National Radon Safety Board (NRSB) or the National Radon Proficiency Program (AARST-NRPP).~~

~~[S211]P202 - Boiler Installation Contractor. Fabrication and/or installation of fire-tube and water-tube power boilers and hot water heating boilers, including all fittings and piping, valves, gauges, pumps, radiators, converters, fuel oil tanks, fuel lines, chimney flues, heat insulation and all other devices, apparatus, and equipment related thereto in a closed system not connected to the culinary water system. Notwithstanding the foregoing, where water delivery for the closed system is connected to the culinary water~~

system and separated from the culinary water system by a backflow prevention device, a contractor licensed under this subsection may connect the closed system to the backflow prevention device, which must be installed by an actively licensed plumber.

[S212]P203 - Irrigation Sprinkling Contractor. Layout, fabrication, and/or installation of water distribution system for artificial watering or irrigation.

[S213]P204 - Industrial Piping Contractor. Fabrication and/or installation of pipes and piping for the conveyance or transmission of steam, gases, chemicals, and other substances including excavating, trenching, and back-filling related to such work. This classification includes the above work for geo thermal systems.

[S214]P205 - Water Conditioning Equipment Contractor. Fabrication and/or installation of water conditioning equipment and only such pipe and fittings as are necessary for connecting the water conditioning equipment to the water supply system within the premises.

[S215]P206 - Solar Thermal Systems Contractor. Construction, repair and/or installation of solar thermal systems up to the system shut off valve or where the system interfaces with any other plumbing system.

[S216]P207 - Residential Sewer Connection and Septic Tank Contractor. Construction of residential sewer lines including connection to the public sewer line, and excavation and grading related thereto. Excavation, installation and grading of residential septic tanks and their drainage.]

~~—————S217 — Residential Plumbing Contractor. Fabrication and/or installation of material and fixtures to create and maintain sanitary conditions in residential building, including multiple units up to and including a four-plex by providing a permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, and provision of a safe and adequate supply of gases for lighting and heating purposes. Work permitted under this classification shall include the furnishing of materials, fixtures and labor to extend service from a residential building out to the main water, sewer or gas pipeline. Excluded is any new construction and service work generally recognized in the industry as commercial or industrial.]~~

S220 - Carpentry Contractor. Fabrication for structural and finish purposes in a structure or building using wood, wood products, metal studs, vinyl materials, or other wood/plastic/metal composites as is by custom and usage accepted in the building industry as carpentry. Incidental work includes the installation of tub liners and wall systems.

S221 - Cabinet, Millwork and Countertop Installation Contractor. On-site construction and/or installation of milled wood products or countertops.

S222 - Overhead and Garage Door Contractor. The installation of overhead and garage doors and door openers.

S230 - Siding Contractor. Fabrication, construction, and/or installation of siding.

S231 - Rainutter Installation Contractor. On-site fabrication and/or installation of raingutters and drains, roof flashings, gravel stops and metal ridges.

S240 - Glass and Glazing Contractor. Fabrication, construction, installation, and/or removal of all types and sizes of glass, mirrors, substitutes for glass, glass-holding members, frames, hardware, and other incidental related work.

S250 - Insulation Contractor. Installation of any insulating media in buildings and structures for the sole purpose of temperature control, sound control or fireproofing, but shall not include mechanical insulation of pipes, ducts or conduits.

S260 - General Concrete Contractor. Fabrication, construction, mixing, batching, and/or installation of concrete and related concrete products along with the placing and setting of screeds for pavement for flatwork, the construction of forms, placing and erection of steel bars for reinforcing and application of plaster and other cement-related products.

S261 - Concrete Form Setting and Shoring Contractor. Fabrication, construction, and/or installation of forms and shoring material; but, does not include the placement of concrete, finishing of concrete or embedded items such as metal reinforcement bars or mesh.

S262 - Gunitite and Pressure Grouting Contractor. Installation of a concrete product either injected or sprayed under pressure.

S263 - Cementitious Coating Systems Resurfacing and Sealing Contractor. Fabrication, construction, mixing, batching and installation of cementitious coating systems or sealants limited to the resurfacing or sealing of existing surfaces, including the preparation or patching of the surface to be covered or sealed.

S270 - General Drywall and Plastering Contractor. Fabrication, construction, and installation of drywall, gypsum, wallboard panels and assemblies. Preparation of drywall or plaster surfaces for suitable painting or finishing. Application to surfaces of coatings made of plaster, including the preparation of the surface and the provision of a base. This does not include applying stucco to lathe, plaster and other surfaces. Exempted is the plastering of foundations.

S272 - Ceiling Grid Systems, Ceiling Tile and Panel Systems Contractor. Fabrication and/or installation of wood, mineral, fiber, and other types of ceiling tile and panels and the grid systems required for placement.

S273 - Light-weight Metal and Non-bearing Wall Partitions Contractor. Fabrication and/or installation of light-weight metal and other non-bearing wall partitions.

S280 - General Roofing Contractor. Application and/or installation of asphalt, pitch, tar, felt, flax, shakes, shingles, roof tile, slate, and any other material or materials, or any combination of any thereof which use and custom has established as usable for, or which are now used as, water-proof, weatherproof, or watertight seal or membranes for roofs and surfaces; and roof conversion. Incidental work includes the installation of roof clamp ring to the roof drain.

S290 - General Masonry Contractor. Construction by cutting, and/or laying of all of the following brick, block, or forms: architectural, industrial, and refractory brick, all brick substitutes, clay and concrete blocks, terra-cotta, thin set or structural quarry tile, glazed structural tile, gypsum tile, glass block, clay tile, copings, natural stone, plastic refractories, and castables and any incidental works, including the installation of shower pans, as required in construction of the masonry work.

S291 - Stone Masonry Contractor. Construction using natural or artificial stone, either rough or cut and dressed, laid at random, with or without mortar. Incidental work includes the installation of shower pans.

S292 - Terrazzo Contractor. Construction by fabrication, grinding, and polishing of terrazzo by the setting of chips of marble, stone, or other material in an irregular pattern with the use of cement, polyester, epoxy or other common binders. Incidental work includes the installation of shower pans.

S293 - Marble, Tile and Ceramic Contractor. Preparation, fabrication, construction, and installation of artificial marble, burned clay tile, ceramic, encaustic, falence, quarry, semi-vitreous, and other tile, excluding hollow or structural partition tile. Incidental work includes the installation of shower pans.

S294 - Cultured Marble Contractor. Preparation, fabrication and installation of slab and sheet manmade synthetic products including cultured marble, onyx, granite, onice, corian, and corian type products. Incidental work includes the installation of shower pans.

S300 - General Painting Contractor. Preparation of surface and/or the application of all paints, varnishes, shellacs, stains, waxes and other coatings or pigments.

S310 - Excavation and Grading Contractor. Moving of the earth's surface or placing earthen materials on the earth's surface, by use of hand or power machinery and tools, including explosives, in any operation of cut, fill, excavation, grading, trenching, backfilling, or combination thereof as they are generally practiced in the construction trade.

S320 - Steel Erection Contractor. Construction by fabrication, placing, and tying or welding of steel reinforcing bars or erecting structural steel shapes, plates of any profile, perimeter or cross-section that are used to reinforce concrete or as structural members, including riveting, welding, and rigging.

S321 - Steel Reinforcing Contractor. Fabricating, placing, tying, or mechanically welding of reinforcing bars of any profile that are used to reinforce concrete buildings or structures.

S322 - Metal Building Erection Contractor. Erection of pre-fabricated metal structures including concrete foundation and footings, grading, and surface preparation.

S323 - Structural Stud Erection Contractor. Fabrication and installation of metal structural studs and bearing walls.

S330 - Landscaping Contractor.

(a) grading and preparing land for architectural, horticultural, or decorative treatment;

(b) arrangement, and planting of gardens, lawns, shrubs, vines, bushes, trees, or other decorative vegetation;

(c) construction of small decorative pools, tanks, fountains, hothouses, greenhouses, fences, walks, garden lighting of 50 volts or less, or sprinkler systems;

(d) construction of retaining walls except retaining walls which are intended to hold vehicles, structures, equipment or other non natural fill materials within the area located within a 45 degree angle from the base of the retaining wall to the level of where the additional weight bearing vehicles, structures, equipment or other non natural fill materials are located; or

(e) patio areas except that:

(i) no decking designed to support humans or structures shall be included; and

(ii) no concrete work designed to support structures to be placed upon the patio shall be included.

(f) This classification does not include ~~running~~ any electrical trade work or installing gas lines to any appliance.

S340 - Sheet Metal Contractor. Layout, fabrication, and installation of air handling and ventilating systems. All architectural sheet metal such as cornices, marquees, metal soffits, gutters, flashings, and skylights and skydomes including both plastic and fiberglass.

S350 - HVAC Contractor. Fabrication and installation of complete warm air heating, ~~and~~ air conditioning and ventilating systems~~[, and complete ventilating systems]~~. The HVAC Contractor scope of practice does not include activities described in this Subsection under specialty classification S354-Radon Mitigation Contractor unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the National Radon Safety Board (NRSB) or the National Radon Proficiency Program (AARST-NRPP). An HVAC Contractor may hire or subcontract a RMGA-certified licensed contractor for any gas-related work. The scope of permitted work does not include electrical trade work.

S351 - Refrigerated Air Conditioning Contractor. Fabrication and installation of air conditioning ventilating systems to control air temperatures below 50 degrees. The scope of permitted work does not include electrical trade work.

S352 - Evaporative Cooling Contractor. Fabrication and installation of devices, machinery, and units to cool the air temperature employing evaporation of liquid. The scope of permitted work does not include electrical trade work.

S353 - Warm Air Heating Contractor. Layout, fabrication, and installation of such sheet metal, gas piping, and furnace equipment as necessary for a complete warm air heating and ventilating system. The scope of permitted work does not include electrical trade work.

S354 - Radon Mitigation Contractor. Layout, fabrication, and installation of a radon mitigation system. This classification does not include work on heat recovery ventilation or makeup air components which must be performed by an HVAC Contractor and does not include electrical ~~[wiring]~~ trade work which must be performed by an Electrical Contractor. Work performed under this classification shall be performed under the immediate supervision of an employee who holds a current certificate issued by the National Radon Safety Board (NRSB) or the National Radon Proficiency Program (AARST-NRPP).

S360 - Refrigeration Contractor. Construction and/or installation of refrigeration equipment including, but not limited to, built-in refrigerators, refrigerated rooms, insulated refrigerated spaces and equipment related thereto; but, the scope of permitted work does not include the installation of gas fuel or ~~[electric power services other than connection of electrical devices to a junction box provided for that device and electrical control circuitry not exceeding 50 volts]~~ electrical trade work.

S370 - Fire Suppression Systems Contractor. Layout, fabrication, and installation of fire protection systems using water, steam, gas, or chemicals. When a potable sanitary water supply system is used as the source of supply, connection to the water system must be accomplished by a licensed plumbing contractor. Excluded from this classification are persons engaged in the

installation of fire suppression systems in hoods above cooking appliances.

S380 - Swimming Pool and Spa Contractor. On-site fabrication, construction and installation of swimming pools, prefabricated pools, spas, and tubs. The scope of permitted work does not include plumbing or electrical trade work.

S390 - Sewer and Waste Water Pipeline Contractor. Construction of sewer lines, sewage disposal and sewage drain facilities including excavation and grading with respect thereto, and the construction of sewage disposal plants and appurtenances thereto.

S400 - Asphalt Paving Contractor. Construction of asphalt highways, roadways, driveways, parking lots or other asphalt surfaces, which will include but will not be limited to, asphalt overlay, chip seal, fog seal and rejuvenation, micro surfacing, plant mix sealcoat, slurry seal, and the removal of asphalt surfaces by milling. Also included is the excavation, grading, compacting and laying of fill or base-related thereto. Also included in painting on asphalt surfaces including striping, directional and other types of symbols or words.

S410 - Pipeline and Conduit Contractor. Fabrication, construction, and installation of pipes, conduit or cables for the conveyance and transmission from one station to another of such products as water, steam, gases, chemicals, slurries, data or communications. Included are the excavation, cabling, horizontal boring, grading, and backfilling necessary for construction of the system.

S420 - General Fencing, Ornamental Iron and Guardrail Contractor. Fabrication, construction, and installation of fences, guardrails, handrails, and barriers.

S421 - Residential Fencing Contractor. Fabrication and installation of residential fencing up to and including a height of six feet.

S430 - Metal Firebox and Fuel Burning Stove Installer. Fabrication, construction, and installation of metal fireboxes, fireplaces, and wood or coal-burning stoves, including the installation of venting and exhaust systems, provided the individual performing the installation is RMGA certified.

S440 - Sign Installation Contractor. Installation of signs and graphic displays which require installation permits or permission as issued by state or local governmental jurisdictions. Signs and graphic displays shall include signs of all types, both lighted and unlighted, permanent highway marker signs, illuminated awnings, electronic message centers, sculptures or graphic representations including logos and trademarks intended to identify or advertise the user or his product, building trim or lighting with neon or decorative fixtures, or any other animated, moving or stationary device used for advertising or identification purposes. Signs and graphic displays must be fabricated, installed and erected in accordance with professionally engineered specifications and wiring in accordance with the National Electrical Code. The scope of permitted work does not include electrical trade work.

S441 - Non Electrical Outdoor Advertising Sign Contractor. Installation of signs and graphic displays which require installation permits or permission as issued by state and local governmental jurisdictions. Signs and graphics shall include outdoor advertising signs which do not have electrical lighting or other electrical requirements, and in accordance with professionally engineered specifications.

S450 - Mechanical Insulation Contractor. Fabrication, application and installation of insulation materials to pipes, ducts and conduits.

S460 - Wrecking and Demolition Contractor. The raising, cribbing, underpinning, moving, and removal of building and structures.

S470 - Petroleum Systems Contractor. Installation of above and below ground petroleum and petro-chemical storage tanks, piping, dispensing equipment, monitoring equipment and associated petroleum and petro-chemical equipment including excavation, backfilling, concrete and asphalt.

S480 - Piers and Foundations Contractor. The excavation, drilling, compacting, pumping, sealing and other work necessary to construct, alter or repair piers, piles, footings and foundations placed in the earth's subsurface to prevent structural settling and to provide an adequate capacity to sustain or transmit the structural load to the soil or rock below.

S490 - Wood Flooring Contractor. Installation of wood flooring including prefinished and unfinished material, sanding, staining and finishing of new and existing wood flooring. Underlayments, non-structural subfloors and other incidental related work.

S491 - Laminate Floor Installation Contractor. Installation of laminate floors including underlayments, non-structural subfloors and other incidental related work, but does not include the installation of solid wood flooring.

S500 - Sports and Athletic Courts, Running Tracks, and Playground Installation Contractor. Installation of sports and athletic courts including but not limited to tennis courts, racquetball courts, handball courts, basketball courts, running tracks, playgrounds, or any combination. Includes nonstructural floor subsurfaces, nonstructural wall surfaces, perimeter walls and perimeter fencing. Includes the installation and attachment of equipment such as poles, basketball standards or other equipment.

S510 - Elevator Contractor. Erecting, constructing, installing, altering, servicing, repairing or maintaining an elevator.

S600 - General Stucco Contractor. Applying stucco to lathe, plaster and other surfaces.

S700 - Specialty License Contractor.

(a) A specialty license is a license that confines the scope of the allowable contracting work to a specialized area of construction which the Division grants on a case-by-case basis.

(b) When applying for a specialty license, an applicant, if requested, shall submit to the Division the following:

(i) a detailed statement of the type and scope of contracting work that the applicant proposes to perform; and

(ii) any brochures, catalogs, photographs, diagrams, or other material to further clarify the scope of the work that the applicant proposes to perform.

(c) A contractor issued a specialty license shall confine the contractor's activities to the field and scope of operations as outlined by the Division.

(3)(a) A licensee may hold up to three specialty license classifications, in addition to any general contractor classifications.

(b) A licensee may change classifications at any time by surrendering a license, and by applying for any license for which the licensee is qualified and as permitted by law.

(c) To qualify for licensure, an applicant for renewal or reinstatement shall surrender or replace the applicant's contractor classifications as needed to comply with this Subsection (3)(a).

(4) Effective November 7, 2017:

(a) Contractor licenses shall only be issued to applicants or licensees in:

(i) primary classification listed in Subsection(5); or

(ii) primary or subclassifications of B200, R101, R200, E201, E202, P201, P202, P203, P204, P205, P206, P207, S240, S250, S280, S300, S310, S330, S340, S354, S360, S370, S380, S390, S400, S410, S430, S450, S460, S470, S480, S500, S510, S600, S700; or

(iii) a general contractor or facility classification listed in Subsection R156-55a-302a(2).

(b) Except for subclassifications listed in Subsection (4) (a)(ii), an application for renewal or reinstatement of a license with a subclassification listed in Subsection (5) shall be converted to the corresponding primary classification.

([3]5) The scope of practice for the following primary classifications includes the scope of practice stated in the descriptions for the following subclassifications:

TABLE I

Primary Classification	Included subclassifications
[§]E200	[§]E201, [§]E202
[§210]P200	[S211, S212, S213, S214, S215, S216, S217]P201, P202, P203, P204, P205, P206, P207
S220	S221, S222
S230	S231
S260	S261, S262, S263
S270	S272, S273
S290	S291, S292, S293, S294
S320	S321, S322, S323
S350	S351, S352, S353, S354
S420	S421
S440	S441
S490	S491

([4]6) The following activities are determined to not significantly impact the public health, safety and welfare and therefore do not require a contractor's license:

- (a) sandblasting;
- (b) pumping services;
- (c) tree stump or tree removal;
- (d) installation within a building of communication cables including phone and cable television;
- (e) installation of low voltage electrical as described in R156-55b-102(1);
- (f) construction of utility sheds, gazebos or other similar items which are personal property and not attached;
- (g) building and window washing, including power washing;
- (h) central vacuum systems installation;
- (i) concrete cutting;
- (j) interior decorating;
- (k) wall paper hanging;
- (l) drapery and blind installation;
- (m) welding on personal property which is not attached;
- (n) chimney sweepers other than repairing masonry;
- (o) carpet and vinyl floor installation;
- (p) artificial turf installation;

(q) general cleanup of a construction site which does not include demolition or excavation; and

(r) work that would otherwise be limited to individuals holding the S260, S261, S262, S263, S290, S310, S330, S380, S420, S421 and S500 specialty classifications if the work is within the \$1,000 or \$3,000 labor and material limit as specified in the handyman exemption in Subsection 58-55-305(1)(h).

(5) The following activities are those determined to not significantly impact the public health, safety and welfare beyond the regulations by other agencies and therefore do not require a contractor's license:

- (a) lead removal regulated by the Department of Environmental Quality;
- (b) asbestos removal regulated by the Department of Environmental Quality; and
- (c) fire alarm installation regulated by the Fire Marshal.

**R156-55a-302a. Qualifications for Licensure - Examinations.**

(1) In accordance with Subsection 58-55-302(1)(c), no examination is required for the qualifier [for]of an applicant for licensure as a contractor or [the qualifier for an applicant for licensure as a]construction trades instruction facility ~~except~~ [shall pass the following examinations]:

(a) an examination may be required as part of a 25-hour course described in Subsection 58-55-302(1)(e)(iii); and

(b) an approved contractor classification examination required for the classifications listed in Subsection (2); and

([a]c) the Utah Contractor Business and[-] Law Examination for the classifications listed in Subsection (2) and P200, P201, E200, and E201 classifications.[-]and

(b) an approved trade classification specific examination, where required in Subsection (2)-]

(2) An approved [trade]contractor classification [specific]examination is required for the following contractor license classifications:

- E100 - General Engineering Contractor
- B100 - General Building Contractor[
- ~~B200 - Modular Unit Installation Contractor]~~
- R100 - Residential and Small Commercial Contractor[
- ~~R101 - Residential and Small Commercial Non-Structural Remodeling and Repair Contractor~~
- ~~R200 - Factory Built Housing Contractor]~~
- I101 - General Engineering Trades Instruction Facility
- I102 - General Building Trades Instruction Facility
- I105 - Mechanical Trades Instruction Facility[
- ~~S211 - Boiler Installation Contractor~~
- ~~S212 - Irrigation Sprinkling Contractor~~
- ~~S213 - Industrial Piping Contractor~~
- ~~S215 - Solar Thermal Systems Contractor~~
- ~~S216 - Residential Sewer Connection and Septic Tank Contractor~~
- ~~S220 - Carpentry Contractor~~
- ~~S222 - Overhead and Garage Door Contractor~~
- ~~S230 - Siding Contractor~~
- ~~S240 - Glass and Glazing Contractor~~
- ~~S250 - Insulation Contractor~~
- ~~S260 - General Concrete Contractor~~
- ~~S270 - General Drywall and Plastering Contractor~~
- ~~S280 - General Roofing Contractor~~

~~S290 – General Masonry Contractor~~  
~~S293 – Marble, Tile and Ceramic Contractor~~  
~~S300 – General Painting Contractor~~  
~~S310 – Excavation and Grading Contractor~~  
~~S320 – Steel Erection Contractor~~  
~~S321 – Steel Reinforcing Contractor~~  
~~S330 – Landscaping Contractor~~  
~~S340 – Sheet Metal Contractor~~  
~~S350 – HVAC Contractor~~  
~~S351 – Refrigerated Air Conditioning Contractor~~  
~~S353 – Warm Air Heating Contractor~~  
~~S360 – Refrigeration Contractor~~  
~~S370 – Fire Suppression Systems Contractor~~  
~~S380 – Swimming Pool and Spa Contractor~~  
~~S390 – Sewer and Waste Water Pipeline Contractor~~  
~~S410 – Pipeline and Conduit Contractor~~  
~~S440 – Sign Installation Contractor~~  
~~S450 – Mechanical Insulation Contractor~~  
~~S490 – Wood Flooring Contractor~~  
~~S600 – General Stucco Contractor]~~

(3) The passing score for each examination is 70%.

(4) Qualifications to sit for examination.

(a) An applicant applying to take any examination specified in this Section must sign an affidavit verifying that an applicant has completed the experience required under Subsection R156-55a-302b.

(5) "Approved [~~trade~~]contractor classification [~~specific~~] examination" means a [~~trade~~]contractor classification [~~specific~~] examination:

(a) given, currently or in the past, by the Division's contractor examination provider; or

(b) given by another state if the Division has determined the examination to be substantially equivalent.

(6) An applicant for licensure who fails an examination may retake the failed examination as follows:

(a) no sooner than 30 days following any failure up to three failures; and

(b) no sooner than six months following any failure thereafter.

#### **R156-55a-302b. Qualifications for Licensure - Experience Requirements.**

In accordance with Subsection 58-55-302(1)(e)(ii), the minimum experience requirements are established as follows:

(1) No experience is required for any contractor classification except those classifications listed in Subsection R156-55a-302a(2).

([+2] The experience requirements[Requirements] for all contractor license classifications listed in Subsection R156-55a-302a(2) are:

(a) Unless otherwise provided in this rule, two years of experience shall be lawfully performed within the 10-year period preceding the date of application under the general supervision of a contractor, and shall be subject to the following:

(i) If the experience was completed in Utah, it shall be:

(A) completed while a W-2 employee of a licensed contractor; or

(B) completed while working as an owner of a licensed contractor, which has for all periods of experience claimed, employed a qualifier who performed the duties and served in the capacities specified in Subsection 58-55-304(4) and in Subsection R156-55a-304.

(ii) If the experience was completed outside of the state of Utah, it shall be:

(A) completed in compliance with the laws of the jurisdiction in which the experience is completed; and

(B) completed with supervision that is substantially equivalent to the supervision that is required in Utah.

(iii) Experience may be determined to be substantially equivalent if lawfully obtained in a setting which has supervision of qualified persons and an equivalent scope of work, such as performing construction activities in the military where licensure is not required.

(b) One year of work experience means 2000 hours.

(c) No more than 2000 hours of experience during any 12 month period may be claimed.

(d) Except as described in Subsection (2)b, experience obtained under the supervision of a construction trades instructor as a part of an educational program is not qualifying experience for a contractor's license.

(e) If the applicant's qualifying experience is outdated but has previously been approved in the state of Utah, a passing score on the [~~trade~~]contractor examination and the laws and rules examination obtained within the one-year period preceding the date of application will requalify the applicant's experience.

([2]3) Requirements for E100 General Engineering, B100 General Building, R100 Residential and Small Commercial Building license classifications:

(a) One of the required two years of experience shall be in a supervisory or managerial position.

(b) A person holding a four-year bachelors degree or a two-year associates degree in Construction Management may have one year of experience credited towards the supervisory or managerial experience requirement.

(c) A person holding a Utah professional engineer license may be credited with satisfying one year toward the supervisory or managerial experience required for E100 contractor license.

([3]4) Requirements for I101 General Engineering Trades Instruction Facility, I102 General Building Trades Instruction Facility, I103 Electrical Trades Instruction Facility, I104 Plumbing Trades Instruction Facility, I105 Mechanical Trades Instruction Facility license classifications:

An applicant for construction trades instruction facility license shall have the same experience that is required for the license classifications for the construction trade they will instruct.

([4]5) Requirements for [S]E202 Solar Photovoltaic Contractor. In addition to the requirements of Subsection ([+2]), an applicant shall hold a current certificate by the North American Board of Certified Energy Practitioners.

([5]6) Requirements for S354 Radon Mitigation Contractor. In addition to the requirements of Subsection ([+2]), an applicant shall hold a current certificate issued by the National Radon Safety Board (NRSB) or the National Radon Proficiency Program (AARST-NRPP). Experience completed prior to the



effective date of this rule does not need to be performed under the supervision of a licensed contractor. Experience completed after the effective date of this rule must be performed under the supervision of a licensed contractor who has authority to practice radon mitigation.

**R156-55a-302e. Additional Requirements for Construction Trades Instructor Classifications.**

In accordance with Subsection 58-55-302(1)(f), the following additional requirements for licensure are established:

(1) Any school that provides instruction to students by building houses for sale to the public is required to become a Utah licensed contractor with a B100 General Building Contractor or R100 Residential and Small Commercial Building Contractor classification or both.

(2) Any school that provides instruction to students by building houses for sale to the public is also required to be licensed in the appropriate instructor classification.

(a) Before being licensed in a construction trades instruction facility classification, the school shall submit the name of an individual person who acts as the qualifier in each of the construction trades instructor classifications in accordance with Section R156-55a-304. The applicant for licensure as a construction trades instructor shall:

(i) provide evidence that the qualifier has passed the required examinations established in Section R156-55a-302a; and

(ii) provide evidence that the qualifier meets the experience requirement established in Subsection R156-55a-302b(3)4.

(3) Each individual employed by a school licensed as a construction trades instruction facility and working with students on a job site shall meet any teacher certification, or other teacher requirements imposed by the school district or college, and be qualified to teach the construction trades instruction facility classification as determined by the qualifier.

**R156-55a-302f. Pre-licensure Education - Standards.**

(1) Qualifier Education Requirement. The [20]25-hour pre-licensure [education program]course required by Subsection 58-55-302(1)(e)(iii) shall be completed by the qualifier for a contractor applicant.

(a) Any approved 20-hour pre-licensure course completed by the applicant before November 30, 2017 shall be accepted by the Division as satisfaction of the 25-hour pre-licensure course requirement in Subsection 58-55-302(1)(e)(iii).

(2) Program Pre-Approval. A pre-licensure [education]course provider shall submit an application for approval as an approved pre-licensure course provider on the form provided by the Division. The applicant shall demonstrate compliance with Section R156-55a-302f.

(3) Eligible Providers. The following may be approved to provide pre-licensure [education]courses:

(a) a nationally or regionally recognized accredited college or university having a physical campus located within the State of Utah; or

(b) a non-profit Utah construction trades association involved in the construction trades in the State of Utah:

(i) representing multiple construction [~~trade~~] classifications;

(ii) with membership of:

(A) at least 250 contractors licensed in Utah; or

(B) less than 250 members, if the association is:

(I) competent, as determined by the Commission and the Director according to their sole discretion; and

(II) compliant with all other standards of this rule; and

(iii) having five years of experience providing education to contractors in Utah.

(4) Content. The [20]25-hour [program]course may include an exam at the end of the course for no additional fee, and shall include the following topics and hours of education relevant to the practice of the construction trades consistent with the laws and rules of this state:

(a) [~~ten~~]15 hours of financial responsibility instruction that includes the following:

(i) record keeping and financial statements;

(ii) payroll, including:

(A) payroll taxes;

(B) worker compensation insurance requirements;

(C) unemployment insurance requirements;

(D) professional employer organization (employee leasing) alternatives;

(E) prohibitions regarding paying employees on 1099 forms as independent contractors, unless licensed or exempted;

(F) employee benefits; and

(G) Fair Labor Standard Act;

(iii) cash flow;

(iv) insurance requirements including auto, liability, and health; and

(v) independent contractor licensure and exemption requirements;

(b) six hours of construction business practices that includes the following:

(i) estimating and bidding;

(ii) contracts;

(iii) project management;

(iv) subcontractors; and

(v) suppliers;

(c) two hours of regulatory requirements that includes the following:

(i) licensing laws;

(ii) Occupational Safety and Health Administration (OSHA);

(iii) Environmental Protection Agency (EPA); and

(iv) consumer protection laws; and

(d) two hours of mechanic lien fundamentals that include the State Construction Registry.

(5) Program Schedule.

(a) An approved pre-licensure [education]course provider shall offer [programs]the 25-hour course:

(i) at least 12 times per year; and

(ii) comply with Subsection 58-55-102(7)(b).

(b) [~~The~~]An approved pre-licensure [education]course provider is not obligated to provide a course if the provider determines the enrollment is not sufficient to reach breakeven on cost.

(6) Program Instruction Requirements: The pre-licensure [education]course shall meet the following standards:

(a) Time. Each hour of pre-licensure [education]course credit shall consist of ~~[60]~~50 minutes of education in the form of live lectures or training sessions. Time allowed for lunches or breaks may not be counted as part of the [education]course time for which [education]course credit is issued.

(b) Learning Objectives. The learning objectives of the pre-licensure [education]course shall be reasonably and clearly stated.

(c) Teaching Methods. The pre-licensure [education]course shall be presented in a competent and well organized manner consistent with the stated purpose and objective of the program. The student must demonstrate knowledge of the course material~~[- and must be given a pass/fail grade].~~

(d) Faculty. The pre-licensure [education]course shall be prepared and presented by individuals who are qualified by education, training or experience.

(e) Distance Learning. Distance learning, internet courses, and home study courses are not allowed to meet pre-licensure [education]course requirements.

(f) Registration and Attendance. The provider shall have a competent method of registration and verification of attendance of individuals who complete the pre-licensure education.

(g) Education Curriculum and Study/Resource Guide. The provider shall be responsible to provide or develop pre-licensure [education]course curriculum and study/resource guide for the pre-licensure [education]course that must be pre-approved by the Commission and the Division prior to use by the provider.

(h) Live Broadcast. The pre-licensure education course may be taught by live broadcast if:

(i) the student and the instructor are able to see and hear each other; and

(ii) a representative of the provider is at any remote location to monitor registration and attendance at the course.

(7) Certificates of Completion. The pre-licensure [education]course provider shall provide individuals completing the pre-licensure [education]course a certificate that contains the following information:

(a) the date of the pre-licensure [education]course;

(b) the name of the pre-licensure [education]course provider;

(c) the attendee's name;

(d) verification of completion of the ~~[20]~~25-hour requirement; and

(e) the signature of the pre-licensure [education]course provider.

(8) Reporting of Program Completion. A pre-licensure [education]course provider shall, within seven calendar days, submit directly to the Division verification of attendance and completion on behalf of persons attending and completing the program. This verification shall be submitted on forms provided by the Division.

(9) Program Monitoring. On a random basis, the Division or Commission may assign monitors at no charge to attend a pre-licensure [education]course for the purpose of evaluating the [education]course and the instructor(s).

(10) Documentation Retention. Each provider shall for a period of four years maintain adequate documentation as proof of

compliance with this section and shall, upon request, make such documentation available for review by the Division or the Commission. Documentation shall include:

(a) the dates of all pre-licensure [education]courses that have been completed;

(b) registration and attendance logs of individuals who completed the pre-licensure [education]course;

(c) the name of instructors for each [education]course provided as a part of the program; and

(d) pre-licensure [education]course handouts and materials.

(11) Disciplinary Proceedings. As provided in Section 58-1-401 and Subsection 58-55-302(1)(e)(iii), the Division may refuse to renew or may revoke, suspend, restrict, place on probation, issue a public reprimand to, or otherwise act upon the approval of any pre-licensure [education]course provider, if the pre-licensure [education]course provider fails to meet any of the requirements of this section or the provider has engaged in other unlawful or unprofessional conduct.

(12) Exemptions. In accordance with Subsection 58-55-302(1)(e)(iii), the following persons are not required to complete the pre-licensure [education]course program requirements:

(a) a person holding a four-year bachelor degree or a two-year associate degree in Construction Management from an accredited program;

(b) a person holding an active and unrestricted Utah professional engineer license who is applying for the E100 contractor license classification; or

(c) a person who:

(i) is a qualifier on an active and unrestricted contractor license;

(ii) became the qualifier on the license on or before October 9, 2014; and

(iii) is applying to:

(A) add additional contractor classifications to the license; or

(B) become a qualifier on a new entity that is applying for initial licensure.

#### **R156-55a-303b. Continuing Education - Standards.**

(1) Required Hours. Pursuant to Subsection 58-55-302.5, each licensee shall complete a total of six hours of continuing education during each two year license term. A minimum of three hours shall be core education. The remaining three hours are to be professional education. Additional core education hours beyond the required amount may be substituted for professional education hours. A minimum of three hours shall consist of live in-class attendance. The remaining three hours may consist of courses provided through distance learning.

(a) Regular attendance by a commission member on the Construction Services Commission shall satisfy the member's continuing education requirements under Section 58-55-302.5.

(b) For an HVAC contractor licensee, at least three of the six hours described in Subsection (1) shall include continuing education directly related to the installation, repair, or replacement of a heating, ventilation, or air conditioning system.

(a)c "Core continuing education" is defined as construction codes, construction laws, job site safety, OSHA 10 or OSHA 30 safety training, governmental regulations pertaining to

the construction trades and employee verification and payment practices, finance, bookkeeping, and construction business practices.

([b]d) "Professional continuing education" is defined as substantive subjects dealing with the practice of the construction trades, including land development, land use, planning and zoning, energy conservation, professional development, arbitration practices, estimating, marketing techniques, servicing clients, personal and property protection for the licensee and the licensee's clients and similar topics.

([e]e) The following course subject matter is not acceptable as core education or professional education hours: mechanical office and business skills, such as typing, speed reading, memory improvement and report writing; physical well-being or personal development, such as personal and business motivation, stress management, time management, dress for success, or similar subjects; presentations by a supplier or a supplier representative to promote a particular product or line of products; and meetings held in conjunction with the general business of the licensee or employer.

([d]f) The Division may defer or waive the continuing education requirements as provided in Section R156-1-308d.

(2) A continuing education course shall meet the following standards:

(a) Time. Each hour of continuing education course credit shall consist of 50 minutes of education in the form of seminars, lectures, conferences, training sessions or distance learning modules. The remaining ten minutes is to allow for breaks.

(b) Provider. The course provider shall be among those specified in Subsection 58-55-302.5(2).

(c) Content. The content of the course shall be relevant to the practice of the construction trades and consistent with the laws and rules of this state.

(d) Objectives. The learning objectives of the course shall be reasonably and clearly stated.

(e) Teaching Methods. The course shall be presented in a competent, well organized and sequential manner consistent with the stated purpose and objective of the program.

(f) Faculty. The course shall be prepared and presented by individuals who are qualified by education, training and experience.

(g) Distance learning. A course that is provided through Internet or home study may be recognized for continuing education if the course verifies registration and participation in the course by means of a test demonstrating that the participant has learned the material presented. Test questions shall be randomized for each participant. A home study course shall include no fewer than five variations of the final examination, distributed randomly to participants. Home study courses, including the five exam variations, shall be submitted in their entirety to the Division for review. Providers shall track the following:

(i) the amount of time each student has spent in the course;

(ii) what activities the student did or did not access; and

(iii) all of the student's test scores.

(h) Documentation. The course provider shall have a competent method of registration of individuals who actually completed the course, shall maintain records of attendance that are available for review by the Division and shall provide individuals

completing the course a certificate that contains the following information:

(i) the date of the course;

(ii) the name of the course provider;

(iii) the name of the instructor;

(iv) the course title;

(v) the hours of continuing education credit and type of credit (core or professional);

(vi) the attendee's name; and

(v) the signature of the course provider.

(i) Live Broadcast. A course provided through live broadcast may be recognized for live in-class continuing education credit if the student and the instructor are able to see and hear each other.

(3) On a random basis, the Division may assign monitors at no charge to attend a course for the purpose of evaluating the course and the instructor.

(4) Each licensee shall maintain adequate documentation as proof of compliance with this section, such as certificates of completion, course handouts and materials. The licensee shall retain this proof for a period of three years from the end of the renewal period for which the continuing education is due. Each licensee shall assure that the course provider has submitted the verification of attendance to the continuing education registry on behalf of the licensee as specified in Subsection (8). Alternatively, the licensee may submit the course for approval and pay any course approval fees and attendance recording fees.

(5) Licensees who lecture in continuing education courses meeting these requirements shall receive two hours of continuing education for each hour spent lecturing. However, no lecturing or teaching credit is available for participation in a panel discussion.

(6) The continuing education requirement for electricians, plumbers and elevator mechanics as established in Subsections 58-55-302.7, if offered by a provider specified in Subsection 58-55-302.5(2), shall satisfy the continuing education requirement for contractors as established in Subsection 58-55-302.5 and implemented herein. The contractor licensee shall assure that the course provider has submitted the verification of the electrician's, plumber's or elevator mechanic's attendance on behalf of the licensee to the continuing education registry as specified in Subsection (8).

(7) A course provider shall submit continuing education courses to the continuing education registry and shall submit verification of attendance and completion on behalf of licensees attending and completing the program directly to the continuing education registry in the format required by the continuing education registry.

(8) The Division shall review continuing education courses which have been submitted through the continuing education registry and approve only those courses which meet the standards set forth under this Section.

(9) As provided in Section 58-1-401 and Subsections 58-55-302.5(2) and 58-55-302.7(4)(a), the Division may refuse to renew or may revoke, suspend, restrict, place on probation, issue a public reprimand to, or otherwise act upon the approval of any course or provider, if the course or provider fails to meet any of the requirements of this section or the provider has engaged in unlawful or unprofessional conduct.

## (10) Continuing Education Registry.

(a) The Division shall designate an entity to act as the Continuing Education Registry under this rule.

(b) The Continuing Education Registry, in consultation with the Division and the Commission, shall:

(i) through its internet site electronically receive applications from continuing education course providers and shall submit the application for course approval to the Division for review and approval of only those programs that meet the standards set forth under this Section;

(ii) publish on their website listings of continuing education programs that have been approved by the Division, and which meet the standards for continuing education credit under this rule;

(iii) maintain accurate records of qualified continuing education approved;

(iv) maintain accurate records of verification of attendance and completion, by individual licensee, which the licensee may review for compliance with this rule; and

(v) make records of approved continuing education programs and attendance and completion available for audit by representatives of the Division.

(c) Fees. A continuing education registry may charge a reasonable fee to continuing education providers or licensees for services provided for review and approval of continuing education programs.

**R156-55a-304. Contractor License Qualifiers.**

(1) The capacity and material authority specified in Subsection 58-55-304(4) is clarified as follows:

(a) Except as allowed in Subsection (b), the qualifier must receive remuneration for work performed for the contractor licensee for not less than [40]12 hours of work per week.

(i) If the qualifier is an owner of the business, the remuneration may be in the form of owner's profit distributions or dividends with a minimum ownership of 20 percent of the contractor licensee.

(ii) If the qualifier is an officer or manager of the contractor licensee, the remuneration must be in the form of W-2 wages.

(b) The [40]12 hour minimum in Subsection (a) may be reduced if the total of all hours worked by all owners and employees is less than 50 hours per week, in which case the minimum may not be less than 20 percent of the total hours of work performed by all owners and employees of the contractor.

(c) A qualifier may not act as the qualifier for more than three licensees at any one time, unless:

(i) the qualifier demonstrates by sufficient evidence satisfactory to the Commission and the Division that the qualifier exercises material authority over the businesses; and

(ii) written approval is granted by the Commission and the Division.

(2) Construction Trades Instruction Facility Qualifier. In accordance with Subsection 58-55-302(1)(f), the contractor license qualifier requirements in Section 58-55-304 shall also apply to construction trades instruction facilities.

**R156-55a-306. Contractor Financial Responsibility - Division Audit.**

In accordance with Subsections 58-55-302(10)(c), 58-55-306(5), 58-55-306(4)(b), and 58-55-102([49]20), the Division may consider various relevant factors in conducting a financial responsibility audit of an applicant, licensee, or any owner, including:

(1)(a) judgments, tax liens, collection actions, bankruptcy schedules and a history of late payments to creditors, including documentation showing the resolution of each of the above actions;

(b) financial statements and tax returns, including the ability to prepare or have prepared competent and current financial statements and tax returns;

(c) an acceptable current credit report that meets the following requirements:

(i) for individuals:

(A) a credit report from each of the three national reporting agencies, Trans Union, Experian, and Equifax; or

(B) a merged credit report of the agencies identified in Subsection (A) prepared by the National Association of Credit Managers (NACM); or

(ii) for entities, a business credit report such as an Experian Business Credit Report or a Dun and Bradstreet Report;

(d) an explanation of the reasons for any financial difficulties and how the financial difficulties were resolved;

(e) any of the factors listed in Subsection R156-1-302 that may relate to failure to maintain financial responsibility;

(f) each of the factors listed in this Subsection regarding the financial history of the owners of the applicant or licensee;

(g) any guaranty agreements provided for the applicant or licensee and any owners; and

(h) any history of prior entities owned or operated by the applicant, the licensee, or any owner that have failed to maintain financial responsibility.

**R156-55a-312. Inactive License.**

(1) The requirements for inactive licensure specified in Subsection R156-1-305(3) shall also include certification that the licensee will not engage in the construction trade(s) for which his license was issued while his license is on inactive status except to identify himself as an inactive licensee.

(2) A license on inactive status will not be required to meet the requirements of licensure in Subsections 58-55-302(1)(e) (i), 58-55-302(2)(a) and 58-55-302(2)(b).

(3) The requirements for reactivation of an inactive license specified in Subsection R156-1-305(6) shall also include:

(a) documentation that the licensee meets the requirements of Subsections 58-55-302(1)(e)(i), 58-55-302(2)(a) and 58-55-302(2)(b); and

(b) documentation that the licensee has taken and passed the business and law examination and the [~~trade~~]contractor classification examination, if required, for the contractor classification for which activation is sought except that the following exceptions shall apply to the reactivation examination requirement:

(i) No license shall be in an inactive status for more than six years.

(ii) Prior to a license being activated, a licensee shall meet the requirements of renewal.

**R156-55a-503. Administrative Penalties.**

(1) In accordance with Subsection 58-55-503, the following fine schedule shall apply to citations issued under Title 58, Chapter 55:

TABLE II

FINE SCHEDULE

FIRST OFFENSE

Violation	All Licenses Except Electrical or Plumbing	Electrical or Plumbing
58-55-308(2)	\$ 500.00	N/A
58-55-501(1)	\$ 500.00	\$ 500.00
58-55-501(2)	\$ 500.00	\$ 800.00
58-55-501(3)	\$ 800.00	\$1,000.00
58-55-501(9)	\$ 500.00	\$ 500.00
58-55-501(10)	\$ 800.00	\$1,000.00
58-55-501(12)	N/A	\$ 500.00
58-55-501(14)	\$ 500.00	N/A
58-55-501(19)	\$ 500.00	N/A
58-55-501(21)	\$ 500.00	\$ 500.00
58-55-501(22)	\$ 500.00	N/A
58-55-501(23)	\$ 500.00	N/A
58-55-501(24)	\$ 500.00	N/A
58-55-501(25)	\$ 500.00	N/A
58-55-501(26)	\$ 500.00	N/A
58-55-501(27)	\$ 500.00	N/A
58-55-501(28)	\$ 500.00	N/A
58-55-501(29)	\$ 500.00	N/A
58-55-504(2)	\$ 500.00	N/A

SECOND OFFENSE

58-55-308(2)	\$1,000.00	N/A
58-55-501(1)	\$1,000.00	\$1,500.00
58-55-501(2)	\$1,000.00	\$1,500.00
58-55-501(3)	\$1,600.00	\$2,000.00
58-55-501(9)	\$1,000.00	\$1,000.00
58-55-501(10)	\$1,600.00	\$2,000.00
58-55-501(12)	N/A	\$1,000.00
58-55-501(14)	\$1,000.00	N/A
58-55-501(19)	\$1,000.00	N/A
58-55-501(21)	\$1,000.00	\$1,000.00
58-55-501(22)	\$1,000.00	N/A
58-55-501(23)	\$1,000.00	N/A
58-55-501(24)	\$1,000.00	N/A
58-55-501(25)	\$1,000.00	N/A
58-55-501(26)	\$1,000.00	N/A
58-55-501(27)	\$1,000.00	N/A
58-55-501(28)	\$1,000.00	N/A
58-55-501(29)	\$1,000.00	N/A
58-55-504(2)	\$1,000.00	N/A

THIRD OFFENSE

Double the amount for a second offense with a maximum amount not to exceed the maximum fine allowed under Subsection 58-55-503(4)(h).

(2) Citations shall not be issued for third offenses, except in extraordinary circumstances approved by the investigative supervisor.

(3) If multiple offenses are cited on the same citation, the fine shall be determined by evaluating the most serious offense.

(4) If multiple offenses are cited on separate citations, the fine shall be the maximum fine for each offense.

\_\_\_\_\_[(4)5] An investigative supervisor may authorize a deviation from the fine schedule based upon the aggravating or mitigating circumstances.

[(5)6] The presiding officer for a contested citation shall have the discretion, after a review of the aggravating and mitigating circumstances, to increase or decrease the fine amount imposed by an investigator based upon the evidence presented.

**KEY: contractors, occupational licensing, licensing**

**Date of Enactment or Last Substantive Amendment: [May 8,] 2017**

**Notice of Continuation: August 4, 2016**

**Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-55-101; 58-55-308(1)(a); 58-55-102(39)(a)**

**Education, Administration  
R277-108  
Annual Assurance of Compliance by  
Local School Boards**

**NOTICE OF PROPOSED RULE  
(Amendment)**

DAR FILE NO.: 42116

FILED: 09/15/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Following a five-year review, the Utah State Board of Education determined that Rule R277-108 continued to be necessary so it was continued. The rule is amended to provide necessary technical and conforming changes to bring the rule into compliance with the Rulewriting Manual for Utah and to include reference to a new written assurance required by Rule R277-515. (EDITOR'S NOTE: The proposed amendment to Rule R277-515 is under Filing No. 41979 that was published in the August 15, 2017, issue of the Bulletin and is effective as of 09/21/2017.)

**SUMMARY OF THE RULE OR CHANGE:** The amendments to this rule provide technical and conforming changes that include changes to numbering, references, and terminology.

**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 to Rule R277-108 provide technical and conforming changes which will likely not result in a cost or savings to the state budget.

♦ **LOCAL GOVERNMENTS:** The amendments to Rule R277-108 provide technical and conforming changes which will likely not result in a cost or savings to local governments.

♦ **SMALL BUSINESSES:** The amendments to Rule R277-108 provide technical and conforming changes which will likely not result in a cost or savings to small businesses.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The amendments to Rule R277-108 provide technical and conforming changes which will likely not result in a cost or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendments to Rule R277-108 provide technical and conforming changes which will likely not result in any compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that the amendments to this rule will not result in a fiscal impact to businesses.

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](mailto: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 10/31/2017

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2017

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

## R277. Education, Administration.

### R277-108. Annual Assurance of Compliance by Local School Boards.

#### R277-108-[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 in the Board; and

(b) Section 53A-1-401[(3)], which [permits] allows the Board to [adopt] make rules [in accordance with its] to execute the Board's duties and responsibilities under the Utah Constitution and state law and allows the Board to interrupt disbursements of state aid to any district which fails to comply with rules adopted in accordance with the law.

[B-](2) The purpose of this rule is to provide local school boards with a list of laws requiring local school board action and a means of assuring that local boards are in compliance.

#### R277-108-[4]2. Definitions.

[A-]"Annual assurance letter" means a letter required annually from each local school board by the Board to be received no later than October 1 of each year that provides the required compliance information and documentation, if directed, for identified programs and funds.

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

~~C. "USOE" means the Utah State Office of Education.~~

#### R277-108-3. [Board/USOE]Superintendent Responsibilities.

[A-](1) The [Board]Superintendent shall provide [to school district superintendents, the superintendent for the Utah School for the Deaf and the Blind and charter school governing boards-]a list of laws and a list of State Board of Education Administrative Rules which require action or compliance by June 30 of each year to school district superintendents, the superintendent for the Utah School for the Deaf and the Blind and charter school directors.

[B-](2) The list described in Subsection (1) shall identify laws and rules along with required compliance dates and reporting forms, if different or necessary than or in addition to the annual assurance letter.

[C-](3) The [Board]Superintendent shall consolidate all required reporting and compliance forms and provide for electronic reporting, to the extent possible.

#### R277-108-4. [Local Board and Identified School]LEA Responsibilities.

[A-Local Boards](1) An LEA shall submit the required [A]annual [A]assurance [E]letter[(s)] and other compliance forms on or before dates identified by the Board.

[B-](2) In the event that an local school boardLEA is unable to provide required assurances, compliance information or forms by required dates, the local school boardan LEA shall provide to the [USOE]Superintendent a written explanation of the local school board'sLEA's inability and provide a compliance date.

(3) TheAn LEA's request for delay in providingadditional time to provide the assurance shall be reviewed by the Board or its designeeSuperintendent and accepted or rejected in a timely manner.

#### R277-108-5. Assurances.

[A- Each local school board and charter school governing board]An LEA shall provide, consistent with state law, written assurance of the following:

(1) the National motto is displayed in schools consistent with Section 53A-13-101.4(6);

(2) the Pledge of Allegiance is recited in public schools consistent with Section 53A-13-101.6;

(3) a policy has been developed, in consultation with school personnel, parents, and school community, to provide for effective implementation of student education plans[~~student education occupation plans (SEPs/SEOPs)~~] and plans for college and career readiness consistent with Subsection 53A-1a-106(2)(b);

(4) compliance with Section 53A-3-426, ~~in~~[that] [it]the LEA does not endorse or provide preferential treatment for any education employee association;

(5) a policy has been developed for Quality Teaching Block Grant Program consistent with Section 53A-17a-124;

(6) a policy has been developed on education association leave consistent with Section 53A-3-425;

(7) each public school within the ~~[district]~~LEA has established a community council consistent with Section 53A-1a-108, and the community council members have been advised of their responsibilities consistent with Sections 53A-1a-108 and 53A-1a-108.5;

(8) the ~~[local school board]~~LEA has provided the ~~[USOE]~~Superintendent with required Utah Performance Assessment System for Students (U-PASS) test results in order for the ~~[USOE]~~Superintendent to fulfill the requirements of 53A-1-605;

(9) the ~~[district]~~LEA does not make payroll deductions from the wages of its employees for political purposes consistent with Subsection 34-32-1.1(2);

(10) the ~~[local school board]~~LEA has implemented a training program for school administrators consistent with Section 53A-3-402(1)(f);

(11) for a school district, the local school board has an educator evaluation program developed by a joint committee including classroom teachers, parents and administrators consistent with Section 53A-10-103;

(12) the local school board or charter school governing board has presented and implemented an electronic device policy consistent with the timelines and provisions of R277-495;

(13) the ~~[school district or charter school]~~LEA has posted the LEA's collective bargaining agreement~~(s)~~ on the ~~[school district or charter school]~~LEA's website within ten days of the ratification or modification of any collective bargaining agreement consistent with Section 53A-3-428; ~~and~~

(14) by May 15~~[-2010;]~~ of each year, the ~~[school district or charter school]~~LEA has posted certain public financial information on the ~~[school district or charter school]~~LEA's website consistent with Sections 63A-3-401 through 63A-3-404~~[-]; and~~

(15) the LEA has trained educators employed by the LEA on the Utah Educator Professional Standards described in Rules R277-515 and R277-516 as required in Section R277-515-7.

**R277-108-6. Reporting Deadlines.**

~~[B-]~~Letters from ~~[local school boards]~~LEAs assuring compliance with the laws ~~[above]~~ described in Section R277-108-5 are due to the ~~[State]~~Superintendent ~~[of Public Instruction]~~ no later than October 1 of each year.

**R277-108-6]7. Penalties for Noncompliance.**

~~[A-]~~(1) The ~~[Board]~~Superintendent shall request written explanation~~(s)~~ from ~~[local school boards]~~an LEA and identified schools that fail to meet reporting and compliance deadlines.

~~[B-]~~(2) Following an opportunity to provide explanations and request delays, ~~[local school boards]~~LEAs and identified schools shall be notified of penalties assessed by the Board against the ~~[local school boards]~~LEAs in accordance with R277-114.~~]~~

C. Penalties may include:

- ~~\_\_\_\_\_~~ (1) ~~warning letters;~~
- ~~\_\_\_\_\_~~ (2) ~~letters of reprimand sent to the local school board with copies to appropriate Legislative committees;~~
- ~~\_\_\_\_\_~~ (3) ~~charter school review under R277-481; or~~
- ~~\_\_\_\_\_~~ (4) ~~interruption of monthly transfers of funds specified for administrative costs under Section 53A-17a-108, interruptions~~

~~of disbursement of state aid under Section 53A-1-401(3) or withholding of specific program funds.]~~

**R277-108-7]8. Record Retention.**

Letters of ~~[A]~~assurance, as required by the Board, shall be kept on file ~~[at the USOE]~~by the Superintendent for five years, together with letters of explanation and documentation of penalties, as directed by the Board.

**KEY: local school boards, compliance**

**Date of Enactment or Last Substantive Amendment:**

~~[December 17, 2012]~~2017

**Notice of Continuation: September 13, 2017**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; ~~[-53A-6-702;]~~ 53A-1-401(3)]**

Education, Administration  
**R277-420**  
Aiding Financially Distressed School  
Districts

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 42117

FILED: 09/15/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Following a five-year review, the Utah State Board of Education determined that Rule R277-420 continued to be necessary so it was continued. The rule is amended to provide necessary technical and conforming changes to bring the rule into compliance with the Rulewriting Manual for Utah.

**SUMMARY OF THE RULE OR CHANGE:** The amendments to this rule provide technical and conforming changes that include changes to numbering, references, and terminology.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Art X Sec 3 and Section 53A-1-401 and Subsection 53A-19-105(5)

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** The amendments to Rule R277-420 provide technical and conforming changes which will likely not result in a cost or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** The amendments to Rule R277-420 provide technical and conforming changes which will likely not result in a cost or savings to local governments.
- ◆ **SMALL BUSINESSES:** The amendments to Rule R277-420 provide technical and conforming changes which will likely not result in a cost or savings to small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The amendments to Rule R277-420 provide technical and

conforming changes which will likely not result in a cost or savings to persons other than small businesses, businesses, or local government entities.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The amendments to Rule R277-420 provide technical and conforming changes which will likely not result in any compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** After conducting a thorough analysis, it was determined that the amendments to this rule will not result in a fiscal impact to businesses.

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](mailto: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 10/31/2017

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2017

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

### R277. Education, Administration.

#### R277-420. Aiding Financially Distressed School Districts.

##### R277-420-[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 over public education in the Board;~~

~~(b) 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; and~~

~~(c) Subsection 53A-19-105(5), which requires the Board to develop standards for defining and aiding financially distressed school districts; and Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities].~~

~~[B-](2)~~ The purpose of this rule is to specify ~~[the]~~ eligibility requirements ~~[for]~~ and ~~[the]~~ procedures for nonrecurring or nonroutine interfund transfers for financially distressed school districts.

##### R277-420-[1]2. Definitions.

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

~~\_\_\_\_\_B-](1)(a)~~ "Interfund transfer" means a transaction which withdraws money from one fund and places it in another without recourse.

~~(b) An [F]interfund transfer[s-are] is regulated by statute and Board rules.~~

~~(c) "Interfund transfers" do not include interfund loans in which money is temporarily withdrawn from a fund with full obligation for repayment during the fiscal year.~~

~~[C- "School district," for purposes of this rule, means school district under the direction of the local board of education.~~

~~\_\_\_\_\_D- "State Superintendent" means the State Superintendent of Public Instruction. For purposes of this rule, the Board's designee is the State Superintendent.~~

~~\_\_\_\_\_E- "USOE" means the Utah State Office of Education.~~

~~\_\_\_\_\_F-](2) "Without recourse" means there is no obligation to return withdrawn money to the fund from which it was transferred.~~

#### R277-420-3. Eligibility.

~~[To qualify as a financially distressed school district, a school district shall meet all of the following requirements:~~

~~\_\_\_\_\_](1) A school district may qualify as financially distressed if the district:~~

~~[A- Have-](a) has a deficit of three percent or more in its year end unappropriated maintenance and operation fund balance following a reduction for any amount in an undistributed reserve[-];~~

~~[B- Be-](b) is unable to meet its financial obligations in a timely manner[-];~~

~~[C- Be-](c) is unable to reduce the maintenance and operation deficit by ~~[twenty-five] 25~~ percent in its budget for the next year[-];~~

~~[D- Have-](d) can demonstrate that it has made reasonable, local efforts to eliminate the deficit[-];~~

~~[E- Be-](e) is financially incapable of meeting statewide educational standards adopted by the Board[-]; and~~

~~[F- Have-] (f) has a deficit resulting from circumstances not subject to administrative decisions.~~

~~(2) The Superintendent shall evaluate the criteria outlined in Subsection (1) and make a determination on whether a district is financially distressed[This judgment shall be made] following an on-site visit and consultation with the school district and local school board[-by USOE staff].~~

#### R277-420-4. Procedures for Making Interfund Transfers.

~~[A-](1) A local school board [applying to qualify] may apply for an interfund transfer under this rule [shall request that the USOE visit the school district, conduct an audit, and assist the local school board and district staff in developing a plan to eliminate the deficit.]by filing a request with the Superintendent, which shall include:~~

~~\_\_\_\_\_ (a) evidence that the district meets the criteria set forth in Section R277-420-3; and~~

~~\_\_\_\_\_ (b) a plan to eliminate the district's budget deficit.~~

~~(2) As part of a district application under Subsection (1) (a), the Superintendent shall:~~

~~\_\_\_\_\_ (a) visit the school district; and~~

~~\_\_\_\_\_ (b) conduct a financial analysis.~~

~~[B- The school district shall meet the eligibility requirements of R277-420-3 and be approved as a financially~~



~~distressed school district by the Board or its designee.](3) The Superintendent may only approve an interfund transfer under this rule if the Superintendent determines that:~~

~~(a) the district meets the eligibility requirements of Section R277-420-3; and~~

~~(b) the district's request does not conflict with Subsection 53A-19-105(6)(d).~~

~~(4) The Superintendent shall advise the Board of any transfers approved under this rule at the next regularly scheduled Board meeting.~~

~~[C.](5) A school district designated as financially distressed may make nonrecurring or nonroutine interfund transfers to the district's maintenance and operation fund upon the approval of the [Board or its designee]Superintendent and in accordance with the plan submitted by the district under Subsection (1)(b).~~

~~[D.](6) [The]An interfund transfer shall be established by [the]a school district under the direction of the local school board in an undistributed reserve account consistent with Section 53A-19-103.~~

**KEY: education finance**

**Date of Enactment or Last Substantive Amendment:**  
~~[November 8, 2012]2017~~

**Notice of Continuation:** September 13, 2017

**Authorizing, and Implemented or Interpreted Law:** 53A-19-105; 53A-1-401[3]; 53A-19-103

**Education, Administration**  
**R277-422**  
**State Supported Voted Local Levy,  
 Board Local Levy and Reading  
 Improvement Program**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 42104

FILED: 09/14/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Following a five-year review, the Utah State Board of Education determined that Rule R277-422 continued to be necessary so it was continued. The rule is amended to provide necessary technical and conforming changes to bring the rule into compliance with the Rulewriting Manual for Utah.

**SUMMARY OF THE RULE OR CHANGE:** The amendments to this rule provide technical and conforming changes that include changes to numbering, references, and terminology.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Art X Sec 3 and Section 53A-1-401 and Subsection 53A-19-402(1)(e)

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** The amendments to Rule R277-422 provide technical and conforming changes which will likely not result in a cost or savings to the state budget.

♦ **LOCAL GOVERNMENTS:** The amendments to Rule R277-422 provide technical and conforming changes which will likely not result in a cost or savings to local government.

♦ **SMALL BUSINESSES:** The amendments to Rule R277-422 provide technical and conforming changes which will likely not result in a cost or savings to small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The amendments to Rule R277-422 provide technical and conforming changes which will likely not result in a cost or savings to persons other than small businesses, businesses, or local government entities.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The amendments to Rule R277-422 provide technical and conforming changes which will likely not result in any compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** After conducting a thorough analysis, it was determined that the amendments to this rule will not result in a fiscal impact to businesses.

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](mailto: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 10/31/2017

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2017

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

**R277. Education, Administration.**  
**R277-422. State Supported Voted Local Levy, Board Local Levy and Reading Improvement Program.**

**R277-422-[2]1. Authority and Purpose.**

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

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

~~(b) 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;~~

~~(c) Subsection 53A-1-402(1)(e), which directs the Board to establish rules for:~~

- ~~(i) school productivity and cost effectiveness measures[;];~~
- ~~(ii) federal programs[;];~~
- ~~(iii) school budget formats[;]; and~~
- ~~(iv) financial, statistical, and student accounting requirements[; and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities].~~

~~[B-](2) The purpose of this rule is to specify requirements, timelines, and clarifications for:~~

- ~~(a) the state-supported voted local levy[;];~~
- ~~(b) the board local levy[;]; and~~
- ~~(c) the reading improvement program.~~

#### **R277-422-1[1]2. Definitions.**

~~[A-](1) "Ad valorem property tax" means a tax based on the assessed value of real estate or personal property.~~

~~[B- "Board" means the Utah State Board of Education.~~

~~C-](2) "Board local levy" means a [state-supported program under Section 53A-17a-164 to cover a portion of the costs within the school district's general fund of the state-supported minimum school program] tax levied by a local board in accordance with Section 53A-17a-164 to support a district's general fund.~~

~~[D-](3) "Free or reduced meal applications" means the applications received by a school district or charter school under the Board-supervised federal Child Nutrition Program.~~

~~[E-](4) "Local board" means the school board members elected to govern a school district.~~

~~[F-](5) "State-supported" means a formula-based state contribution of funds to the voted local levy program and the [B]board local levy program as defined in Section 53A-17a-133[3] and Section 53A-17a-164[3].~~

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

~~H-](6) "Voted local levy" means a state-supported program in which a voter-approved property tax levy under Section 53A-17a-133 is authorized to cover a portion of the costs within the general fund of the state-supported minimum school program in a district.~~

~~[I-](7) "Weighted pupil unit " or "[WPU]" [means the basic per pupil unit used to calculate the amount of state funds for which a school district is eligible] has the same meaning as set forth in Subsection 53A-17a-103(8).~~

#### **R277-422-3. Requirements and Timelines for State-Supported Voted Local Levy and Board Local Levy.**

~~[A-](1) A local board may establish a state-supported voted local levy program following an election process [that approves a special tax. The election process is provided for under] in accordance with Section 53A-17a-133[2].~~

~~[B-](2) A [E]local board[s] which [have]has approved voted local levy or voted leeway programs since 1965 may set an annual fiscal year fixed tax rate levy for the voted local levy equal to or less than the levy authorized by the election.~~

~~[C- A school district may budget an increased amount of ad valorem property tax revenue from a voted local levy in addition to revenue from new growth without required compliance with the~~

~~advertisement requirements if the voted local levy is or was approved:~~

~~(1) on or after January 1, 2003;~~

~~(2) within the four-year period immediately preceding the year in which the school district seeks to budget an increased amount of ad valorem property tax; and~~

~~(3) for a voted local levy approved or modified on or after January 1, 2009, the proposition submitted to the voters contains the following statement: A vote in favor of this tax means that (name of school district) may increase revenue from this property tax without advertising the increase for the next five years.~~

~~D. Any prior year voted and board local funding balance shall be used to increase the current guarantee for the board and voted local levy programs. Funding shall be distributed based on the increased guarantee per WPU.]~~

~~[E-](3) A district may budget and expend [S]state and local funds received [by a local board] under the voted local levy or board local levy program [are unrestricted revenue and may be budgeted and expended] within the school district's general fund as unrestricted revenue.~~

~~[F-](4) In order to receive state support for an initial voted local levy tax rate, a local board shall receive voter approval no later than December 1 prior to the commencement of the fiscal year of implementation of that initial voted local levy tax rate.~~

~~[G-](5) If a school district qualifies for state support the year prior to an increase in its existing voted local levy; and:~~

~~(1)a) does not receive voter approval for an increase after June 30 of the previous fiscal year and before December 2 of the previous fiscal year; and~~

~~(2)b) intends to levy the additional rate for the fiscal year starting the following July 1; then~~

~~(3)c) the district [shall]may only receive state support for the existing voted local levy tax rate and not the additional voter-approved tax rate for the fiscal year commencing the following July 1[;]; and~~

~~(4)d) shall receive state support for the existing and additional voter-approved tax rate for each year thereafter, as long as the district qualifies to receive state support.~~

#### **R277-422-4. K-3 Reading Achievement Program.**

~~[A- The K-3 Reading Improvement Program consists of program funds and is created to achieve the state's goal of having third graders reading at or above grade level.~~

~~B. Funding~~

~~(1) The calculation for the K-3 Reading Achievement funding shall be consistent with Section 53A-17a-150 which requires matching funds and Section 53A-17a-151.] (1) A district may participate in the K-3 Reading Achievement Program by submitting a plan in accordance with Section 53A-17a-150 and Rule R277-406.~~

~~(2) School districts shall use the following data for the reading fund calculations:] (2) A school district shall calculate funding under the K-3 Reading Achievement Program using the following data:~~

~~(a) the most current numbers of final adjusted assessed valuations received from the Utah State Tax Commission;~~

~~(b) the year's tax collection rate, that corresponds to the year provided under [R277-522-4B] Subsection (2)(a);~~

- (c) the previous fiscal year's number of [F]free and [R]reduced [P]price [M]meal applications; and
- (d) the current fiscal year total number of WPU's received by each school district for the basic school program.

**KEY: education, finance**

**Date of Enactment or Last Substantive Amendment:**  
~~[November 10, 2014]~~2017

**Notice of Continuation:** September 13, 2017

**Authorizing, and Implemented or Interpreted Law:** Art X Sec 3; 53A-1-402(1)(f)e); 53A-1-401(3); 53A-17a-133; 53A-17a-164; 53A-17a-150; ~~53A-17a-151; 59-2-919~~

## Education, Administration **R277-423** Delivery of Flow Through Money

### NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 42098

FILED: 09/13/2017

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** During a five-year review of Rule R277-423, it was determined that the rule is no longer necessary because any necessary provisions in this rule are better suited for Utah State Board of Education Internal Finance Section policies.

**SUMMARY OF THE RULE OR CHANGE:** This rule describes the process by which flow through money is disbursed to local education agencies. Those provisions are now better suited as an internal policy. Therefore, Rule R277-423 is repealed in its entirety.

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

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** Repealing Rule R277-423 will likely not result in a cost or savings to the state budget. Rule R277-423 is repealed in its entirety because the provisions are no longer necessary in a rule.
- ◆ **LOCAL GOVERNMENTS:** Repealing Rule R277-423 will likely not result in a cost or savings to local governments. Rule R277-423 is repealed in its entirety because the provisions are no longer necessary in a rule.
- ◆ **SMALL BUSINESSES:** Repealing Rule R277-423 will likely not result in a cost or savings to small businesses. Rule R277-423 is repealed in its entirety because the provisions are no longer necessary in a rule.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Repealing Rule R277-423 will likely not result in a cost or savings to persons other than small businesses, businesses,

or local government entities. Rule R277-423 is repealed in its entirety because the provisions are no longer necessary in a rule.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Repealing Rule R277-423 will likely not result in any compliance costs for affected persons. Rule R277-423 is repealed in its entirety because the provisions are no longer necessary in a rule.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** After conducting a thorough analysis, it was determined that repealing this rule will not result in a fiscal impact to businesses.

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](mailto: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 10/31/2017

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2017

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

**R277. Education, Administration.**

**~~[R277-423. Delivery of Flow Through Money.~~**

**~~R277-423-1. Definitions.~~**

- ~~\_\_\_\_\_ A. "Bank transfer" means a monthly deposit of money to each LEA's bank as authorized by the USOE via the State Treasurer and agent bank.~~
- ~~\_\_\_\_\_ B. "Board" means the Utah State Board of Education.~~
- ~~\_\_\_\_\_ C. "Flow through money" means state funds appropriated under the state-supported minimum school program and federal funds, both of which are administered by the Board and disbursed to individual LEAs.~~
- ~~\_\_\_\_\_ D. "LEA" means a local education agency, including local school boards/public school districts, charter schools, and, for purposes of this rule, the Utah Schools for the Deaf and the Blind.~~
- ~~\_\_\_\_\_ E. "State-supported minimum school program" means school programs for kindergarten, elementary, and high schools which may be operated and maintained for the total of costs set by the Legislature annually.~~
- ~~\_\_\_\_\_ F. "USOE" means the Utah State Office of Education.~~

**R277-423-2. Authority and Purpose.**

~~A. This rule is authorized by Article X, Section 3 of the Utah Constitution which vests general control and supervision of public education in the Board and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.~~

~~B. The purpose of this rule is to describe the process whereby flow through money is disbursed to LEAs.~~

**R277-423-3. Procedures.**

~~A. An estimate of the amount of each LEA's share of state funds appropriated for the state-supported minimum school program is made by the USOE annually before June 30. The estimate shall indicate, for each LEA, its estimated number of units and the cost of its state-supported minimum school programs. One-twelfth of the LEA's share of the state funds constitutes monthly payments. The estimates are revised periodically to accurately represent one-twelfth of the LEA's share of the state funds. A final statement is made with LEAs following the end of the fiscal year.~~

~~B. State and federal funds shall be transferred to LEAs by means of bank transfers.~~

~~(1) The USOE shall prepare a summary listing funds for each individual program and total funds for each LEA which shall be mailed electronically to each LEA. It shall also prepare a summary listing the designated bank and amount of funds for each LEA on the electronic funds transfer memo for the state designated agent bank and the State Treasurer.~~

~~(2) The USOE shall, in a timely manner, complete the necessary accounting work for the transfer of funds and deliver the request to the State Department of Finance. The USOE shall coordinate the letter of credit for federal funds withdrawal for deposit with the State Treasurer in accordance with the cash management agreement with the US Treasury.~~

~~(3) The State Department of Finance shall complete necessary accounting work to have funds authorized for release by the State Treasurer's office.~~

~~(4) The State Treasurer's office shall release funds in accordance with the electronic funds transfer memo to the state designated agent bank in time to ensure deposit of funds in each LEA's designated bank by 11:00 a.m. on the last working day of each month.~~

~~(5) The state designated agent bank shall deposit funds to each LEA's designated account by 11:00 a.m. on the last working day of each month.~~

~~(6) LEAs shall keep bank account transfer information accurate and current to enable the monthly transfers of funds to be completed in a timely manner; all information shall be sent to the USOE audit/finance specialist in the School Finance and Statistics Section at the USOE.~~

~~C. When a disruption occurs in the procedure specified in Subsection 3(B), the USOE shall coordinate transfer procedures in a timely manner.~~

~~D. The USOE may administer state and federal flow through money for state institutions and private and parochial schools. It prepares and processes vouchers for the funds and forwards warrant requests authorizing the State Treasurer to make payment to the identified recipient.~~

**R277-423-4. Reports.**

~~An LEA that fails to meet deadlines for submitting to the USOE reports that are necessary to calculate its share of state funds or that fails to meet deadlines for the annual audit report may have its state funds withheld until an acceptable report is filed with the USOE in accordance with R277-484, Data Standards.~~

**KEY: education finance**

~~Date of Enactment or Last Substantive Amendment: November 8, 2012~~

~~Notice of Continuation: September 14, 2012~~

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

## Education, Administration R277-424 Indirect Costs for State Programs

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 42118

FILED: 09/15/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Following a five-year review, the Utah State Board of Education determined that Rule R277-424 continued to be necessary so it was continued. The rule is amended to provide necessary technical and conforming changes to bring the rule into compliance with the Rulewriting Manual for Utah.

**SUMMARY OF THE RULE OR CHANGE:** The amendments to this rule provide technical and conforming changes that include changes to numbering, references, and terminology.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Art X Sec 3 and Section 53A-1-401 and Subsection 53A-1-402(1)(e)

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** The amendments to Rule R277-424 provide technical and conforming changes which will likely not result in a cost or savings to the state budget.

♦ **LOCAL GOVERNMENTS:** The amendments to Rule R277-424 provide technical and conforming changes which will likely not result in a cost or savings to local governments.

♦ **SMALL BUSINESSES:** The amendments to Rule R277-424 provide technical and conforming changes which will likely not result in a cost or savings to small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The amendments to Rule R277-424 provide technical and conforming changes which will likely not result in a cost or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendments to Rule R277-424 provide technical and conforming changes which will likely not result in any compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that the amendments to this rule will not result in a fiscal impact to businesses.

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](mailto: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 10/31/2017

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2017

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

**R277. Education, Administration.**  
**R277-424. Indirect Costs for State Programs.**  
**R277-424-[2]1. Authority and Purpose.**

[A-](1) This rule is authorized by:  
(a) Article X, Section 3 of the Utah Constitution, which vests general control and supervision ~~[of]over~~ public education in the Board[;];  
(b) 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; and~~  
(c) ~~[Section]Subsection~~ 53A-1-402(1)(e), which directs the Board to adopt rules for financial, statistical, and student accounting requirements[; and].  
[B-](2) The purpose of this rule is to establish Board standards for claiming indirect costs for state programs.

**R277-424-[1]2. Definitions.**

[A-] "Board" means the Utah State Board of Education.  
[B-](1) "Direct costs" mean[s] costs [which] that can be easily, obviously, and conveniently identified by the ~~[Utah State Office of Education] Superintendent~~ with a specific program.  
[C-](2) "Indirect costs" mean[s] the costs of providing indirect services. ~~[Restricted and non-restricted indirect costs are~~

~~defined in R277-425, "Budgeting, Accounting and Auditing Handbook for Utah School Districts."]~~

[D-](3) "Indirect Services" mean[s] services [which] that cannot be identified with a specific program.  
[E-] "LEA" means a local education agency, including local school boards/public school districts and charter schools.  
[F-] "Non-restricted indirect cost rate" means a rate assigned to each LEA annually, based on the ratio of non-restricted indirect costs to direct costs as reported in the annual financial report for the specific LEA.  
[G-](4) "Restricted indirect cost rate" means a rate assigned to each LEA annually based on the ratio of restricted indirect costs to direct costs as reported in the annual financial report for the specific LEA.

[H-](5) "Unallowable costs" mean[s] expenditures directly attributable to governance[. Governance includes], including:

- (a) salaries;[and]
  - (b) expenditures of the office of the district superintendent, the governing board, and election expenses[;]; and
  - (c) expenditures for fringe benefits, which are associated with unallowable salary expenditures.
- (6) "Unrestricted indirect cost rate" means a rate assigned to each LEA annually, based on the ratio of unrestricted indirect costs to direct costs as reported in the annual financial report for the specific LEA.

**R277-424-3. Standards.**

[A-](1) An LEA[s] may charge indirect costs to state funded programs.

(2) The ~~[Board]Superintendent~~ [shall]may not authorize or pay indirect costs to higher education institutions for state funded contractual work.

[B-](3)(a) Prior to the beginning of each fiscal year, the ~~[Utah State Office of Education]Superintendent~~ shall publish[es] a schedule of the indirect cost rates for state programs.

(b) The ~~[schedule is]Superintendent~~ shall develop[ed] the schedule from ~~[data gathered from]information contained in~~ the [A-]annual [F-]financial [R-]reports and specifically identified items submitted by ~~[the-]LEAs~~.

- (c) Each program schedule [shows]shall include:
- (i) whether or not the restricted or ~~[non-restricted]unrestricted~~ indirect cost rate applies; and
  - (ii) whether or not indirect costs are allowable or applicable.

[C-](4)(a) An LEA may recover[y of] indirect costs ~~[is subject to availability of]if funds are available~~.

(b) If a combination of direct and indirect costs exceeds funds available, then the LEA may not recover the total cost of the project or program. ~~[Recovery of indirect costs for state programs is optional for LEAs.]~~

(c) Recovery of indirect costs is not optional for state programs.

(d) If an LEA elects to recover indirect costs, the LEA shall use the annual rates negotiated by the Superintendent for all applicable federal and state programs.

[D-](5)(a) An LEA may only recover indirect costs for state programs ~~[may be recovered only]~~ to the extent that direct costs were incurred.

(b) ~~The Superintendent shall apply the~~ indirect cost rate ~~[is applied]~~ to the amount expended, not to the total grant, in order to determine the amount for indirect costs.

**KEY: education finance**

**Date of Enactment or Last Substantive Amendment:**  
~~[November 8, 2012]~~ 2017

**Notice of Continuation:** September 13, 2017

**Authorizing, and Implemented or Interpreted Law:** Art X Sec 3; 53A-1-402(1)(f)(e); 53A-1-401(3)

## Education, Administration

### R277-426

## Definition of Private and Non-Profit Schools for Federal Program Services

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42119

FILED: 09/15/2017

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Following a five-year review, the Utah State Board of Education determined that Rule R277-426 continued to be necessary so it was continued. The rule is amended to provide necessary technical and conforming changes to bring the rule into compliance with the Rulewriting Manual for Utah.

**SUMMARY OF THE RULE OR CHANGE:** The amendments to this rule provide technical and conforming changes that include changes to numbering, references, and terminology.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Art X Sec 3 and Section 53A-1-401 and Subsection 53A-1-402(3)

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** The amendments to Rule R277-426 provide technical and conforming changes which will likely not result in a cost or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** The amendments to Rule R277-426 provide technical and conforming changes which will likely not result in a cost or savings to local governments.
- ◆ **SMALL BUSINESSES:** The amendments to Rule R277-426 provide technical and conforming changes which will likely not result in a cost or savings to small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The amendments to Rule R277-426 provide technical and conforming changes which will likely not result in a cost or savings to persons other than small businesses, businesses, or local government entities.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The amendments to Rule R277-426 provide technical and conforming changes which will likely not result in any compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** After conducting a thorough analysis, it was determined that the amendments to this rule will not result in a fiscal impact to businesses.

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](mailto: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 10/31/2017

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2017

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

### R277. Education, Administration.

#### R277-426. Definition of Private and Non-Profit Schools for Federal Program Services.

##### ~~[R277-426-1. Definitions.~~

~~"Board" means the Utah State Board of Education.]~~

##### R277-426-~~2~~1. Authority and Purpose.

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

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

~~(b) Subsection 53A-1-402(3), which allows the Board to administer federal funds and to distribute them to eligible applicants[.]; and [Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.]~~

~~(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.~~

~~[B:]~~(2) The purpose of this rule is to define requirements that private, non-public, and non-profit schools must meet in conjunction with federal program criteria to receive services under federal laws requiring the public education system to serve students in these schools.

**R277-426-2. Definitions.**

(1) "Data Universal Numbering System Number" or "DUNS Number" means a unique numeric identifier assigned to a single business entity by Dun and Bradstreet.

(2) "Exempt Organization Determination Letter" means a letter issued by the Internal Revenue Service, which verifies that an organization is a qualified tax-exempt entity.

**R277-426-3. Qualifications.**

For the purposes of receiving services under federal programs[~~which permit such~~]:

~~[A-](1)~~ "Private or non-public school" means a school which:

(~~[1]~~a) is owned and operated by:

~~(i)~~ an individual[;];

~~(ii)~~ a religious institution[;];

~~(iii)~~ a partnership[;]; or

~~(iv)~~ a corporation other than the State, a subdivision of the State, or ~~[by]~~the Federal government;

~~(2)~~b) is supported primarily by ~~[other than]~~non-public funds;

~~(3)~~c) vests the operation and determination of its program with other than publicly-elected or appointed officials;

~~(4)~~d) teaches the required subjects on each grade level as designated by the Board for the same length of time as students must be taught in the public schools;

~~(5)~~e) is properly licensed if so required by the appropriate governmental jurisdiction;

~~(6)~~f) complies with any state and local ordinances and codes pertaining to the operation of that type of facility or institution; and [

~~(7) is not a charter school.]~~

~~(g) possesses a DUNS number.~~

~~[B-](2)~~ "Non-profit school" means a school which:

~~(1)~~a) is not a part of the public school system;

~~(2)~~b) is operated with no intention of making a profit;

~~(3)~~c) does not ~~[exist to]~~primarily provide educational services to students enrolled in for profit residential programs;

~~(4)~~d) possesses;

~~(i)~~ a State of Utah ~~[F]tax [E]exemption number; [and]~~

~~(ii)~~ a DUNS number;

~~(iii)~~ a United States Internal Revenue Service Employer Identification Number~~[-(EIN)]~~; and

~~(iv)~~ a favorable Exempt Organization Determination Letter;

~~(5)~~e) teaches the required subjects on each grade level as designated by the Board for the same length of time as students must be taught in the public schools if required by the federal program;

~~(6)~~f) is properly licensed if so required by the appropriate governmental jurisdiction; and

~~(7)~~g) complies with any state ~~[and]or~~ local ~~[ordinances and codes]~~legal requirements pertaining to the operation of that type facility or institution.

**KEY: education finance, private schools**

**Date of Enactment or Last Substantive Amendment: [February 7, 2012]2017**

**Notice of Continuation: September 13, 2017**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-402(3); 53A-1-401(3)]**

Education, Administration  
**R277-474**  
School Instruction and Human  
Sexuality

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 42120

FILED: 09/15/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Following a five-year review, the Utah State Board of Education determined that Rule R277-474 continued to be necessary so it was continued. The rule is amended to provide necessary technical and conforming changes to bring the rule into compliance with the Rulewriting Manual for Utah.

**SUMMARY OF THE RULE OR CHANGE:** The amendments to this rule provide technical and conforming changes that include changes to numbering, references, and terminology.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Art X Sec 3 and Section 53A-1-401 and Subsections 53A-13-101(1) and (3)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** The amendments to Rule R277-474 provide technical and conforming changes which will likely not result in a cost or savings to the state budget.

◆ **LOCAL GOVERNMENTS:** The amendments to Rule R277-474 provide technical and conforming changes which will likely not result in a cost or savings to local governments.

◆ **SMALL BUSINESSES:** The amendments to Rule R277-474 provide technical and conforming changes which will likely not result in a cost or savings to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The amendments to Rule R277-474 provide technical and conforming changes which will likely not result in a cost or savings to persons other than small businesses, businesses, or local government entities.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The amendments to Rule R277-474 provide technical and conforming changes which will likely not result in any compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** After conducting a thorough analysis, it was determined that

the amendments to this rule will not result in a fiscal impact to businesses.

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](mailto: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 10/31/2017

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2017

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

**R277. Education, Administration.  
R277-474. School Instruction and Human Sexuality.  
R277-474-2]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 in the Board[;];

~~(b)~~ Subsections 53A-13-101(1)(~~(e)(ii)(B)~~) and (3), which direct[s] the Board to ~~[develop a]adopt~~ rules to allow local boards to adopt human sexuality education materials or programs ~~[under Board rules]as described in this R277-474 and provide human sexuality instruction as provided in Section 53A-13-101; and~~

~~(c)~~ 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.~~

~~[B-](2)~~ The purpose[s] of this rule ~~[are]is to provide:~~

~~(1)a)~~ ~~[to provide-]requirements for[-the Board,] LEAs and individual educators to select instructional materials about human sexuality and maturation;~~

~~(2)b)~~ ~~[to provide-]notice to parents[guardians] of proposed human sexuality and maturation discussions and instruction; and~~

~~(3)c)~~ ~~[to provide-]direction to public education employees regarding instruction and discussion of maturation and human sexuality with students.~~

**R277-474-1]2. Definitions.**

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

~~[B-]~~ "Curriculum materials review committee (committee)" means a committee formed at the district or school level, as determined by the local board of education or local charter board, that includes parents, health professionals, school health educators,

and administrators, with at least as many parents as school employees. The membership of the committee shall be appointed and reviewed annually by August 1 of each year by the local board, shall meet on a regular basis as determined by the membership, shall select its own officers and shall be subject to Sections 52-4-1 through 52-4-10-](1) "Curriculum materials review committee" or "committee" means a curriculum materials review committee formed at the school district or charter school level as described in Section R277-474-5.

~~[C-](2)~~ "Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g" or "FERPA" ~~[is a state statute, Sections 53A-13-301 and 53A-13-302, that protects the privacy of students, their parents, and their families, and supports parental involvement in the public education of their children]means a federal law designed to protect the privacy of students' education records.~~

~~[D-](3)~~ "Human sexuality instruction or instructional programs" means any course, unit, class, activity or presentation that provides instruction or information to students about sexual abstinence, human reproduction, reproductive anatomy, physiology, pregnancy, marriage, childbirth, parenthood, contraception, or HIV/AIDS and other sexually transmitted diseases. ~~[While these topics are most likely discussed in such courses as health education, health occupations, human biology, physiology, parenting, adult roles, psychology, sociology, child development, and biology, this rule applies to any course or class in which these topics are the focus of discussion.]~~

~~[E-](4)~~ "Instructional ~~[M]materials [C]commission" means [an]the advisory commission authorized under Section 53A-14-101.~~

~~[F-](5)~~ "LEA" ~~[means a local education agency, including local school boards/public school districts, charter schools, and,] for purposes of this rule, includes the Utah Schools for the Deaf and the Blind.~~

~~[G-](6)~~ "Maturation education" means instruction and materials used to provide fifth or sixth grade students with age appropriate, medically accurate information regarding the physical and emotional changes associated with puberty, to assist in protecting students from abuse and to promote hygiene and good health practices.

~~[H-](7)~~ "Medically accurate" means verified or supported by a body of research conducted in compliance with scientific methods and published in journals that have received peer-review, where appropriate, and recognized as accurate and objective by professional organizations and agencies with expertise in the relevant field, such as the American Medical Association.

~~[I-](8)~~ "Parental notification form" means a form developed by the ~~[USOE]Superintendent~~ and used exclusively by LEAs or ~~[Utah] public schools for parental notification of subject matter identified in this rule. [Students may not participate in human sexuality instruction, maturation education, or instructional programs as identified in R277-474-2D without prior affirmative parent/guardian response on file. The form:~~

~~(1) shall explain a parent's right to review proposed curriculum materials in a timely manner;~~

~~(2) shall request the parent's permission to instruct the parent's student in identified course material related to human sexuality or maturation education;~~

~~(3) shall allow the parent to exempt the parent's student from attendance for class period(s) while identified course material~~



~~related to human sexuality or maturation education is presented and discussed;~~

~~(4) shall be specific enough to give parents fair notice of topics to be covered;~~

~~(5) shall include a brief explanation of the topics and materials to be presented and provide a time, place and contact person for review of the identified curricular materials;~~

~~(6) shall be on file with affirmative parent/guardian response for each student prior to the student's participation in discussion of issues protected under Section 53A-13-101; and~~

~~(7) shall be maintained at the school for a reasonable period of time.]~~

[J-](9) "Professional development" means training in which Utah educators may participate to renew a license, receive information or training in a specific subject area, teach in another subject area or teach at another grade level.

[K-](10) "Utah educator" means an individual such as an administrator, teacher, counselor, teacher's assistant, or coach, who is employed by a unit of the Utah public education system and who provides teaching or counseling to students.

[L-](11) "Utah Professional Practices Advisory Commission (UPPAC)" means a Commission [authorized]established under 53A-6-301 and designated to review allegations against educators and recommend action against educators' licenses to the Board.]

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

**R277-474-3. General Provisions.**

[A-](1) The following may not be taught in Utah public schools through the use of instructional materials, direct instruction, or online instruction:

(1)a the intricacies of intercourse, sexual stimulation or erotic behavior;

(2)b the advocacy of premarital or extramarital sexual activity; or

(3)c the advocacy or encouragement of the use of contraceptive methods or devices.

[B-](2) Educators are responsible to teach the values and information identified under Subsection 53A-13-101(4).

[C-](3) Utah educators shall follow all provisions of federal and state law including [parent/guardian]the parental notification and prior written parental consent requirements [under]described in Sections 76-7-322 and 76-7-323 [in]when teaching any aspect of human sexuality.

(4) While human sexuality instruction and related topics are most likely to take place in such courses as health education, health occupations, human biology, physiology, parenting, adult roles, psychology, sociology, child development, and biology, this rule R277-474 applies to any course or class in which these topics are the focus of discussion.

**R277-474-4. State Board of Education Responsibilities.**

The [Board]Superintendent shall:

[A-](1) develop and provide professional development and assistance with training for educators on law and rules specific to human sexuality instruction and related issues.

[B-](2) develop[and provide], for Board approval, a parental notification form and timelines for use by LEAs.

[E-](3) establish a review process for human sexuality instructional materials and programs using the [H]instructional [M]materials [C]commission and requiring final Board approval of the [H]instructional [M]materials [C]commission's recommendations.

[D-](4) approve only medically accurate human sexuality instruction programs.

[E-](5) receive and track parent and community complaints and comments received from LEAs related to human sexuality instructional materials and programs.

**R277-474-5. LEA Responsibilities.**

[A-](1) [~~Annually each~~]An LEA shall require all newly hired or newly assigned Utah educators with responsibility for any aspect of human sexuality instruction to attend [~~state-sponsored~~] professional development outlining the human sexuality curriculum and the criteria for human sexuality instruction in any courses offered in the public education system.

[B-](2) [~~Each~~]An LEA governing board shall provide training consistent with Subsection R277-474-5[A-](1) at least once during every three years of employment for Utah educators.

[C-](3) [~~Local school~~]An LEA governing board[~~s and local charter boards~~] shall form a curriculum materials review committee[~~s (committee)~~] at the school district or charter school level as [~~follows~~]described in Subsection (4).

(4)a An LEA governing board shall annually appoint and review members of the LEA's curriculum materials review committee on or before August 1.

(b) An LEA's curriculum materials review committee shall include parents, health professionals, school health educators, and administrators, with at least as many parents as school employees.

(c) The members of an LEA's committee shall:

(i) meet on a regular basis, as determined by the membership;

(ii) select officers; and

(iii) comply with Title 52, Chapter 4, Open and Public Meetings Act.

(5) An LEA's curriculum materials review committee shall:

(1)a [The committee shall]be organized consistent with Subsection R277-474-2[B-](1)[.];

(2)b [Each committee shall]designate a chair and procedures[.]; and

(3)c [The committee shall]review and approve all guest speakers and guest presenters and their respective materials relating to human sexuality instruction in any course and maturation education prior to their presentation[s].

(4)g The committee [shall]may not authorize the use of any human sexuality instructional program or maturation education program not previously:

(a) approved by the Board[.];

(b) approved consistent with R277-474-6[.]; or

(c) approved under Subsection 53A-13-101(1)(c)(ii).

(5)z The district superintendent or charter school administrator shall report educators who willfully violate the provisions of this rule to the Utah Professional Practices Advisory Commission for investigation and possible discipline.

(8)(a) Students may not participate in human sexuality instruction, maturation education, or other instructional programs without prior affirmative parent consent, as evidenced by a completed parental notification form, on file.

(6)(b) [The]An LEA shall obtain parental consent from a student's parent us[e]ing the common parental notification form or a form that satisfies all criteria of the law and Board rules, and comply with timelines approved by the Board.

(9) The parental notification form shall:

(a) explain a parent's right to review proposed curriculum materials in a timely manner;

(b) request the parent's permission to instruct the parent's student in identified course material related to human sexuality or maturation education;

(c) allow the parent to exempt the parent's student from attendance for a class period where identified course material related to human sexuality instruction or maturation education is presented and discussed;

(d) be specific enough to give parents fair notice of topics to be covered;

(e) include a brief explanation of the topics and materials to be presented and provide a time, place and contact person for review of the identified curricular materials;

(f) be retained on file with affirmative parental consent for each student prior to the student's participation in discussion of issues protected under Section 53A-13-101; and

(g) be maintained at the student's school for a reasonable period of time.

(7)(10) [Each]An LEA shall develop a logging and tracking system of parental and community complaints and comments resulting from student participation in human sexuality instruction, to include the disposition of the complaints, and provide that information to the [USOE]Superintendent upon request.

(11) If a student is exempted from course material required by the Board-approved Core Standards consistent with Subsections 53A-13-101.2(1), (2) and (3), the school shall:

(1)(a) waive the participation requirement; or

(2)(b) provide a reasonable alternative to the requirement.

**R277-474-6. Local School Board or [Local]Charter School Governing Board Adoption of Human Sexuality Education and Maturation Education Instructional Materials.**

[A-](1) An [local]LEA governing board may adopt the LEA's instructional materials [under]if the instructional materials meet the requirements of Subsection 53A-13-101(1)(c)(iii).

[B-](2) Instructional [M]materials [that are-]adopted as described in Subsection (1) shall:

(a) comply with the criteria of Subsection 53A-13-101(1)(c)(iii) and:

(1)(b) [shall-]be medically accurate[-as defined in R277-474-2H-];

(2)(c) [shall-]be approved by a majority vote of the [local board members or local charter board members]LEA governing board present at a public meeting of the LEA governing board[-]; and

(3)(d) [shall-]be available for reasonable review opportunities to residents of the school district or parents[guardians] of charter school students prior to consideration for adoption.

[C-](3) [The]An LEA shall comply with the reporting requirement of Subsection 53A-13-101(1)(c)(iii)(D).

(4) [The]A report to the Board shall include:

(1)(a) a copy of[the] human sexuality instructional materials [and]or maturation education materials not approved by the Instructional Materials Commission that the local board or local charter board seeks to adopt;

(2)(b) documentation of the materials' adoption in a public board meeting;

(3)(c) documentation that the materials or program meets the medically accurate criteria [of R277-474-2H]as defined in Subsection R277-474-2(7);

(4)(d) documentation of the recommendation of the materials by the committee; and

(5)(e) a statement of the local board's or local charter board's rationale for selecting materials not approved by the [F]instructional [M]materials [C]commission.

[D-](4) [The local board's or local charter]An LEA governing board's adoption process for human sexuality instructional materials and maturation education materials shall include a process for annual review of the LEA governing board's decision.

**R277-474-7. Utah Educator Responsibilities.**

[A-](1) Utah educators shall participate in training provided under Subsections R277-474-5[A-](1) and (2).

[B-](2) Utah educators shall use the common parental notification form or a form approved by [their-employing]the educator's LEA, and follow timelines approved by the Board.

[C-](3) Utah educators shall individually record parent and community complaints, comments, and the educators' responses regarding human sexuality instructional programs.

[D-](4) Utah educators may respond to spontaneous student questions for the purposes of providing accurate data or correcting inaccurate or misleading information or comments made by students in class regarding human sexuality.

**KEY: schools, human sexuality education; health education**

**Date of Enactment or Last Substantive Amendment: [July 10,-] 2017**

**Notice of Continuation: September 13, 2017**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-13-101(1)(c)(ii)(B) and (3); 53A-1-401(3)**

**Education, Administration**

**R277-502**

**Educator Licensing and Data Retention**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 42121

FILED: 09/15/2017

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R277-502 is amended to make changes to

Utah educator preparation program approval requirements. The rule is further amended to provide necessary technical and conforming changes to bring the rule into compliance with the Rulewriting Manual for Utah.

**SUMMARY OF THE RULE OR CHANGE:** The amendments to Rule R277-502 remove the requirement that Utah educator preparation programs be accredited by the Council for the Accreditation of Educator Preparation (CAEP), and replace it with a state program approval system which would allow the Board of Education (Board) staff to work with Utah universities to design a system to help inform the Board in the approval or denial of Utah educator preparation programs. The amendments also provide technical and conforming changes that include changes to numbering, references, and terminology.

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

- ANTICIPATED COST OR SAVINGS TO:**
- ◆ **THE STATE BUDGET:** There will likely be no cost or savings to the state budget resulting from the amendments to this rule. The educator preparation program approval process is changed to make the process more informative to the Board, and the technical and conforming changes will bring the rule into compliance with the Rulewriting Manual for Utah.
  - ◆ **LOCAL GOVERNMENTS:** There will likely be no cost or savings to local governments resulting from the amendments to this rule. The educator preparation program approval process is changed to make the process more informative to the Board, and the technical and conforming changes will bring the rule into compliance with the Rulewriting Manual for Utah.
  - ◆ **SMALL BUSINESSES:** There will likely be no cost or savings to small businesses resulting from the amendments to this rule. The educator preparation program approval process is changed to make the process more informative to the Board, and the technical and conforming changes will bring the rule into compliance with the Rulewriting Manual for Utah.
  - ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There will likely be no cost or savings to persons other than small businesses, businesses, or local government entities resulting from the amendments to this rule. The educator preparation program approval process is changed to make the process more informative to the Board, and the technical and conforming changes will bring the rule into compliance with the Rulewriting Manual for Utah.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There will likely be no compliance costs for affected persons resulting from the amendments to this rule. The educator preparation program approval process is changed to make the process more informative to the Board, and the technical and conforming changes will bring the rule into compliance with the Rulewriting Manual for Utah.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** After conducting a thorough analysis, it was determined that the amendments to this rule will not result in a fiscal impact to businesses.

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](mailto: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 10/31/2017

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2017

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

**R277. Education, Administration.  
 R277-502. Educator Licensing and Data Retention.  
 R277-502-[2]1. Authority and Purpose.**

- ~~[A-](1)~~ This rule is authorized by:
  - ~~(a)~~ Utah Constitution Article X, Section 3, which vests general control and supervision ~~[of the]over~~ public ~~[school system under]education in the Board[;];~~
  - ~~(b)~~ 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; and
  - ~~(c)~~ ~~[by-]Section 53A-6-104, which gives the Board power to issue licenses[; and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities].~~
- ~~[B-](2)~~ This rule specifies the types of license levels and license areas of concentration available and procedures for obtaining a license, required for employment as a licensed educator in the public schools of Utah.
- ~~(3)~~ ~~[The]This rule also provides a process and criteria for educators whose licenses have lapsed [and]to return to the teaching profession.[All licensed educators employed in the Utah public schools shall be licensed consistent with this rule in order for the district to receive full funding under Section 53A-17a-107(2).]~~

**R277-502-[4]2. Definitions.**  
~~[A- "Accredited" means a Board-approved educator preparation program, accredited by the National Council for Accreditation of Teacher Education (NCATE), the Teacher Education Accreditation Council (TEAC), or the Council for Accreditation of Educator Preparation (CAEP).~~

~~B.](1) "Accredited school" [for purposes of this rule,] means a public or private school that:~~

~~(a) meets standards essential for the operation of a quality school program; and~~

~~(b) has received formal approval through a regional accrediting association.~~

~~[C. "Authorized staff" for purposes of this rule means an individual designated by the USOE or an LEA and approved by the USOE and who has completed CACTUS training.~~

~~D. "Board" means the Utah State Board of Education.~~

~~E.](2) "Comprehensive Administration of Credentials for Teachers in Utah Schools or "[{CACTUS}]" means the electronic file maintained on all licensed Utah educators[. The file includes] including information such as:~~

~~(1)a) personal directory information;~~

~~(2)b) educational background;~~

~~(3)c) endorsements;~~

~~(4)d) employment history; and~~

~~(5)e) a record of disciplinary action taken against the~~

~~educator.~~

~~[F. "ESEA subject" means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography under the Elementary and Secondary Education Act (ESEA).~~

~~G.](3) "LEA" [or "local education agency" means a school district, charter school or] includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.~~

~~[H.](4) "Letter of Authorization" means a designation given to an individual employed by an LEA for one year authorizing the individual to teach in a public school, such as:~~

~~(a) an out-of-state candidate; or~~

~~(b) an individual pursuing an alternative license, who has not completed the requirements for a Level 1, 2, or 3 license; or~~

~~(c) an individual who has not completed necessary endorsement requirements [and who is employed by an LEA].~~

~~[I. "Level 1 license" means a Utah professional educator license issued upon completion of a Board-approved educator preparation program or an alternative preparation program, or to an applicant that holds an educator license issued by another state or country that has met all ancillary requirements established by law or rule.~~

~~J. "Level 2 license" means a Utah professional educator license issued after satisfaction of all requirements for a Level 1 license and:~~

~~(1) satisfaction of requirements under R277-522 for teachers whose employment as a Level 1 licensed educator began after January 1, 2003 in a Utah public LEA or accredited private school;~~

~~(2) at least three years of successful education experience in a Utah public LEA or accredited private school or one year of successful education experience in a Utah public LEA or accredited private school and at least three years of successful education experience in a public LEA or accredited private school outside of Utah;~~

~~(3) additional requirements established by law or rule.~~

~~K. "Level 3 license" means a Utah professional educator license issued to an educator who holds a current Utah Level 2 license and has also received National Board Certification or a~~

~~doctorate in education or in a field related to a content area in a unit of the public education system or an accredited private school, or holds a Speech-Language Pathology area of concentration and has obtained American Speech-Language hearing Association (ASHA) certification.]~~

~~[L.](5)(a) "License areas of concentration" means designations to licenses obtained by completing a Board-approved educator preparation program or an alternative preparation program in a specific area of educational studies to include the following:~~

~~(i) Early Childhood ([K]k-3)[;];~~

~~(ii) Elementary ([K]k-6)[;];~~

~~(iii) Elementary (1-8)[;];~~

~~(iv) Middle ([still valid, but not issued after 1988;] 5-9),~~

~~only for licenses issued before 1988[;];~~

~~(v) Secondary (6-12)[;];~~

~~(vi) Administrative/Supervisory ([K]k-12)[;];~~

~~(vii) Career and Technical Education[;];~~

~~(viii) School Counselor[;];~~

~~(ix) School Psychologist[;];~~

~~(x) School Social Worker[;];~~

~~(xi) Special Education ([K]k-12)[;];~~

~~(xii) Preschool Special Education (Birth-Age 5)[;];~~

~~(xiii) Communication Disorders[;];~~

~~(xiv) Speech-Language Pathologist[;]; and~~

~~(xv) Speech-Language Technician.~~

~~(b) License areas of concentration may also bear endorsements relating to subjects or specific assignments.~~

~~[M.](6)(a) "License endorsement" or "[{endorsement}]" means a specialty field or area earned through completing required course work established by the [USOE]Superintendent or through demonstrated competency approved by the [USOE]Superintendent[;].~~

~~(b) [the]An endorsement shall be listed on [the]a professional educator license indicating the specific qualification[{}s{}] of the holder.~~

~~[N.](7) "Professional learning plan" means a plan developed by an educator in collaboration with the educator's supervisor, consistent with R277-500, which [detailing]details appropriate professional learning activities for the purpose of renewing the educator's license.~~

~~[O.](8) "Renewal" means reissuing or extending the length of a license consistent with R277-500.~~

~~[P.](9) "State Approved Endorsement Program" or "[{SAEP}]" means a plan [in place]developed between the [USOE] Superintendent and a licensed educator to direct the completion of endorsement requirements by the educator consistent with Section R277-520-11.[~~

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

### **R277-502-3. Program Approval and Requirements.**

~~[A.](1) The [Board may]Superintendent shall accept educator license recommendations from educator preparation programs that have applied for Board approval and have met the requirements described in this [rule]Rule R277-502 and the Standards for Program Approval established [by the Board]in:~~

~~(a) Rule R277-504[;];~~

~~(b) Rule R277-505[;]; or~~

~~(c) Rule R277-506[as determined by USOE].~~

~~[B-](2)~~ The ~~[Board, or its designee,]~~ Superintendent may establish deadlines and uniform forms and procedures for all aspects of program licensing.

~~[C-](3)~~ To be approved for license recommendation ~~[the]~~ an educator preparation program shall:

~~(1) be accredited by NCATE or TEAC; or~~

~~(2) be accredited by CAEP using the CAEP Program Review with National Recognition or CAEP Program Review with feedback options; and~~

~~(3)a~~ have a physical location in Utah where students attend classes or if the program provides only online instruction:

~~(a)i~~ have the program's primary headquarters ~~[shall be]~~ located in Utah; and

~~(b)ii~~ ~~[the program shall]~~ be licensed to do business in Utah through the Utah Department of Commerce;

~~(4)b~~ include coursework designed to ensure that the educator is able to meet the Utah Effective ~~[Teaching]~~ Educator Standards ~~[and Educational Leadership Standards]~~ established in R277-530;

~~(5)c~~ ~~[in the case of content endorsements,]~~ include coursework, if the program offers content endorsement preparation, that is, at minimum, equivalent to the course requirements for the endorsement as established by ~~[USOE]~~ the Superintendent;

~~(6)d~~ establish entry requirements designed to ensure that only high quality individuals enter the licensure program ~~[requirements shall include]~~, including the following minimum components ~~[beginning August 1, 2014]~~:

~~(a)i~~ a minimum high school ~~[/]~~ or college GPA of 3.0; ~~[and]~~

~~(b)ii~~ a ~~[USOE]~~ Board-cleared fingerprint background check; and at least one of the following:

~~(e)iii)(A)~~ a passing score on a Board-approved basic skills test; ~~[or]~~

~~(d)B)~~ an ACT composite score of 21 with a verbal/English score no less than 20 and a mathematics/quantitative score of no less than 19; or

~~(e)C)~~ a combined SAT score of 1000 with neither mathematics nor verbal below 450 ~~[;]~~; and

~~(7)e~~ include a student teaching or intern experience that meets the requirements detailed in Rules R277-504, R277-505, and R277-506.

~~D-](4)~~ An institution may waive any of the entrance requirements provided in ~~[R277-502-3C(6)]~~ Subsection (3)(d) based on program established guidelines for no more than 10 percent of an entrance cohort.

~~E-](5)~~ ~~[USOE representatives]~~ The Superintendent shall ~~[be a part of the accrediting team]~~ lead the approval review for any Board-approved educator preparation program seeking to maintain or receive program approval.

~~(6)~~ ~~[USOE representatives]~~ The Superintendent shall be responsible for:

~~(1)a~~ observing and monitoring the ~~[accreditation]~~ approval review process;

~~(2)b~~ reviewing subject specific programs to determine if the program meets state standards for licensure in specific areas;

~~(3)c~~ reviewing program procedures to ensure that Board requirements for licensure are followed; and

~~(4)d~~ reviewing licensure candidate files to determine if the program followed Board requirements for licensure ~~[are followed by the program]~~.

~~F-](7)~~ After completion of the ~~[accreditation]~~ approval review site visit, a Board-approved educator preparation program, working with the ~~[USOE]~~ Superintendent, shall prepare and submit a program approval request for consideration by the Board that includes:

~~(1)a~~ a program summary;

~~(2)b~~ ~~[accreditation]~~ approval review findings;

~~(3)c~~ program areas of distinction;

~~(4)d~~ program enrollment; and

~~(5)e~~ program goals and direction.

~~G-](8)~~ If the program approval request is approved by the Board, the program shall be considered Board-approved until the next scheduled ~~[accreditation]~~ approval review visit, ~~[unless the program is placed on probation by the USOE for failure to meet program requirements detailed in applicable Board rules and program approval is revoked by the Board under R277-502-3O.]~~

~~(9)a~~ Notwithstanding Subsection 8, the Superintendent may place a program on probation for:

~~(i)~~ failure to meet program requirements detailed in applicable Board rules; and

~~(ii)~~ submission of inadequate or incomplete information in a report required under this R277-502.

~~(b)~~ The Board may revoke its approval of a probationary program that fails to meet probationary requirements with at least one year's notice.

~~H-](10)~~ ~~If a [N]new~~ educator preparation program ~~[s that]~~ seeks Board approval or a previously Board-approved educator preparation program ~~[s that]~~ seeks approval for additional license area preparation and endorsements, the program shall submit an application ~~[s]~~ to ~~[USOE]~~ the Superintendent including:

~~(1)a~~ information detailing the exact license areas of concentration and endorsements that the program intends to award;

~~(2)b~~ detailed course information, including required course lists, course descriptions, and course syllabi for all courses that will be required as part of a program;

~~(3)c~~ detailed information showing how the required coursework will ensure that the educator satisfies all standards in the Utah Effective ~~[Teaching]~~ Educator Standards ~~[and Educational Leadership Standards]~~ established in Rule R277-530 and Professional Educator Standards established in Rule R277-515;

~~(4)d~~ information about program timelines and anticipated enrollment.

~~I-](11)~~ The Board shall approve [A]applications for new educator preparation programs ~~[shall be approved by the Board]~~.

~~J-](12)a)~~ The Superintendent shall review and approve [A]applications [for]from previously Board-approved educator preparation programs desiring Board approval for additional license areas and endorsements ~~[;]~~.

~~(b)~~ The Superintendent may grant preliminary approval pending Utah State Board of Regents approval of a new program if the program is within a public institution.

~~(1)~~ shall be reviewed and approved by USOE;

~~(2)~~ may receive preliminary approval pending Utah State Board of Regents approval of the new program if the program is within a public institution.

~~K.](13) An educator preparation program seeking [accreditation]Board approval may apply to the Board for probationary approval for a maximum of three years contingent on the completion of the [accreditation]approval process.~~

~~L.](14) A [previously]Board-approved educator preparation program shall submit an annual report to the [USOE]Superintendent by July 1 of each year[. The report], which shall [summarize the institution's annual accreditation report and shall]include the following:~~

~~(1)a) student enrollment counts designated by anticipated license area of concentration and endorsement and disaggregated by gender and ethnicity;~~

~~(2)b) information explaining any significant changes to course requirements or course content;~~

~~(3)c) the program's response to [USOE-identified] areas of concern or areas of focus identified by the Superintendent;~~

~~(4)d) information regarding any program-determined areas of concern or areas of focus and the program's planned response; and~~

~~(5)e) a summary explanation of students admitted under the waiver identified in [R277-502-3D] Subsection (4) and an explanation of the waiver.~~

~~M.](15) The [USOE]Superintendent shall provide reporting criteria to Board-approved educator preparation programs regarding the annual report and [USOE-] designated areas of concern or focus by January 31 annually.~~

~~N. Educator preparation programs that submit inadequate or incomplete information to the USOE may be placed on a probationary status by USOE.~~

~~O. Board-approved educator preparation programs on probationary status that continue to fail to meet requirements may have their license recommendation status revoked in full or in part by the Board with at least one year notice.~~

~~P.](16) An individual that completes a Board-approved educator preparation program may be recommended for licensure within five years of program completion if the individual meets current licensing requirements.~~

~~Q.](17)(a) If five years have passed since an individual completed a Board-approved preparation program, the individual may be recommended for licensure following review by the individual program.~~

~~(b) The preparation program officials shall determine whether any content or pedagogy coursework previously completed meets current program standards and if additional coursework, hours or other activities are necessary to recommend licensure.~~

~~(c) The individual shall complete all work required by [the] program officials before receiving a license recommendation from the program.~~

#### **R277-502-4. License Levels, Procedures, and Periods of Validity.**

##### [A. Level 1 License Requirements

~~(1)(a) [An initial license, the]The Superintendent shall recommend an individual to the Board for a Level 1 license if the individual[; is issued to an individual who]~~

~~(i) is recommended by a Board-approved educator preparation program or approved alternative preparation program[;]; or [an educator with]~~

~~(ii) possesses a valid professional educator license from another state.~~

~~(a)b) An LEA[s] and Board-approved educator preparation program[s] shall cooperate in preparing candidates for [the educator] a Level 1 license[; and may use joint [The]resources [of both may be used]to assist candidates in preparation for licensing.~~

~~(b)c) [The]A Board-approved educator preparation program may only issue a recommendation [indicates that]if the individual has satisfactorily completed the programs of study required for the preparation of educators and has met licensing standards in the license areas of concentration for which the individual is recommended.~~

~~(2) [The]A Level 1 license is [issued]valid for three years unless suspended or revoked for cause by the Board.~~

~~(3) A Level 1 license holder shall satisfy all requirements of R277-522, Entry Years Enhancements (EYE) for Quality Teaching - Level 1 Utah Teachers.~~

~~(4) An educator qualified to teach any ESEA subject shall be considered Highly Qualified in at least one ESEA subject prior to moving from Level 1 to Level 2.~~

~~(5)3) A license applicant who has received or completed license preparation activities or coursework inconsistent with this rule may present compelling information and documentation for review and approval by the [USOE]Superintendent to satisfy the licensing requirements.~~

~~(6)4) If an educator has taught for three years in a K-12 public education system in Utah, the Superintendent may only recommend renewal of a Level 1 license [may only be renewed]if:~~

~~(a) the employing LEA has requested a one year extension consistent with Section R277-522-4[; Entry Years Enhancements (EYE) for Quality Teaching - Level 1 Utah Teachers]; or~~

~~(b) the individual has continuous experience as a speech language pathologist in a clinical setting.~~

##### [B. Level 2 License Requirements

~~(1)5) [A]The Superintendent shall recommend a Level 1 licensee to the Board for a Level 2 license [may be issued by the Board to a Level 1 license holder]upon:~~

~~(a) satisfaction of all Board requirements for the Level 2 license; and[ upon]~~

~~(b) the recommendation of the employing LEA.~~

~~(2)6) An LEA shall make a[The] recommendation [shall be made]under Subsection (5)(b), prior to the expiration of the educator's Level 1 license and following:~~

~~(a) the completion of three years of successful, professional growth and educator experience[;];~~

~~(b) satisfaction of all requirements of Rule R277-522[;]; [Entry Years Enhancements (EYE) for Quality Teaching - Level 1 Utah Teachers];and~~

~~(c) any additional requirements imposed by the employing LEA[; and before the Level 1 license expires].~~

~~(3)7) A Level 2 license shall be [issued]valid for five years [and shall be valid]unless suspended or revoked for cause by the Board.~~

~~(4)8) [The]A Level 2 license may be renewed for successive five year periods consistent with Rule R277-500[; Educator Licensing Renewal].~~

~~[C. Level 3 License Requirements~~

~~\_\_\_\_\_]~~([+2] ~~[A]~~The Superintendent shall recommend a Level 2 licensee to the Board for a Level 3 license ~~[may be issued by the Board to a Level 2 license holder]~~ who:

~~[-or]~~ (a) has ~~[achieved]~~current National Board Certification;

(b) has a doctorate in education in a field related to a content area in a unit of the public education system or an accredited private school; or

(c) holds a Speech-Language Pathology area of concentration and has ~~[obtained]~~a current American Speech-Language Hearing Association ~~[(ASHA)]~~certification.

~~(2)~~10 A Level 3 license is valid for seven years unless suspended or revoked for cause by the Board.

~~(3)~~11 ~~[The]~~A Level 3 license may be renewed for successive seven year periods consistent with Rule R277-500.

~~(4) A Level 3 license shall revert to a Level 2 license if the holder fails to maintain National Board Certification status or fails to maintain a current Certificate of Clinical Competence from the American Speech-Language-Hearing Association.~~

~~D. License Renewal Timeline~~

~~\_\_\_\_\_]~~(12) The Superintendent may establish deadlines and uniform forms and procedures for all aspects of licensing.

~~(13)~~(a) All ~~[E]~~licenses expire on June 30 of the year of expiration ~~[recorded on CACTUS]~~and may be renewed any time after January of the same year.

(b) Responsibility for license renewal rests solely with the ~~[holder]~~licensee.

### **R277-502-5. Professional Educator License Areas of Concentration, and Endorsements and Under-Qualified Employees.**

~~[A:]~~(1) Unless excepted under rules of the Board, to be employed in ~~[the]~~ a public school[s] in a capacity covered by ~~a [the following]~~ license area[s] of concentration ~~set forth in Subsection R277-502-2(6)(a)~~, a person shall hold a valid license issued by the Board in the respective license area[s] of concentration[=].

~~(1) Early Childhood (K-3);~~

~~(2) Elementary (1-8);~~

~~(3) Elementary (K-6);~~

~~(4) Middle (still valid, and issued before 1988, 5-9);~~

~~(5) Secondary (6-12);~~

~~(6) Administrative/Supervisory (K-12);~~

~~(7) Career and Technical Education;~~

~~(8) School Counselor;~~

~~(9) School Psychologist;~~

~~(10) School Social Worker;~~

~~(11) Special Education (K-12);~~

~~(12) Preschool Special Education (Birth-Age 5);~~

~~(13) Communication Disorders;~~

~~(14) Speech-Language Pathologist;~~

~~(15) Speech-Language Technician.~~

~~B. Under-qualified educators:~~

~~\_\_\_\_\_]~~([+2] ~~An [E]~~educator[s] who ~~[are]~~is licensed and holds the appropriate license area of concentration but who ~~[are]~~is working out of ~~[their]~~the educator's endorsement area~~(s)]~~, shall ~~[request and prepare]~~:

~~(a) submit an SAEP to complete the requirements of an endorsement [with a USOE education specialist]to the Superintendent; or~~

~~(2)~~b) ~~[LEAs may]~~request, along with the educator's employing LEA, a ~~[E]~~letter[s] of ~~[A]~~authorization from the Board ~~[for educators employed by LEAs]~~if the educator[s]have ~~has~~ not completed requirements for ~~an area[s]~~ of concentration or endorsement[s].

~~(3)~~(a) A ~~[n-approved]~~ ~~[E]~~letter of ~~[A]~~authorization issued under Subsection (2)(b) is valid for one year.

(b) ~~An [E]~~educator[s] ~~[may be approved]~~ may ~~receive~~for no more than three Letters of Authorization throughout ~~[their]~~the educator's employment in Utah schools.

~~(c) The [State-]Superintendent [of Public Instruction or designee-]may [grant]recommend an exception[s] to the [three-Letters-of-Authorization-]limitation in Subsection (3)(b) on a case by case basis following specific approval of the request by the educator's employing LEA governing board.~~

~~(d) A [E]~~letters of ~~[A]~~authorization approved prior to the 2000-2001 school year shall not be counted ~~[in this]~~ towards the limit in Subsection (3)(b).

~~(e)~~(e) If an ~~[education employee's E]~~educator's letter of ~~[A]~~authorization expires before the individual is approved for licensing, the ~~[employee]educator~~ falls into under-qualified status.

~~[C:]~~(4) ~~[License areas of concentration]~~A licensed educator may ~~receive~~~~[be endorsed]~~ an endorsement to indicate qualification in a subject or content area.

~~(1)~~a) ~~An LEA shall recognize a STEM endorsement [shall be recognized-]as a minimum of 16 semester hours of university credit toward lane change on [an]the LEA's salary schedule.~~

~~(a)~~b) The ~~[State-]Superintendent [of Public Instruction or designee-]shall determine the [mathematics-, engineering-, science-, and technology-related-]courses and experiences necessary for a STEM endorsement[s].~~

~~(b)~~c) The ~~[State-]Superintendent [of Public Instruction or designee-]shall determine which content area endorsements qualify as STEM endorsements.~~

~~(2)~~5) An endorsement is not valid for employment purposes without a current license and license area of concentration.

### **R277-502-6. Returning Educator Relicensure.**

~~[A:]~~(1) A previously licensed educator with an expired license may renew an expired license upon satisfaction of the following:

~~(1)~~a) Completion of a criminal background check including review of any criminal offenses and clearance ~~[by the Utah Professional Practices Advisory Commission]~~ in accordance with Rule R277-214;

~~(2)~~b) Employment by an LEA;

~~(3)~~c) Completion of a one-year professional learning plan developed jointly by the educator's school principal or charter school director and the returning educator consistent with R277-500 that also considers the following:

~~(a)~~i) previous successful public school teaching experience;

~~(b)~~ii) formal educational preparation;

([e]iii) period of time between last public teaching experience and the present;

([d]iv) school goals for student achievement within the employing school and the educator's role in accomplishing those goals;

([e]v) returning educator's professional abilities, as determined by a formal discussion and observation process completed within the first 30 days of employment; and

([f]vi) completion of additional necessary professional development for the educator[ ~~as determined jointly by the principal/school and educator~~].

([4]d) Filing of the professional [development]learning plan within 30 days of hire;

([5]e) Successful completion of required Board-approved exams for licensure;

([6]f) Satisfactory experience as determined by the LEA with a trained mentor; and

([7]g) Submission to the [USOE]Superintendent of the completed and signed Return to Original License Level Application, available on the [USOE]Board website prior to June 30 of the school year in which the educator seeks to return.

~~[B. The Professional Learning Plan is independent of the License Renewal Point requirements in R277-500-3C.~~

~~—(2) A returning educator is eligible for renewal of an educator license following completion of a professional learning plan notwithstanding the license renewal point requirements of Section R277-500-3.~~

~~[C.](3)(a) A [R]returning educator[s] who previously held a Level 2 or Level 3 license under this rule shall [be issued]receive a Level 1 license during the first year of employment following renewal of an expired license.~~

~~(b) Upon completion of the requirements listed in [R277-502-6A]Subsection (1) and a satisfactory LEA evaluation, the employing LEA may recommend the educator's return to Level 2 or Level 3 licensure.~~

~~[D.](4) A [R]returning educator[s] who taught less than three consecutive years in a public or accredited private school shall complete the [Early Years Enhancement] requirements of Rule R277-522 before [moving from]being recommended by an LEA to move from a Level 1 to Level 2 [licensure]license.~~

#### **R277-502-7. Professional Educator License Reciprocity.**

~~[A.](1) [Utah is a member of]The Superintendent shall act in accordance with the requirements of the Compact for Interstate Qualification of Educational Personnel under Section 53A-6-201, et seq.~~

~~[B.](2) A Level 1 license may be issued to an individual holding a professional educator license in another state who has completed preparation equivalent to Board-approved standards and who has completed Board-approved testing, as required by Subsection R277-503-3(4).~~

~~([1]3) If [the]an out-of-state applicant has three or more continuous years of previous educator experience in a public or accredited private school, a Level 2 license may be issued upon the recommendation of the employing Utah LEA after at least one year.~~

~~([2]4) If [the]an out-of-state applicant has less than three years of previous educator experience in a public or accredited private school, a Level 2 license may be issued following~~

satisfaction of the requirements of Rule R277-522[ ~~Entry Years Enhancements (EYE) for Quality Teaching Level 1 Utah Teachers~~].

#### **R277-502-8. Professional Educator License Fees.**

~~—A. The Board may establish a fee schedule for the issuance and renewal of licenses and endorsements consistent with 53A-6-105. All endorsements to which the applicant is entitled may be issued or renewed with the same expiration date for one-licensing fee.~~

~~—B. A fee may be charged for a valid license to be reprinted or for an endorsement to be added.~~

~~—C. All costs for testing, evaluation, and course work shall be borne by the applicant unless other arrangements are agreed to in advance by the employing LEA.~~

~~—D. Costs to review nonresident educator applications may exceed the cost to review resident applications due to the following:~~

~~—(1) The review is necessary to ensure that nonresident applicants' training satisfies Utah's course and curriculum standards.~~

~~—(2) The review of nonresident licensing applications is time consuming and potentially labor intensive.~~

~~—E. Differentiated fees may be set consistent with the time and resources required to adequately review all applicants for educator licenses.]~~

**KEY: professional competency, educator licensing**

**Date of Enactment or Last Substantive Amendment: [July 8, 2015]2017**

**Notice of Continuation: July 19, 2017**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-6-104; 53A-1-401[3]**

## Education, Administration **R277-509** Licensure of Student Teachers and Interns

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42122

FILED: 09/15/2017

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Following a five-year review, the Utah State Board of Education determined that Rule R277-509 continued to be necessary so it was continued. The rule is amended to provide necessary technical and conforming changes to bring the rule into compliance with the Rulewriting Manual for Utah.

**SUMMARY OF THE RULE OR CHANGE:** The amendments to this rule provide technical and conforming changes that include changes to numbering, references, and terminology.



STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art X Sec 3 and Section 53A-1-401 and Subsection 53A-6-104(1) and Subsection 53A-6-401(3)

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: The amendments to Rule R277-509 provide technical and conforming changes which will likely not result in a cost or savings to the state budget.
- ◆ LOCAL GOVERNMENTS: The amendments to Rule R277-509 provide technical and conforming changes which will likely not result in a cost or savings to local governments.
- ◆ SMALL BUSINESSES: The amendments to Rule R277-509 provide technical and conforming changes which will likely not result in a cost or savings to small businesses.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The amendments to Rule R277-509 provide technical and conforming changes which will likely not result in a cost or savings to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendments to Rule R277-509 provide technical and conforming changes which will likely not result in any compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that the amendments to this rule will not result in a fiscal impact to businesses.

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](mailto: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 10/31/2017

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2017

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

**R277. Education, Administration.**  
**R277-509. Licensure of Student Teachers and Interns.**  
**R277-509-2]1. Authority and Purpose.**

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

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

~~(b) 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;~~

~~(c) Subsection[s] 53A-6-104(1), which permits the Board to issue licenses for educators[;]; and~~

~~(d) Subsection 53A-6-401(3), which directs the [Utah State Office of Education] Board to establish a procedure for obtaining and evaluating relevant information about license applicants[; and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities].~~

[B-](2) The purpose of this rule is to specify the procedure under which the Board issues licenses to student teachers and interns.

**R277-509-1]2. Definitions.**

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

~~—B-](1) "Cooperating teacher" means a licensed teacher employed by an LEA who is qualified to directly supervise a student teacher or intern during the period the student teacher or intern is assigned to the LEA.~~

~~[E-](2)(a) "Intern" means a teacher education student, who, in an advanced stage of preparation, usually as a culminating experience, may be employed in a school setting for a period of up to one year and receive salary proportionate to the service rendered.~~

~~(b) An intern is supervised primarily by the school system [but with] while maintaining a continuing relationship with college personnel [and following] as part of a planned program designed to produce a demonstrably competent professional.~~

~~[D-](3) "LEA" [means a local education agency, including local school boards/public school districts, charter schools, and;] includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.~~

[E-](4) "Student teacher" means a college student preparing to teach who is assigned a period of guided teaching during which the student assumes increasing responsibility for directing the learning of a group or groups of students over a period of time.

**R277-509-3. Issuing Licenses.**

~~[A-](1) The [Board] Superintendent shall [issue] recommend applicants enrolled in teacher preparation programs for [S] student [T] teacher or [H] intern licenses[-to students enrolled in teacher preparation programs].~~

~~[B- The Board shall provide a process for timely review by UPPAC of background check information and shall provide adequate due process for student teachers and interns in the licensing process:~~

~~(1) The Utah Professional Practices Advisory Commission (UPPAC) shall receive and review background information about student teachers and interns:~~

~~—](2) The Utah Professional Practices Advisory Commission shall review background check information and make recommendations to the Board regarding student teacher and intern license applicants in accordance with Rule R277-214.~~

~~[(2) Student teachers and interns shall have student teacher licenses issued by the Board prior to assignment in public schools.]~~

~~[(3) UPPAC shall review student teacher license applications and make recommendations for their approval by the Board.]~~

~~[(4) UPPAC shall not recommend student teachers or interns to complete student teaching or intern assignments while student teachers or interns are under court supervision of any kind.]~~

(3)(a) An LEA may not give a student teacher or intern an unsupervised classroom assignment prior to issuance of a license in accordance with this Rule R277-509.

(b) If an LEA assigns a student teacher or intern to a position in violation of Subsection (3)(a), the Superintendent shall not recognize the service as fulfilling the student teacher's or intern's requirements for Level 1 licensure.

(c) An LEA is responsible to verify with the Board that a student teacher or intern has appropriate licensure.

~~[(5)4] A [F]teacher preparation programs may allow an unlicensed student teacher[s] or intern[s] not approved by UPPAC] to complete student teaching or intern hours only if the university provides a constant supervisor for the student teacher's or intern's work in the public schools.~~

~~[(5)(a) A license is issued only to]The Superintendent may only recommend for licensure a student teacher[s] or intern[s] assigned to elementary, middle, or secondary schools under cooperating teachers for part of their preparation program.~~

~~[(b) A supervising administrator must be permanently assigned to the building to which an intern is assigned.]~~

~~[(6) A [S]student [F]teacher or [H]intern license is valid only [in the LEA specified and] for the period of time indicated on the license.]~~

**R277-509-4. LEA Requirements.**

~~A. An LEA may not accept or assign student teachers or interns who do not possess a Utah Student Teacher or Intern license. The service of persons so assigned is not recognized by the Board as fulfilling an intern or student teaching requirement for licensure.~~

~~B. It is the responsibility of the LEA to verify that potential student teachers or interns are appropriately licensed.]~~

**KEY: student teachers, interns, teacher preparation programs**  
**Date of Enactment or Last Substantive Amendment: [January 7, 2013]2017**

**Notice of Continuation: September 13, 2017**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-6-104(1); 53A-1-401(3)**

**Education, Administration**

**R277-522**

**Entry Years Enhancements (EYE) for  
 Quality Teaching - Level 1 Utah  
 Teachers**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 42123

FILED: 09/15/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Following a five-year review, the Utah State Board of Education determined that Rule R277-522 continued to be necessary so it was continued. The rule is amended to provide necessary technical and conforming changes to bring the rule into compliance with the Rulewriting Manual for Utah.

**SUMMARY OF THE RULE OR CHANGE:** The amendments to this rule provide technical and conforming changes that include changes to numbering, references, and terminology.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Art X Sec 3 and Section 53A-1-401 and Section 53A-6-106

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** The amendments to Rule R277-522 provide technical and conforming changes which will likely not result in a cost or savings to the state budget.

◆ **LOCAL GOVERNMENTS:** The amendments to Rule R277-522 provide technical and conforming changes which will likely not result in a cost or savings to local governments.

◆ **SMALL BUSINESSES:** The amendments to Rule R277-522 provide technical and conforming changes which will likely not result in a cost or savings to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The amendments to Rule R277-522 provide technical and conforming changes which will likely not result in a cost or savings to persons other than small businesses, businesses, or local government entities.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The amendments to Rule R277-522 provide technical and conforming changes which will likely not result in any compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** After conducting a thorough analysis, it was determined that the amendments to this rule will not result in a fiscal impact to businesses.

**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](mailto: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 10/31/2017

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2017

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

**R277. Education, Administration.****R277-522. Entry Years Enhancements (EYE) for Quality Teaching - Level 1 Utah Teachers.****R277-522-[2]1. Authority and Purpose.**

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

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

~~(b)~~ ~~[Section 53A-9-103(5) which directs career ladder programs to include a program of evaluation and mentoring for beginning teachers designed to assist those beginning teachers in developing the skills required of capable teachers; 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;~~

~~(c)~~ Subsection 53A-6-102(2)(a)(iii) which finds that the implementation of progressive strategies regarding induction, professional development and evaluation are essential in creating successful teachers; ~~and~~

~~(d)~~ Section 53A-6-106, which directs the Board to establish ~~[a]~~ rules for the training and experience required of educator license applicants ~~[for teaching; and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities].~~

~~[B-](2)~~ The purpose of this rule is to outline required entry years enhancements of professional and emotional support for Level 1 teachers ~~[whose employment or reemployment in the Utah public schools began after January 1, 2003. The requirements apply to teachers during their first three years of teaching and include mentoring, testing, assessment/evaluation, and developing a professional portfolio. The purpose of these enhancements is]to develop [in Level 1 teachers-]successful teaching skills and strategies with assistance from experienced colleagues.~~

**R277-522-[4]2. Definitions.**

~~[A-~~ "Accredited" means a teacher preparation program accredited by the National Council for Accreditation of Teacher Education (NCATE), the Teacher Education Accreditation Council (TEAC) or one of the major regional accrediting associations as defined under R277-503-11.

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

~~C-](1)~~ "Comprehensive Administration of Credentials for Teachers in Utah Schools" or "[{CACTUS}]" ~~[means a database~~

~~that maintains public information on licensed Utah educators] has the same meaning as set forth in Subsection R277-512-2(1).~~

~~[D-~~ "Educational Testing Services (ETS)" is an educational measurement institution that has developed standards-based teacher assessment tests.

~~E-](2)~~ "Entry years" means the three years a beginning teacher holds a Level 1 license.

~~[F-](3)~~ "Interstate New Teacher Assessment and Support Consortium" or "INTASC" means the ~~[Interstate New Teacher Assessment and Support Consortium,] organization~~ that has established Model Standards for Beginning Teacher Licensing and Development~~[, which include [The-]ten principles reflecting what beginning teachers should know and be able to do as a professional teacher. [The Board has adopted these principles as part of the NCATE standards;]~~

~~(4)~~ "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

~~[G-](5)~~ "Level 1 license" ~~[means a Utah professional educator license issued upon completion of an approved preparation program or an alternative preparation program, or pursuant to an agreement under the NASDTEC Interstate Contract, to applicants who have also met ancillary requirements established by law or rule]has the same meaning as set forth in Subsection R277-503-2(9).~~

~~[H-](6)~~ "Level 2 license" ~~[means a Utah professional educator license issued after satisfaction of all requirements for a Level 1 license and:~~

~~————(1) requirements established by law or rule;~~

~~————(2) three years of successful education experience within a five year period; and~~

~~————(3) satisfaction of requirements under R277-522 for teachers employed after January 1, 2003] has the same meaning as set forth in Subsection R277-503-2(10).~~

~~[I-](7)~~ "Level 3 license" ~~[means a Utah professional educator license issued to an educator who holds a current Utah Level 2 license and has also received National Board Certification or a doctorate in education or in a field related to a content area in a unit of the public education system or an accredited private school]has the same meaning as set forth in Subsection R277-503-2(11).~~

~~[J-](8)~~ "Mentor" means a Level 2 or Level 3 educator, who is trained to advise and guide Level 1 teachers.

~~[K-](9)~~ "Praxis II" or "Praxis II - Principles of Learning and Teaching" is a ~~widely-used~~ standards-based test ~~[provided]designed by the Educational Testing Services[ETS and designed] to assess a beginning teacher's pedagogical knowledge. [This test is used by many states as part of their teacher licensing process. Colleges and universities use this test as an exit exam from teacher education programs.]~~

~~[L-](10)~~ "Professional development" means locally or Board-approved education-related training or activities that enhance an educator's background consistent with Rule R277-501~~[, Educator License Renewal].~~

~~[M-](11)~~ "Teaching assessment~~[f] or evaluation~~" means an observation of a Level 1 teacher's instructional skills by a school district or school administrator using an evaluation tool based on or similar to INTASC principles.

~~(N-)~~(12) "Working portfolio" means a collection of documents prepared by a Level 1 teacher and used as a tool for evaluation.

~~O. "USOE" means the Utah State Office of Education.;~~

**R277-522-3. Required Entry Years Enhancements Requirements for a Level 1 Teacher to Advance to a Level 2 License.**

(1) Prior to advancement to a Level 2 license, a Level 1 teacher shall:

~~(A-)~~(a) ~~[Level 1 teachers shall]~~satisfactorily collaborate with a trained mentor~~;~~;

~~(b)~~ pass a required pedagogical exam~~;~~;

~~(c)~~ complete three years of employment and evaluation~~;~~; and

~~(d)~~ compile a working portfolio.

~~(B- Collaboration with an assigned mentor:~~

~~(1+)~~(2) A principal shall assign a mentor ~~[shall be assigned]~~ to each Level 1 teacher in the first semester of teaching~~;~~

~~(a)~~ ~~The beginning teacher shall be assigned a trained mentor teacher by the principal]~~ to supervise and act as a resource for the entry level teacher.

~~(b)~~(3) ~~[The]~~A mentor teacher shall teach in the same school, and where feasible, in the same subject area as the Level 1 teacher.

~~(2)~~(4) ~~[Qualification of a]~~A mentor assigned in accordance with Subsection (2) shall:

(a) ~~[A mentor shall]~~hold a ~~[Utah Professional Educator's]~~ Level 2 or 3 license; and

(b) ~~[A mentor shall]~~have completed a mentor training program including continuing professional development.

~~(3)~~(5) A mentor assigned in accordance with Subsection (2) shall:

(a) guide ~~the~~ Level 1 teacher~~[s]~~ to meet the procedural demands of the school and school district;

(b) provide moral and emotional support;

(c) arrange for opportunities for the Level 1 teacher to observe teachers who use various models of teaching;

(d) share personal knowledge and expertise about new materials, planning strategies, curriculum development and teaching methods;

(e) assist the Level 1 teacher with classroom management and discipline;

(f) support ~~the~~ Level 1 teacher~~[s]~~ on an ongoing basis;

(g) help ~~the~~ Level 1 teacher~~[s]~~ to understand the implications of student diversity for teaching and learning;

(h) engage the Level 1 teacher in self-assessment and reflection; and

(i) assist with development of ~~the~~ Level 1 teacher's portfolio.

~~(C- Passage of a pedagogical examination:~~

~~(1) The Praxis II - Principles of Learning and Teaching]~~  
(6) A Level 1 teacher shall pass the Praxis II with a qualifying score of at least 160 prior to advancing to Level 2 licensure.

~~(a)~~ shall be administered by ETS;

~~(b)~~ shall be taken by the beginning teacher; the beginning teacher shall earn a qualifying score of at least 160~~;~~;

~~(e)~~(a) A Level 1 teacher may ~~[be taken]~~take the Praxis II successive times.

~~(2)~~(b) The Superintendent shall post a Level 1 teacher's Praxis II ~~[R]~~results ~~[shall be posted on]~~in CACTUS.

~~(D- Successful evaluation under a school district employment and assessment/evaluation program:]~~

(7) A Level 1 teacher shall successfully complete evaluation through an LEA or accredited private school.

~~(1+)~~(a) A Level 1 ~~[Teachers]~~ teacher shall ~~[be fully employed]~~maintain full employment for three years in ~~[Utah public schools or in]~~an LEA or accredited private school~~[s]~~.

~~(2)~~(b) An ~~[Employing school districts]~~employing LEA or accredited private school may, following evaluation of ~~[the individual's]~~ a Level 1 teacher's experience, determine that teaching experience outside of the Utah public schools satisfies the teaching~~[r]~~ experience requirement of this rule.

~~(3)~~(c) ~~[The school district]~~An LEA has discretion in determining the employment or reemployment status of individuals.

~~(4)~~(d)(i) ~~[Employing school districts shall be responsible]~~A Level 1 teacher's employing LEA or accredited private school is responsible for conducting the evaluations required under this rule~~;~~;

(ii) An LEA may assign evaluations required under this rule ~~[this duty may be assigned]~~ to ~~[the]~~ a school principal.

~~(5)~~(e) ~~[The]~~ A Level 1 teacher's ~~[assessment/]~~evaluations shall take place at least twice during the first year of teaching and at least twice during each of the following two years with a satisfactory final evaluation.

~~(E- Compilation of a working portfolio:~~

~~(8)~~ A Level 1 teacher shall compile a working portfolio during the teacher's entry years.

~~(1+)~~(a) ~~[The portfolio]~~A Level 1 teacher's employing LEA or accredited private school shall ~~[be reviewed and evaluated by the employing school district]~~ review and evaluate the portfolio.

~~(2)~~(b) The Superintendent may review the portfolio ~~[may be reviewed by USOE staff]~~ upon request during the Level 1 teacher's second year of teaching.

~~(3)~~(2) ~~[the]~~A portfolio required under Subsection (8) shall be based upon INTASC principles; and may:

(a) include teaching artifacts;

(b) include notations explaining the artifacts; and

(c) include a reflection and self-assessment of ~~[his or her]~~ the teacher's own practice; or

(d) be interpreted broadly to include the employing ~~[school district's]~~ LEA's or accredited private school's requirement of samples of the first year teaching experience.

**R277-522-4. Satisfaction of Entry Years Enhancements.**

~~(A-)~~(1) If a Level 1 teacher fails to complete all enhancements as enumerated in ~~[this rule]~~Section R277-522-3, the Level 1 teacher ~~[shall]~~may remain in a provisional employment status until the Level 1 teacher completes the enhancements.

~~(1+)~~(a) ~~[The school district]~~An LEA or accredited private school may make a written request to the ~~[USOE Educator Licensing Section]~~Superintendent for a one year extension of the Level 1 license in order to provide time for the educator to satisfy entry years enhancements.

~~(2)~~(b) ~~[The]~~A Level 1 teacher may repeat some or all of the entry years enhancements.

~~(3)c~~ An opportunity to repeat or appeal an incomplete or unsatisfactory entry years enhancements process shall be designed and offered by the employing ~~[school district]~~ LEA or accredited private school.

~~[B. Recommendation for a Level 2 license: ]~~~~(+2)~~ ~~[Each school district]~~An LEA or accredited private school shall make an annual recommendation to the Board of teachers approved in its schools to receive a Level 2 license, including documentation demonstrating completion of the enhancements.

~~(2)3~~ An LEA or accredited private school may also report ~~[F]~~the names of teachers who did not successfully complete entry years enhancements ~~[may also be reported]~~to the Board~~[annually by school districts]~~.

~~(C)~~~~(4)~~ The ~~[Board shall receive]~~Superintendent shall prepare an annual report tracking the success of retention and the job satisfaction of Utah educators who complete the entry years enhancement program.

**KEY: teachers, mentoring**

**Date of Enactment or Last Substantive Amendment:** ~~[July 16, 2004]~~**2017**

**Notice of Continuation:** September 13, 2017

**Authorizing, and Implemented or Interpreted Law:** Art X Sec 3;~~[53A-9-103(5);]~~ 53A-6-102(2)(a)(iii); 53A-6-106; 53A-1-401~~(3)~~

**Environmental Quality, Air Quality  
R307-150  
Emission Inventories**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 42107

FILED: 09/14/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule change is to implement a permit-by-rule system for oil and gas sources. The permit-by-rule system will eventually replace the current minor source permitting system that is implemented by the Division of Air Quality (Division). Rule R307-150 requires the submission of emission inventories from oil and gas sources. The inventories will enable the Division to improve compliance with current requirements and inform the Division as to what sources exist in the state.

**SUMMARY OF THE RULE OR CHANGE:** The rule requires certain oil and gas sources to submit an emissions inventory every three years for each of the emission units.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 19-2-104

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** This rule does not have a cost or savings to the state budget because this rule regulates oil and gas sources.

♦ **LOCAL GOVERNMENTS:** This rule does not have a cost or savings to local governments because this rule regulates oil and gas sources.

♦ **SMALL BUSINESSES:** This rule does have an impact on about 10 small businesses. This impact is discussed in the department head's fiscal analysis. Assuming completing and submitting an inventory takes about two hours per well site and a company pays someone \$75 an hour to complete the inventory, the cost of the rule will be approximately \$150 per well site. This cost will be the same for small and large businesses. Since the inventory is only required every three years, the ongoing cost will be approximately \$50 per well site annually. The Division has considered methods of reducing the negative impact of the rule on small businesses in accordance with Subsection 63G-3-301(6) but cannot establish any additional less stringent requirements, schedules, or deadlines; simplify compliance or reporting requirements; replace design standards with performance standards; or exempt small businesses. However, through the stakeholder process, the Division made several changes to this rule and other rules involved in the permit-by-rule scheme that reduced costs for small businesses. One consideration that the Division took into account was to provide easy and cost efficient reporting requirements. The inventories are only required to be submitted once every three years. The Division is also creating a web app that allows businesses to submit their reports electronically. Small businesses and other businesses have also been given ample time and notice that inventories will be required.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No--This rule does not have a cost or savings to "other persons" because the rule impacts owners or operators of oil and gas wells. The owners and operators of these wells are all businesses.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The compliance cost is about \$50 per well on an annual basis. Details of the cost analysis and compliance costs are under the department head's comments below.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:**  
I. **WHETHER A FISCAL IMPACT TO BUSINESS IS EXPECTED AS A RESULT OF THE PROPOSED RULE AND,IF SO, A DESCRIPTION OF WHY:** The Division of Air Quality (Division) has identified 30 companies that may be impacted by this rule. This rule requires each company to submit an emissions inventory every three years that includes "the total emissions for PM10, PM2.5, oxides of sulfur, oxides of nitrogen, carbon monoxide and volatile organic compounds for each emission unit at the source" (Subsection R307-150-9(a)). The cost will depend on the amount of time and the

amount of money the company chooses to pay its staff to prepare the inventory. II. AN ESTIMATE OF THE TOTAL NUMBER OF BUSINESS ESTABLISHMENTS IN UTAH EXPECTED TO BE IMPACTED: The Division has identified 30 companies that may be impacted by this rule. Collectively, these companies own approximately 3,500 wells that are located on state land. III. AN ESTIMATE OF THE SMALL BUSINESS ESTABLISHMENTS IN UTAH EXPECTED TO BE IMPACTED: Of the 30 companies that will be impacted, at least 10 are small businesses. IV. A DESCRIPTION OF THE SOURCES OF COST OR SAVINGS AS WELL AS THE EXPECTED NET SAVINGS OR COST TO BUSINESS ESTABLISHMENTS AND SMALL BUSINESS ESTABLISHMENTS AS A RESULT OF THE PROPOSED RULE OVER A ONE-YEAR PERIOD, IDENTIFYING ONETIME AND ONGOING COSTS: The source of the cost to companies as a result of this rule is the requirement to submit an emissions inventory every three years that includes "the total emissions for PM10, PM2.5, oxides of sulfur, oxides of nitrogen, carbon monoxide and volatile organic compounds for each emission unit at the source" (Subsection R307-150-9(a)). The inventory must also include "the type and efficiency of air pollution control equipment". This inventory is submitted in an electronic format, and staff at the Division are working to create a web application that will allow companies to submit their inventories online. Many of the companies impacted by this rule already have the data necessary for the inventory, which will make the fiscal impact of this rule minimal. Companies that do not have the data readily available should be able to calculate the data fairly easily. The cost will depend on the amount of time and the amount of money the company chooses to pay its staff to prepare the inventory. The cost to businesses over a one-year period will also vary depending on the amount of regulated equipment that is owned by the company. Initially, there may be a one-time cost to businesses to set up a database where they can track information related to the inventory. This should consist of an excel spreadsheet and may cost a few hundred dollars of staff time to organize. This one time cost would be less for small businesses because there are fewer sites to account for. After the database is set up, the costs will be the result of staff time used to input new information every three years to create an inventory and submit it to the Division of Air Quality. Assuming this takes about two hours per well site, and a company pays someone \$75 an hour to complete the inventory, the cost of the rule will be approximately \$150 per well site. This cost will be the same for small and large businesses. Since the inventory is only required every three years, the ongoing cost will be approximately \$50 per well site annually. V. DEPARTMENT HEAD'S COMMENTS ON THE ANALYSIS: The above analysis represents DAQ's best estimate as to the fiscal impact this rule amendment will have on businesses. DAQ staff anticipate that most companies will already have access to a majority of the data that is required for the inventory. This ensures that any costs discussed in the analysis are minimal. The Division welcomes comments during the public comment period that provide further information regarding costs or savings that may result from the amendments being proposed.

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:

♦ Mat Carlile by phone at 801-536-4116, by FAX at 801-536-4136, or by Internet E-mail at mcarlile@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/15/2017

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 10/19/2017 01:00 PM, Department of Environmental Quality, 195 North 1950 West, Board Room 1015, Salt Lake City, UT  
 ♦ 10/25/2017 01:00 PM, TriCounty Health, 133 South 500 East, Vernal UT

THIS RULE MAY BECOME EFFECTIVE ON: 01/04/2018

AUTHORIZED BY: Bryce Bird, Director

**R307. Environmental Quality, Air Quality.**

**R307-150. Emission Inventories.**

**R307-150-1. Purpose and General Requirements.**

(1) The purpose of ~~R305~~R307-150 is:

(a) to establish by rule the time frame, pollutants, and information that sources must include in inventory submittals; and

(b) to establish consistent reporting requirements for stationary sources in Utah to determine whether sulfur dioxide emissions remain below the sulfur dioxide milestones established in the State Implementation Plan for Regional Haze, section XX.E.1.a, incorporated by reference in R307-110-28.

(2) The requirements of R307-150 replace any annual inventory reporting requirements in approval orders or operating permits issued prior to December 4, 2003.

(3) Emission inventories shall be submitted on or before ninety days following the effective date of this rule and thereafter on or before April 15 of each year following the calendar year for which an inventory is required. The inventory shall be submitted in a format specified by the Division of Air Quality following consultation with each source.

(4) The executive secretary may require at any time a full or partial year inventory upon reasonable notice to affected sources when it is determined that the inventory is necessary to develop a state implementation plan, to assess whether there is a threat to public health or safety or the environment, or to determine whether the source is in compliance with R307.

(5) Recordkeeping Requirements.

(a) Each owner or operator of a stationary source subject to this rule shall maintain a copy of the emission inventory submitted to

the Division of Air Quality and records indicating how the information submitted in the inventory was determined, including any calculations, data, measurements, and estimates used. The records under R307-150-4 shall be kept for ten years. Other records shall be kept for a period of at least five years from the due date of each inventory.

(b) The owner or operator of the stationary source shall make these records available for inspection by any representative of the Division of Air Quality during normal business hours.

### **R307-150-2. Definitions.**

The following additional definitions apply to R307-150.

"Acute pollutant" means any noncarcinogenic air pollutant for which a threshold limit value - ceiling (TLV-C) has been adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices," 2003 edition.

"Carcinogenic pollutant" means any air pollutant that is classified as a known human carcinogen (A1) or suspected human carcinogen (A2) by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices," 2003 edition.

"Chronic Pollutant" means any noncarcinogenic air pollutant for which a threshold limit value - time weighted average (TLV-TWA) having no threshold limit value - ceiling (TLV-C) has been adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices," 2003 edition.

"Dioxins" and "Furans" mean total tetra- through octachlorinated dibenzo-p-dioxins and dibenzofurans.

"Emissions unit" means emissions unit as defined in R307-415-3.

"Large Major Source" means a major source that emits or has the potential to emit 2500 tons or more per year of oxides of sulfur, oxides of nitrogen, or carbon monoxide, or that emits or has the potential to emit 250 tons or more per year of PM10, PM2.5, volatile organic compounds, or ammonia.

"Lead" means elemental lead and the portion of its compounds measured as elemental lead.

"Major Source" means major source as defined in R307-415-3.

### **R307-150-3. Applicability.**

(1) R307-150-4 applies to all stationary sources with actual emissions of 100 tons or more per year of sulfur dioxide in calendar year 2000 or any subsequent year unless exempted in (a) below. Sources subject to R307-150-4 may be subject to other sections of R307-150.

(a) A stationary source that meets the requirements of R307-150-3(1) that has permanently ceased operation is exempt from the requirements of R307-150-4 for all years during which the source did not operate at any time during the year.

(b) Except as provided in ~~[(a) above]~~ R307-150-3(1)(a), any source that meets the criteria of R307-150-3(1) and that emits less than 100 tons per year of sulfur dioxide in any subsequent year shall remain subject to the requirements of R307-150-4 until 2018 or until the first control period under the Western Backstop Sulfur Dioxide Trading Program as established in R307-250-12(1)(a), whichever is earlier.

(2) R307-150-5 applies to large major sources.

(3) R307-150-6 applies to:

(a) each major source that is not a large major source;

(b) each source with the potential to emit 5 tons or more per year of lead; and

(c) each source not included in ~~R307-150-3(2)~~, ~~[or]~~ ~~R307-150-3(3)(a)~~, or ~~R307-150-3(3)(b)~~ ~~[above]~~ that is located in Davis, Salt Lake, Utah, or Weber Counties and that has the potential to emit 25 tons or more per year of any combination of oxides of nitrogen, oxides of sulfur and PM10, or the potential to emit 10 tons or more per year of volatile organic compounds.

(4) R307-150-7 applies to Part 70 sources not included in ~~[(2) or (3) above]~~ R307-150-3(2) or R307-150-3(3).

(5) R307-150-9 applies to sources with Standard Industrial Classification codes in the major group 13 that have actual emissions greater than one ton per year. These sources include, but are not limited to, industries involved in oil and natural gas exploration, production, and transmission operations; well production facilities; natural gas compressor stations; and natural gas processing plants and commercial oil and gas disposal wells, ponds and sites.

(a) Sources that require inventory submittals under R307-150-3(1) through R307-150-3(4) are excluded from the requirements of R307-150-9.

### **R307-150-4. Sulfur Dioxide Milestone Inventory Requirements.**

(1) Annual Sulfur Dioxide Emission Report.

(a) Sources identified in R307-150-3(1) shall submit an annual inventory of sulfur dioxide emissions beginning with calendar year 2003 for all emissions units including fugitive emissions.

(b) The inventory shall include the rate and period of emissions, excess or breakdown emissions, startup and shut down emissions, the specific emissions unit that is the source of the air pollution, type and efficiency of the air pollution control equipment, percent of sulfur content in fuel and how the percent is calculated, and other information necessary to quantify operation and emissions and to evaluate pollution control efficiency. The emissions of a pollutant shall be calculated using the source's actual operating hours, production rates, and types of materials processed, stored, or combusted during the inventoried time period.

(2) Each source subject to R307-150-4 that is also subject to 40 CFR Part 75 reporting requirements shall submit a summary report of annual sulfur dioxide emissions that were reported to the Environmental Protection Agency under 40 CFR Part 75 in lieu of the reporting requirements in (1) above.

(3) Changes in Emission Measurement Techniques. Each source subject to R307-150-4 that uses a different emission monitoring or calculation method than was used to report their sulfur dioxide emissions in 2006 under R307-150 or 40 CFR Part 75 shall adjust their reported emissions to be comparable to the emission monitoring or calculation method that was used in 2006. The calculations that are used to make this adjustment shall be included with the annual emission report.

### **R307-150-5. Sources Identified in R307-150-3(2), Large Major Source Inventory Requirements.**

(1) Each large major source shall submit an emission inventory annually beginning with calendar year 2002. The inventory shall include PM10, PM2.5, oxides of sulfur, oxides of nitrogen, carbon monoxide, volatile organic compounds, and ammonia for all emissions units including fugitive emissions.

(2) For every third year beginning with 2005, the inventory shall also include all other chargeable pollutants and hazardous air pollutants not exempted in R307-150-8.

(3) For each pollutant specified in (1) or (2) above, the inventory shall include the rate and period of emissions, excess or breakdown emissions, startup and shut down emissions, the specific emissions unit that is the source of the air pollution, composition of air pollutant, type and efficiency of the air pollution control equipment, and other information necessary to quantify operation and emissions and to evaluate pollution control efficiency. The emissions of a pollutant shall be calculated using the source's actual operating hours, production rates, and types of materials processed, stored, or combusted during the inventoried time period.

**R307-150-6. Sources Identified in R307-150-3(3).**

(1) Each source identified in R307-150-3(3) shall submit an inventory every third year beginning with calendar year 2002 for all emissions units including fugitive emissions.

(a) The inventory shall include PM10, PM2.5, oxides of sulfur, oxides of nitrogen, carbon monoxide, volatile organic compounds, ammonia, other chargeable pollutants, and hazardous air pollutants not exempted in R307-150-8.

(b) For each pollutant, the inventory shall include the rate and period of emissions, excess or breakdown emissions, startup and shut down emissions, the specific emissions unit which is the source of the air pollution, composition of air pollutant, type and efficiency of the air pollution control equipment, and other information necessary to quantify operation and emissions and to evaluate pollution control efficiency. The emissions of a pollutant shall be calculated using the source's actual operating hours, production rates, and types of materials processed, stored, or combusted during the inventoried time period.

(2) Sources identified in R307-150-3(3) shall submit an inventory for each year after 2002 in which the total amount of PM10, oxides of sulfur, oxides of nitrogen, carbon monoxide, or volatile organic compounds increases or decreases by 40 tons or more per year from the most recently submitted inventory. For each pollutant, the inventory shall meet the requirements of R307-150-6(1)(a) and (b).

**R307-150-7. Sources Identified in R307-150-3(4), Other Part 70 Sources.**

(1) Sources identified in R307-150-3(4) shall submit the following emissions inventory every third year beginning with calendar year 2002 for all emission units including fugitive emissions.

(2) Sources identified in R307-150-3(4) shall submit an inventory for each year after 2002 in which the total amount of PM10, oxides of sulfur, oxides of nitrogen, carbon monoxide, or volatile organic compounds increases or decreases by 40 tons or more per year from the most recently submitted inventory.

(3) The emission inventory shall include individual pollutant totals of all chargeable pollutants not exempted in R307-150-8.

**R307-150-8. Exempted Hazardous Air Pollutants.**

(1) The following air pollutants are exempt from this rule if they are emitted in an amount less than that listed in Table 1.

TABLE 1

POLLUTANT	Pounds/year
Arsenic	0.21
Benzene	33.90
Beryllium	0.04
Ethylene oxide	38.23
Formaldehyde	5.83

(2) Hazardous air pollutants, except for dioxins or furans, are exempt from being reported if they are emitted in an amount less than the smaller of the following:

(a) 500 pounds per year; or

(b) for acute pollutants, the applicable TLV-C expressed in milligrams per cubic meter and multiplied by 15.81 to obtain the pounds-per-year threshold; or

(c) for chronic pollutants, the applicable TLV-TWA expressed in milligrams per cubic meter and multiplied by 21.22 to obtain the pounds-per-year threshold; or

(d) for carcinogenic pollutants, the applicable TLV-C or TLV-TWA expressed in milligrams per cubic meter and multiplied by 7.07 to obtain the pounds-per-year threshold.

**R307-150-9. Crude Oil and Natural Gas Source Category**

(1) Sources identified in R307-150-3(5) shall submit an inventory every third year beginning with the 2017 calendar year for all emission units.

(a) The inventory shall include the total emissions for PM10, PM2.5, oxides of sulfur, oxides of nitrogen, carbon monoxide and volatile organic compounds for each emission unit at the source. The emissions of a pollutant shall be calculated using the emission unit's actual operating hours, product rates, and types of materials processed, stored, or combusted during the inventoried time period.

(b) The inventory shall include the type and efficiency of air pollution control equipment.

(c) The inventory shall be submitted in an electronic format determined by the Director specific to this source category.

**KEY: air pollution, reports, inventories**

**Date of Enactment or Last Substantive Amendment: ~~December 15, 2015~~ 2017**

**Notice of Continuation: January 28, 2014**

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

**Environmental Quality, Air Quality  
R307-401  
Permit: New and Modified Sources**

**NOTICE OF PROPOSED RULE  
(Amendment)**

**DAR FILE NO.: 42108**

**FILED: 09/14/2017**



**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule amendment is to implement a permit-by-rule system for oil and gas sources. The permit-by-rule system will eventually replace the current minor sources permitting system that is implemented by the Division of Air Quality (Division). This amendment exempts oil and gas wells from being required to obtain a permit under Rule R307-401. Oil and gas wells will be regulated through the proposed permit-by-rule system, see the rulemaking for Rule R307-504 (Filing No. 42109), Rule R307-505 (Filing No. 42110), Rule R307-506 (Filing No. 42111), Rule R307-507 (Filing No. 42112), Rule R307-508 (Filing No. 42113), Rule R307-509 (Filing No. 42114), and Rule R307-510 (Filing No. 42115). (EDITOR'S NOTE: All the proposed filings listed are in this issue, October 1, 2017, of the Bulletin.)

**SUMMARY OF THE RULE OR CHANGE:** This amendment exempts oil and gas wells from being required to obtain a permit under Rule R307-401. Oil and gas wells will be regulated through the proposed permit-by-rule system.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 19-2-108 and Subsection 19-2-104(3)(q)

- ANTICIPATED COST OR SAVINGS TO:**
- ◆ **THE STATE BUDGET:** The cost of an oil and gas permit is approximately \$2,300. Permit fees are used for part of the Division's budget. Because sources will no longer be required to get permits to operate, the Division will lose this source of funding. Because it is unknown how many new oil and gas sources will be operating in the future. The exact cost to the budget is unknown.
  - ◆ **LOCAL GOVERNMENTS:** This rule does not have a cost or savings to local governments because this rule regulates oil and gas sources.
  - ◆ **SMALL BUSINESSES:** This rule does not have a cost to small businesses; however, it is anticipated that there might be savings for small businesses that own or operate oil and gas wells that would have been required to obtain a permit under Rule R307-401. It is estimated that this savings will be as much as \$2,300 per permit.
  - ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule does not have a cost or savings to "other persons" because the rule impacts owners or operators of oil and gas wells.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** No additional compliance cost are expected for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** After conducting a thorough analysis, it was determined that this proposed rule will not result in a negative fiscal impact to businesses. This is because the rule provides an exemption from obtaining an approval order for well sites that are registered with the Division. This exemption will result in a

savings of approximately \$2,300 per permit. The exemption does not provide any additional costs to businesses in Utah that are in compliance with existing rules.

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

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
 ◆ Mat Carlile by phone at 801-536-4116, by FAX at 801-536-4136, or by Internet E-mail at mcarlile@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/15/2017**

**INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:**  
 ◆ 10/19/2017 01:00 PM, Department of Environmental Quality, 195 N 1950 W, Board Room 1015, Salt Lake City, UT  
 ◆ 10/25/2017 01:00 PM, TriCounty Health, 133 S 500 E, Vernal UT

THIS RULE MAY BECOME EFFECTIVE ON: 01/04/2018

AUTHORIZED BY: Bryce Bird, Director

**R307. Environmental Quality, Air Quality.**

**R307-401. Permit: New and Modified Sources.**

**R307-401-1. Purpose.**

This rule establishes the application and permitting requirements for new installations and modifications to existing installations throughout the State of Utah. Additional permitting requirements apply to larger installations or installations located in nonattainment or maintenance areas. These additional requirements can be found in R307-403, R307-405, R307-406, R307-420, and R307-421. Modeling requirements in R307-410 may also apply. Each of the permitting rules establishes independent requirements, and the owner or operator must comply with all of the requirements that apply to the installation. Exemptions under R307-401 do not affect applicability of the other permitting rules.

**R307-401-2. Definitions.**

~~[(1) The following additional definitions apply to R307-401-~~

~~\_\_\_\_\_]"Actual emissions" (a) means the actual rate of emissions of an air pollutant from an emissions unit, as determined in accordance with [paragraphs]R307-401-2(b) through R307-401-2(d)[-below].~~

(b) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the air pollutant during a consecutive 24-month period which precedes the particular date and which is representative of normal source operation. The director shall allow the use of a different time

period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(c) The director may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(d) For any emissions unit that has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

"Best available control technology" means an emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each air pollutant which would be emitted from any proposed stationary source or modification which the director, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR parts 60 and 61. If the director determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard or combination thereof, may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

"Building, structure, facility, or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same Major Group (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively).

"Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) that would result in a change in emissions.

"Emissions unit" means any part of a stationary source that emits or would have the potential to emit any air pollutant.

"Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"Indirect source" means a building, structure, facility or installation which attracts or may attract mobile source activity that results in emission of a pollutant for which there is a national standard.

"Potential to emit" means the maximum capacity of a stationary source to emit an air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution

control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

"Secondary emissions" means emissions which occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

"Stationary source" means any building, structure, facility, or installation which emits or may emit an air pollutant.

#### **R307-401-3. Applicability.**

(1) R307-401 applies to any person intending to:

(a) construct a new installation which will or might reasonably be expected to become a source or an indirect source of air pollution, or

(b) make modifications or relocate an existing installation which will or might reasonably be expected to increase the amount or change the effect of, or the character of, air pollutants discharged, so that such installation may be expected to become a source or indirect source of air pollution, or

(c) install a control apparatus or other equipment intended to control emissions of air pollutants.

(2) R307-403, R307-405 and R307-406 may establish additional permitting requirements for new or modified sources.

(a) Exemptions contained in R307-401 do not affect applicability or other requirements under R307-403, R307-405 or R307-406.

(b) Exemptions contained in R307-403, R307-405 or R307-406 do not affect applicability or other requirements under R307-401, unless specifically authorized in this rule.

#### **R307-401-4. General Requirements.**

The general requirements in R307-401-4(1) through R307-401-4(3) [~~below~~] apply to all new and modified installations, including installations that are exempt from the requirement to obtain an approval order.

(1) Any control apparatus installed on an installation shall be adequately and properly maintained.

(2) If the director determines that an exempted installation is not meeting an approval order or State Implementation Plan limitation, is creating an adverse impact to the environment, or would be injurious to human health or welfare, then the director may require the owner or operator to submit a notice of intent and obtain an approval order in accordance with R307-401-5 through R307-401-8. The director will complete an appropriate analysis and evaluation in consultation with the owner or operator before determining that an approval order is required.

(3) Low Oxides of Nitrogen Burner Technology.

(a) Except as provided in R307-401-4(3)(b) [~~below~~], whenever existing fuel combustion burners are replaced, the owner or operator shall install low oxides of nitrogen burners or equivalent

oxides of nitrogen controls, as determined by the director, unless such equipment is not physically practical or cost effective. The owner or operator shall submit a demonstration that the equipment is not physically practical or cost effective to the director for review and approval prior to beginning construction.

(b) The provisions of (a) above do not apply to non-commercial, residential buildings.

**R307-401-5. Notice of Intent.**

(1) Except as provided in R307-401-9 through R307-401-17, any person subject to R307-401 shall submit a notice of intent to the director and receive an approval order prior to initiation of construction, modification or relocation. The notice of intent shall be in a format specified by the director.

(2) The notice of intent shall include the following information:

(a) A description of the nature of the processes involved; the nature, procedures for handling and quantities of raw materials; the type and quantity of fuels employed; and the nature and quantity of finished product.

(b) Expected composition and physical characteristics of effluent stream both before and after treatment by any control apparatus, including emission rates, volume, temperature, air pollutant types, and concentration of air pollutants.

(c) Size, type and performance characteristics of any control apparatus.

(d) An analysis of best available control technology for the proposed source or modification. When determining best available control technology for a new or modified source in an ozone nonattainment or maintenance area that will emit volatile organic compounds or nitrogen oxides, the owner or operator of the source shall consider EPA Control Technique Guidance (CTG) documents and Alternative Control Technique documents that are applicable to the source. Best available control technology shall be at least as stringent as any published CTG that is applicable to the source.

(e) Location and elevation of the emission point and other factors relating to dispersion and diffusion of the air pollutant in relation to nearby structures and window openings, and other information necessary to appraise the possible effects of the effluent.

(f) The location of planned sampling points and the tests of the completed installation to be made by the owner or operator when necessary to ascertain compliance.

(g) The typical operating schedule.

(h) A schedule for construction.

(i) Any plans, specifications and related information that are in final form at the time of submission of notice of intent.

(j) Any additional information required by:

(i) R307-403, Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas;

(ii) R307-405, Permits: Major Sources in Attainment or Unclassified Areas (PSD);

(iii) R307-406, Visibility;

(iv) R307-410, Emissions Impact Analysis;

(v) R307-420, Permits: Ozone Offset Requirements in Davis and Salt Lake Counties; or

(vi) R307-421, Permits: PM10 Offset Requirements in Salt Lake County and Utah County.

(k) Any other information necessary to determine if the proposed source or modification will be in compliance with Title R307.

(3) Notwithstanding the exemption in R307-401-9 through ~~R307-401-16~~, any person that is subject to R307-403, R307-405, or R307-406 shall submit a notice of intent to the director and receive an approval order prior to initiation~~initiation~~ of construction, modification, or relocation.

**R307-401-6. Review Period.**

(1) Completeness Determination. Within 30 days after receipt of a notice of intent, or any additional information necessary to the review, the director will advise the applicant of any deficiency in the notice of intent or the information submitted.

(2) Within 90 days of receipt of a complete application including all the information described in R307- 401-5, the director will

(a) issue an approval order for the proposed construction, installation, modification, relocation, or establishment pursuant to the requirements of R307-401-8, or

(b) issue an order prohibiting the proposed construction, installation, modification, relocation or establishment if it is deemed that any part of the proposal is inadequate to meet the applicable requirements of R307.

(3) The review period under ~~R307-401-6(2)~~ ~~[above]~~ may be extended by up to three 30-day extensions if more time is needed to review the proposal.

**R307-401-7. Public Notice.**

(1) Issuing the Notice. Prior to issuing an approval or disapproval order, the director will advertise intent to approve or disapprove in a newspaper of general circulation in the locality of the proposed construction, installation, modification, relocation or establishment.

(2) Opportunity for Review and Comment.

(a) At least one location will be provided where the information submitted by the owner or operator, the director's analysis of the notice of intent proposal, and the proposed approval order conditions will be available for public inspection.

(b) Public Comment.

(i) A 30-day public comment period will be established.

(ii) A request to extend the length of the comment period, up to 30 days, may be submitted to the director within 15 days of the date the notice in R307-401-7(1) is published.

(iii) Public Hearing. A request for a hearing on the proposed approval or disapproval order may be submitted to the director within 15 days of the date the notice in R307-401-7(1) is published.

(iv) The hearing will be held in the area of the proposed construction, installation, modification, relocation or establishment.

(v) The public comment and hearing procedure shall not be required when an order is issued for the purpose of extending the time required by the director to review plans and specifications.

(3) The director will consider all comments received during the public comment period and at the public hearing and, if appropriate, will make changes to the proposal in response to comments before issuing an approval order or disapproval order.

**R307-401-8. Approval Order.**

(1) The director will issue an approval order if the following conditions have been met:

(a) The degree of pollution control for emissions, to include fugitive emissions and fugitive dust, is at least best available control technology. When determining best available control technology for a new or modified source in an ozone nonattainment or maintenance area that will emit volatile organic compounds or nitrogen oxides, best available control technology shall be at least as stringent as any Control Technique Guidance document that has been published by EPA that is applicable to the source.

(b) The proposed installation will meet the applicable requirements of:

(i) R307-403, Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas;

(ii) R307-405, Permits: Major Sources in Attainment or Unclassified Areas (PSD);

(iii) R307-406, Visibility;

(iv) R307-410, Emissions Impact Analysis;

(v) R307-420, Permits: Ozone Offset Requirements in Davis and Salt Lake Counties;

(vi) R307-210, National Standards of Performance for New Stationary Sources;

(vii) National Primary and Secondary Ambient Air Quality Standards;

(viii) R307-214, National Emission Standards for Hazardous Air Pollutants;

(ix) R307-110, Utah State Implementation Plan; and

(x) all other provisions of R307.

(2) The approval order will require that all pollution control equipment be adequately and properly maintained.

(3) Receipt of an approval order does not relieve any owner or operator of the responsibility to comply with the provisions of R307 or the State Implementation Plan.

(4) To accommodate staged construction of a large source, the director may issue an order authorizing construction of an initial stage prior to receipt of detailed plans for the entire proposal provided that, through a review of general plans, engineering reports and other information the proposal is determined feasible by the director under the intent of R307. Subsequent detailed plans will then be processed as prescribed in this paragraph. For staged construction projects the previous determination under R307-401-8(1) and (2) will be reviewed and modified as appropriate at the earliest reasonable time prior to commencement of construction of each independent phase of the proposed source or modification.

(5) If the director determines that a proposed stationary source, modification or relocation does not meet the conditions established in (1) above, the director will not issue an approval order.

**R307-401-9. Small Source Exemption.**

(1) A small stationary source is exempt[ed] from the requirement to obtain an approval order in R307-401-5 through R307-401-8 if the following conditions are met.

(a) its actual emissions are less than 5 tons per year per air pollutant of any of the following air pollutants: sulfur dioxide, carbon monoxide, nitrogen oxides, PM<sub>10</sub>, ozone, or volatile organic compounds;

(b) its actual emissions are less than 500 pounds per year of any hazardous air pollutant and less than 2000 pounds per year of any combination of hazardous air pollutants;

(c) its actual emissions are less than 500 pounds per year of any air pollutant not listed in (a) or (b) above and less than 2000 pounds per year of any combination of air pollutants not listed in (a) or (b) above.

(d) Air pollutants that are drawn from the environment through equipment in intake air and then are released back to the environment without chemical change, as well as carbon dioxide, nitrogen, oxygen, argon, neon, helium, krypton, xenon should not be included in emission calculations when determining applicability under (a) through (c) above.

(2) The owner or operator of a source that is exempted from the requirement to obtain an approval order under (1) above shall no longer be exempt if actual emissions in any subsequent year exceed the emission thresholds in (1) above. The owner or operator shall submit a notice of intent under R307-401-5 no later than 180 days after the end of the calendar year in which the source exceeded the emission threshold.

(3) Small Source Exemption - Registration. The director will maintain a registry of sources that are claiming an exemption under R307-401-9. The owner or operator of a stationary source that is claiming an exemption under R307-401-9 may submit a written registration notice to the director. The notice shall include the following minimum information:

(a) identifying information, including company name and address, location of source, telephone number, and name of plant site manager or point of contact;

(b) a description of the nature of the processes involved, equipment, anticipated quantities of materials used, the type and quantity of fuel employed and nature and quantity of the finished product;

(c) identification of expected emissions;

(d) estimated annual emission rates;

(e) any control apparatus used; and

(f) typical operating schedule.

(4) An exemption under R307-401-9 does not affect the requirements of R307-401-17, Temporary Relocation.

(5) A stationary source that is not required to obtain a permit under R307-405 for greenhouse gases, as defined in R307-405-3(9)(a), is not required to obtain an approval order for greenhouse gases under R307-401. This exemption does not affect the requirement to obtain an approval order for any other air pollutant emitted by the stationary source.

**R307-401-10. Source Category Exemptions.**

The [following] source categories described in R307-401-10 [(1) through (4) below] are exempt[ed] from the requirement to obtain an approval order found in R307-401-5 through R307-401-8. The general provisions in R307-401-4 shall apply to these sources.

(1) Fuel-burning equipment in which combustion takes place at no greater pressure than one inch of mercury above ambient pressure with a rated capacity of less than five million BTU per hour using no other fuel than natural gas or LPG or other mixed gas that meets the standards of gas distributed by a utility in accordance with the rules of the Public Service Commission of the State of Utah, unless there are emissions other than combustion products.

(2) Comfort heating equipment such as boilers, water heaters, air heaters and steam generators with a rated capacity of less than one million BTU per hour if fueled only by fuel oil numbers 1 - 6,

(3) Emergency heating equipment, using coal or wood for fuel, with a rated capacity less than 50,000 BTU per hour.

(4) Exhaust systems for controlling steam and heat that do not contain combustion products.

(5) A well site as defined in 40 CFR 60.5430a, that is not a major source as defined in R307-101-2, and is registered with the Division as required by R307-505.

#### **R307-401-11. Replacement-in-Kind Equipment.**

(1) Applicability. Existing process equipment or pollution control equipment that is covered by an existing approval order or State Implementation Plan requirement may be replaced using the procedures in (2) below if:

(a) the potential to emit of the process equipment is the same or lower;

(b) the number of emission points or emitting units is the same or lower;

(c) no additional types of air [~~pollutants~~contaminants] are emitted as a result of the replacement;

(d) the process equipment or pollution control equipment is identical to or functionally equivalent to the replaced equipment;

(e) the replacement does not change the basic design parameters of the process unit or pollution control equipment;

(f) the replaced process equipment or pollution control equipment is permanently removed from the stationary source, otherwise permanently disabled, or permanently barred from operation;

(g) the replacement process equipment or pollution control equipment does not trigger New Source Performance Standards or National Emissions Standards for Hazardous Air Pollutants under 42 U.S.C. 7411 or 7412; and

(h) the replacement of the control apparatus or process equipment does not violate any other provision of Title R307.

#### **(2) Replacement-in-Kind Procedures.**

(a) In lieu of filing a notice of intent under R307-401-5, the owner or operator of a stationary source shall submit a written notification to the director before replacing the equipment. The notification shall contain a description of the replacement-in-kind equipment, including the control capability of any control apparatus and a demonstration that the conditions of (1) above are met.

(b) If the replacement-in-kind meets the conditions of (1) above, the director will update the source's approval order and notify the owner or operator. Public review under R307-401-7 is not required for the update to the approval order.

(3) If the replaced process equipment or pollution control equipment is brought back into operation, it shall constitute a new emissions unit.

#### **R307-401-12. Reduction in Air Pollutants.**

(1) Applicability. The owner or operator of a stationary source of air pollutants that reduces or eliminates air pollutants is exempt from the requirement to submit a notice of intent and obtain an approval order prior to construction if:

(a) the project does not increase the potential to emit of any air pollutant or cause emissions of any new air pollutant, and

(b) the director is notified of the change and the reduction of air pollutants is made enforceable through an approval order in accordance with (2) below.

(2) Notification. The owner or operator shall submit a written description of the project to the director no later than 60 days after the changes are made. The director will update the source's approval order or issue a new approval order to include the project and to make the emission reductions enforceable. Public review under R307-401-7 is not required for the update to the approval order.

#### **R307-401-13. Plantwide Applicability Limits.**

A plantwide applicability limit under R307-405-21 does not exempt a stationary source from the requirements of R307-401.

#### **R307-401-14. Used Oil Fuel Burned for Energy Recovery.**

##### **(1) Definitions.**

"Boiler" means boiler as defined in R315-1-1(b).

"Used Oil" is defined as any oil that has been refined from crude oil, used, and, as a result of such use contaminated by physical or chemical impurities.

(2) Boilers burning used oil for energy recovery are exempt[ed] from the requirement to obtain an approval order in R307-401-5 through R307-401-8 if the following requirements are met:

(a) the heat input design is less than one million BTU/hr;

(b) contamination levels of all used oil to be burned do not exceed any of the following values:

(i) arsenic - 5 ppm by weight,

(ii) cadmium - 2 ppm by weight,

(iii) chromium - 10 ppm by weight,

(iv) lead - 100 ppm by weight,

(v) total halogens - 1,000 ppm by weight,

(vi) Sulfur - 0.50% by weight; and

(c) the flash point of all used oil to be burned is at least 100 degrees Fahrenheit.

(3) Testing. The owner or operator shall test each load of used oil received or generated as directed by the director to ensure it meets these requirements. Testing may be performed by the owner/operator or documented by test reports from the used fuel oil vendor. The flash point shall be measured using the appropriate ASTM method as required by the director. Records for used oil consumption and test reports are to be kept for all periods when fuel-burning equipment is in operation. The records shall be kept on site and made available to the director or the director's representative upon request. Records must be kept for a three-year period.

#### **R307-401-15. Air Strippers and Soil Venting Projects.**

(1) The owner or operator of an air stripper or soil venting system that is used to remediate contaminated groundwater or soil is exempt from the notice of intent and approval order requirements of R307-401-5 through R307-401-8 if the following conditions are met:

(a) the estimated total air emissions of volatile organic compounds from a given project are less than the de minimis emissions listed in R307-401-9(1)(a), and

(b) the level of any one hazardous air pollutant or any combination of hazardous air pollutants is below the levels listed in R307-410-5(1)(c)(i)(C).

(2) The owner or operator shall submit documentation that the project meets the exemption requirements in R307-401-15(1) to the director prior to beginning the remediation project.

(3) After beginning the soil remediation project, the owner or operator shall submit emissions information to the director to verify that the emission rates of the volatile organic compounds and hazardous air pollutants in R307-401-15(1) are not exceeded.

(a) Emissions estimates of volatile organic compounds shall be based on test data obtained in accordance with the test method in the EPA document SW-846, Test #8260c or 8261a, or the most recent EPA revision of either test method if approved by the director.

(b) Emissions estimates of hazardous air pollutants shall be based on test data obtained in accordance with the test method in EPA document SW-846, Test #8021B or the most recent EPA revision of the test method if approved by the director.

(c) Results of the test and calculated annual quantity of emissions of volatile organic compounds and hazardous air pollutants shall be submitted to the director within one month of sampling.

(d) The test samples shall be drawn on intervals of no less than twenty-eight days and no more than thirty-one days (i.e., monthly) for the first quarter, quarterly for the first year, and semi-annually thereafter or as determined necessary by the director.

(4) The following control devices do not require a notice of intent or approval order when used in relation to an air stripper or soil venting project exempted under R307-401-15:

(a) thermodestruction unit with a rated input capacity of less than five million BTU per hour using no other auxiliary fuel than natural gas or LPG, or

(b) carbon adsorption unit.

**R307-401-16. De minimis Emissions From Soil Aeration Projects.**

An owner or operator of a soil remediation project is not subject to the notice of intent and approval order requirements of R307-401-5 through R307-401-8 when soil aeration or land farming is used to conduct a soil remediation, if the owner or operator submits the following information to the director prior to beginning the remediation project:

(1) documentation that the estimated total air emissions of volatile organic compounds, using an appropriate sampling method, from the project are less than the de minimis emissions listed in R307-401-9(1)(a);

(2) documentation that the levels of any one hazardous air pollutant or any combination of hazardous air pollutants are less than the levels in R307-410-5(1)(d); and

(3) the location of the remediation and where the remediated material originated.

**R307-401-17. Temporary Relocation.**

The owner or operator of a stationary source previously approved under R307-401 may temporarily relocate and operate the stationary source at any site for up to 180 working days in any calendar year not to exceed 365 consecutive days, starting from the initial relocation date. The director will evaluate the expected emissions impact at the site and compliance with applicable Title R307 rules as the bases for determining if approval for temporary relocation may be granted. Records of the working days at each site, consecutive days at each site, and actual production rate shall be submitted to the director at the end of each 180 calendar days. These records shall also be kept on site by the owner or operator for the entire project, and be made available for review to the director as requested. R307-401-7, Public Notice, does not apply to temporary relocations under R307-401-17.

**R307-401-18. Eighteen Month Review.**

Approval orders issued by the director in accordance with the provisions of R307-401 will be reviewed eighteen months after the date of issuance to determine the status of construction, installation, modification, relocation or establishment. If a continuous program of construction, installation, modification, relocation or establishment is not proceeding, the director may revoke the approval order.

**R307-401-19. General Approval Order.**

(1) The director may issue a general approval order that would establish conditions for similar new or modified sources of the same type or for specific types of equipment. The general approval order may apply throughout the state or in a specific area.

(a) A major source or major modification as defined in R307-403, R307-405, or R307-420 for each respective area is not eligible for coverage under a general approval order.

(b) A source that is subject to the requirements of R307-403-5 is not eligible for coverage under a general approval order.

(c) A source that is subject to the requirements of R307-410-4 is not eligible for coverage under a general approval order unless a demonstration that meets the requirements of R307-410-4 was conducted.

(d) A source that is subject to the requirements of R307-410-5(1)(c)(ii) is not eligible for coverage under a general approval order unless a demonstration that meets the requirements of R307-410-5(1)(c)(ii) was conducted.

(e) A source that is subject to the requirements of R307-410-5(1)(c)(iii) is not eligible for coverage under a general approval order.

(2) A general approval order shall meet all applicable requirements of R307-401-8.

(3) The public notice requirements in R307-401-7 shall apply to a general approval order except that the director will advertise the notice of intent in a newspaper of statewide circulation.

(4) Application.

(a) After a general approval order has been issued, the owner or operator of a proposed new or modified source may apply to be covered under the conditions of the general approval order.

(b) The owner or operator shall submit the application on forms provided by the director in lieu of the notice of intent requirements in R307-401-5 for all equipment covered by the general approval order.

(c) The owner or operator may request that an existing, individual approval order for the source be revoked, and that it be covered by the general approval order.

(d) The owner or operator that has applied to be covered by a general approval order shall not initiate construction, modification, or relocation until the application has been approved by the director.

(5) Approval.

(a) The director will review the application and approve or deny the request based on criteria specified in the general approval order for that type of source. If approved, the director will issue an authorization to the applicant to operate under the general approval order.

(b) The public notice requirements in R307-401-7 do not apply to the approval of an application to be covered under the general approval order.

(c) The director will maintain a record of all stationary sources that are covered by a specific general approval order and this record will be available for public review.

## (6) Exclusions and Revocation.

(a) The director may require any source that has applied for or is authorized by a general approval order to submit a notice of intent and obtain an individual approval order under R307-401-8. Cases where an individual approval order will be required include, but are not limited to, the following:

(i) the director determines that the source does not meet the criteria specified in the general approval order;

(ii) the director determines that the application for the general approval order did not contain all necessary information to evaluate applicability under the general approval order;

(iii) modifications were made to the source that were not authorized by the general approval order or an individual approval order;

(iv) the director determines the source may cause a violation of a national ambient air quality standard; or

(v) the director determines that one is required based on the compliance history and current compliance status of the source or applicant.

(b)(i) Any source authorized by a general approval order may request to be excluded from the coverage of the general approval order by submitting a notice of intent under R307-401-5 and receiving an individual approval order under R307-401-8.

(ii) When the director issues an individual approval order to a source subject to a general approval order, the applicability of the general approval order to the individual source is revoked on the effective date of the individual approval order.

(7) Modification of General Approval Order. The director may modify, replace, or discontinue the general approval order.

(a) Administrative corrections may be made to the existing version of the general approval order. These corrections are to correct typographical errors or similar minor administrative changes.

(b) All other modifications or the discontinuation of a general approval order shall not apply to any source authorized under previous versions of the general approval order unless the owner or operator submits an application to be covered under the new version of the general approval order. Modifications under R307-401-19(7)(b) shall meet the public notice requirements in R307-401-19(3).

(c) A general approval order shall be reviewed at least every three year. The review of the general approval order shall follow the public notice requirements of R307-401-19(3).

(8) Modifications at a source covered by a general approval order. A source may make modifications only as authorized by the approved general approval order. Modifications outside the scope authorized by the approved general approval order shall require a new application for either an individual approval order under R307-401-8 or a general approval order under R307-401-19.

**KEY: air pollution, permits, approval orders, greenhouse gases**  
**Date of Enactment or Last Substantive Amendment: [February 5, 2015]2017**

**Notice of Continuation: June 6, 2012**

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

## Environmental Quality, Air Quality **R307-403** Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42106

FILED: 09/14/2017

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule is to update the nonattainment permitting requirements to reflect what is currently regulated by federal law. These changes are being done in accordance with commitments the Division of Air Quality has made to the U.S. Environmental Protection Agency (EPA) to update the rule by 12/08/2017.

**SUMMARY OF THE RULE OR CHANGE:** The rule has been updated to reflect the current federal requirements for nonattainment area permitting. The new source review requirements have been updated to regulate PM2.5.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 19-2-104

#### ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** No--There are no anticipated costs or savings to the state budget. This is because the rule has merely been updated to reflect and implement federal requirements regarding permitting in nonattainment areas.

◆ **LOCAL GOVERNMENTS:** No--There are no anticipated costs or savings to local governments. This is because the rule has merely been updated to reflect and implement federal requirements regarding permitting in nonattainment areas.

◆ **SMALL BUSINESSES:** No--There are no anticipated costs or savings to small businesses. This is because the rule has merely been updated to reflect and implement federal requirements regarding permitting in nonattainment areas.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No--There are no anticipated costs or savings for "other persons". This is because the rule has merely been updated to reflect and implement federal requirements regarding permitting in nonattainment areas.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs that are a result of this rule. This is because the rule has merely been updated to reflect and implement federal requirements regarding permitting in nonattainment areas.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to businesses. This is because the rule has merely been updated to reflect and implement federal requirements regarding permitting in nonattainment areas.

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:

♦ Mat Carlile by phone at 801-536-4116, by FAX at 801-536-4136, or by Internet E-mail at mcarlile@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/31/2017

THIS RULE MAY BECOME EFFECTIVE ON: 12/06/2017

AUTHORIZED BY: Bryce Bird, Director

### **R307. Environmental Quality, Air Quality.**

#### **R307-403. Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas.**

##### **R307-403-1. Purpose and Definitions.**

(1) Purpose. This rule implements the federal nonattainment area permitting program for major sources as required by 40 CFR 51.165. In addition, the rule contains new source review provisions for some non-major sources in PM<sub>10</sub> nonattainment areas. This rule supplements, but does not replace, the permitting requirements of R307-401.

(2) Unless otherwise specified, all references to 40 CFR in R307-403 shall mean the version that is in effect ~~on July 1, 2012~~ July 1, 2017.

(3) Except as provided in R307-403-1(4), the definitions in 40 CFR 51.165(a)(1) are hereby incorporated by reference. The definition of PAL, or plant wide applicability limitation, in 40 CFR 51.165(f)(2)(v) is also incorporated by reference.

(4)(a) "Reviewing authority" means the director.

(b) In the definition of "significant" in 40 CFR 51.165(a)(1) (x) add the following text at the end of the pollutant emission rate for PM<sub>2.5</sub>: "; and in the Logan, Salt Lake City, and Provo PM<sub>2.5</sub> nonattainment areas as defined in the July 1, 2010 version of 40 CFR 81.345, 40 tpy of volatile organic compounds."

(c) In the definition of "regulated NSR pollutant" in 40 CFR 51.165(a)(1)(xxvii) the following subparagraph is added to 51.165(a)(1)(xxvii)(4)(C)(2): "(i) Volatile organic compounds are precursors to PM<sub>2.5</sub> and ammonia is not a precursor to PM<sub>2.5</sub> in the Logan, Salt Lake City, and Provo PM<sub>2.5</sub> nonattainment areas as defined in the July 1, 2010 version of 40 CFR 81.345."

(d) The following definitions or portions of definitions that apply to the equipment repair and replacement provisions are not incorporated because these provisions were vacated by the DC Circuit Court of Appeals on March 17, 2006:

(i) in the definition of "major modification" in 40 CFR 51.165(a)(1)(v)(C), the second sentence in subparagraph (1);

(ii) the definition of "process unit" in 40 CFR 51.165(a)(1)(xlili);

(iii) the definition of "functionally equivalent component" in 40 CFR 51.165(a)(1)(xliv);

(iv) the definition of "fixed capital cost" in 40 CFR 51.165(a)(1)(xlv); and

(v) the definition of "total capital investment" in 40 CFR 51.165(a)(1)(xlvi).

##### **R307-403-2. Applicability.**

(1) R307-403 applies to any new major stationary source or major modification that is major for the pollutant or precursor pollutant for which the area is designated nonattainment under section 107(d)(1)(A)(i) of the Clean Air Act, if the stationary source or modification would locate anywhere in the designated nonattainment area.

(a) Except as otherwise provided in paragraph R307-403-2(2), and consistent with the definition of major modification contained in 40 CFR 51.165(a)(1)(v)(A), a project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases—a significant emissions increase (as defined in 40 CFR 51.165(a)(1)(xxvii)), and a significant net emissions increase (as defined in 40 CFR 51.165(a)(1)(vi) and (x)). The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

(b) The procedure for calculating (before beginning actual construction) whether a significant emissions increase (i.e., the first step of the process) will occur depends upon the type of emissions units being modified, according to paragraphs R307-403-2(c) through (e). The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source (i.e., the second step of the process) is contained in the definition in 40 CFR 51.165(a)(1)(vi). Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

(c) Actual-to-projected-actual applicability test for projects that only involve existing emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions (as defined in 40 CFR 51.165(a)(1)(xxviii)) and the baseline actual emissions (as defined in 40 CFR 51.165(a)(1)(xxv)(A) and (B), as applicable), for each existing emissions unit, equals or exceeds the significant amount for that pollutant (as defined in 40 CFR 51.165(a)(1)(x)).

(d) Actual-to-potential test for projects that only involve construction of a new emissions unit(s). A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit (as defined in 40 CFR 51.165(a)(1)(iii)) from each new emissions unit following completion of the project and the baseline actual emissions (as defined in 40 CFR 51.165(a)(1)(xxv)(C)) of these units before the project equals or



exceeds the significant amount for that pollutant (as defined in 40 CFR 51.165(a)(1)(x)).

(e) Reserved.

(f) Hybrid test for projects that involve multiple types of emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in R307-403-2(1)(c) through (d) as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant (as defined in 40 CFR 51.165(a)(1)(x)).

(2) For any major stationary source for a PAL for a regulated NSR pollutant, the major stationary source shall comply with requirements under R307-403-11.

(3) Reserved.

(4) Reserved.

(5)(a) Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provision of the state implementation plan and any other requirements under local, state or federal law.

(b) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforcement limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of R307-403 shall apply to the source or modification as though construction had not yet commenced on the source or modification;

(6) The provisions of R307-403-2(6)(a) through (f) apply to projects at existing emissions units at a major stationary source (other than projects at a source with a PAL) in circumstances where there is a reasonable possibility that a project that is not a part of a major modification may result in a significant emissions increase and the owner or operator elects to use the method specified in paragraphs 40 CFR 51.165(a)(1)(xxviii)(B)(1) through (3) for calculating projected actual emissions.

(a) Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:

(i) A description of the project;

(ii) Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and

(iii) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under 40 CFR 51.165(a)(1)(xxviii)(B)(3) and an explanation for why such amount was excluded, and any netting calculations, if applicable.

(b) If the emissions unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in R307-403-2(6)(a) to the reviewing authority. Nothing in this paragraph shall be construed to require the owner or operator of such a unit to obtain any determination from the reviewing authority before beginning actual construction.

(c) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions units identified in paragraph R307-403-2(6)(a)(ii); and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a

period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated NSR pollutant at such emissions unit.

(d) If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the reviewing authority within 60 days after the end of each year during which records must be generated under paragraph R307-403-2(6)(c) setting out the unit's annual emissions during the year that preceded submission of the report.

(e) If the unit is an existing unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the reviewing authority if the annual emissions, in tons per year, from the project identified in paragraph R307-403-2(6)(a), exceed the baseline actual emissions (as documented and maintained pursuant to paragraph R307-403-2(6)(c), by a significant amount (as defined in 40 CFR 51.165(a)(1)(x)) for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained pursuant to paragraph R307-403-2(6)(c). Such report shall be submitted to the reviewing authority within 60 days after the end of such year. The report shall contain the following:

(i) The name, address and telephone number of the major stationary source;

(ii) The annual emissions as calculated pursuant to paragraph R307-403-2(6)(c); and

(iii) Any other information that the owner or operator wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection).

(f) A "reasonable possibility" under (R307-403-2(6)) occurs when the owner or operator calculates the project to result in either:

(i) A projected actual emissions increase of at least 50 percent of the amount that is a "significant emissions increase," as defined in 40 CFR 51.165(a)(1)(xxvii)(without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant; or

(ii) A projected actual emissions increase that, added to the amount of emissions excluded under 40 CFR 51.165(a)(1)(xxviii)(B)(3), sums to at least 50 percent of the amount that is a "significant emissions increase," as defined under paragraph 40 CFR 51.165(a)(1)(xxvii) without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant. For a project for which a reasonable possibility occurs only within the meaning of this paragraph, and not also within the meaning of paragraph R307-403-2(6)(f)(i), then provisions R307-403-2(6)(b) through (e) do not apply to the project.

(7) The owner or operator of the source shall make the information required to be documented and maintained pursuant to paragraph R307-403-2(6) [~~above~~]available for review upon a request for inspection by the director or the general public pursuant to the requirements contained in 40 CFR 70.4(b)(3)(viii).

(8) The requirements of R307-403 applicable to major stationary sources and major modifications of volatile organic compounds shall apply to nitrogen oxides emissions from major stationary sources and major modifications of nitrogen oxides in an ozone transport region or in any ozone nonattainment area, except in ozone nonattainment areas or in portions of an ozone transport region where the EPA Administrator has granted a nitrogen oxides waiver

applying the standards set forth under section 182(f) of the Clean Air Act and the waiver continues to apply.

(9) Reserved.

(10) ~~[The requirements of R307-403 applicable to major stationary sources and major modifications of PM<sub>10</sub> shall also apply to major stationary sources and major modifications of PM<sub>10</sub> precursors, except where the Administrator determines that such sources do not contribute significantly to PM<sub>10</sub> levels that exceed the PM<sub>10</sub> ambient standards in the area.]~~The requirements of R307-403 apply to new major sources and major modifications to existing sources. Such sources or modifications located in or impacting areas of nonattainment for ozone, PM10, or PM2.5 shall also consider each precursor to ozone, PM10, or PM2.5 respectively. Sources or modifications determined to be major for any of these precursors shall, for offsetting requirements, also be regarded as major for that pollutant for which the area is designated nonattainment.

(a) In areas of ozone nonattainment, a new stationary source that is major for nitrogen oxides or for volatile organic compounds shall be considered major for ozone. Similarly, a modification to an existing source that is major for nitrogen oxides or for volatile organic compounds shall be considered major for ozone.

(b) In areas of PM10 nonattainment, a new stationary source that is major for nitrogen oxides or for sulfur dioxide shall trigger offset requirements for PM10. Similarly, a modification to an existing source that is major for nitrogen oxides or for sulfur dioxide shall trigger offset requirements for PM10.

(c) In areas of PM2.5 nonattainment, a new stationary source that is major for nitrogen oxides, sulfur dioxide, or volatile organic compounds shall trigger offset requirements for PM2.5. Similarly, a modification to an existing source that is major for nitrogen oxides, sulfur dioxide, or volatile organic compounds shall trigger offset requirements for PM2.5.

(11) Reserved.

(12) R307-403 applies to any major source or major modification that is located outside a nonattainment area and is major for the pollutant for which the area is designated nonattainment under section 107(d)(1)(A)(i) of the Clean Air Act and that causes the significant increments in R307-403-3(1) to be exceeded in the nonattainment area.

(13) R307-403-5 applies to any new or modified source in a ~~[PM<sub>10</sub>]~~PM10 or PM2.5 nonattainment area.

**R307-403-3. Review of Major Sources of Air Quality Impact.**

Every major new source or major modification must be reviewed by the director to determine if a source will cause or contribute to a violation of the NAAQS.~~[—The determination of whether a source will cause or contribute to a violation of the NAAQS will be made by the director as of the new source's projected start-up date. He will make an analysis of the proposed new source's operation data using the best information and analytical techniques available.]~~

(1) If the owner or operator of a source proposes to locate the source outside an area of nonattainment where the source will not cause an increase greater than the following increments in actual areas of nonattainment or in the Salt Lake City and Ogden maintenance areas for carbon monoxide and the source otherwise meets the requirements of these regulations, such source shall be approved.

TABLE

MAXIMUM ALLOWABLE MICROGRAM/CUBIC METER IMPACT BY AVERAGING TIME

Pollutant	Annual	24-Hr	8-Hr	3-Hr	1-Hr
SULFUR DIOXIDE	1.0	5		25	
PM10	1.0	3			
PM2.5	0.3	1.2			
NO2	1.0				
CO			500		2000

(2) If the director finds that the emissions from a proposed source would cause a new violation of the NAAQS but would not contribute to an existing violation, the director shall approve the proposed source if and only if:

(a) the new source is required to meet a more stringent emission limitation, sufficient to avoid a new violation of the NAAQS and

(b) the new source has acquired sufficient offset to avoid a new violation of the NAAQS and

(c) the new emission limitations for the proposed source and for any affected existing sources are enforceable.

~~(3) [If the director finds that the emissions from a proposed source in a nonattainment area would contribute to an existing violation of a national ambient air quality standard at the time of the source's proposed start-up date]~~For a proposed new major stationary source or major modification that is major for a pollutant for which an area is designated nonattainment, approval shall be granted if and only if:

(a) the new major source or major modification meets an emission limitation which is the Lowest Achievable Emission Rate (LAER) for such source for the relevant pollutant(s) in the respective nonattainment area and

(b) the applicant has certified that all existing major sources in the State, owned or controlled by the owner or operator (or by any entity controlling, controlled by or under common control with such owner or operator) of the proposed source, are in compliance with all applicable rules in R307, including the Utah Implementation Plan requirements or are in compliance with an approved schedule and timetable for compliance under the Utah Implementation Plan, R307, or an enforcement order, and that the source is complying with all requirements and limitations as expeditiously as practicable.

(c) emission offsets to the extent provided in R307-403-4, R307-403-5, and R307-403-6 are sufficient such that there will be reasonable further progress toward attainment of the applicable NAAQS.

(d) the emission offsets provide a positive net air quality benefit in the affected area of nonattainment.

(e) there is an approved implementation plan in effect for the pollutant to be emitted by the proposed source.

(4) A source which is locating outside a nonattainment area or the Salt Lake City and Ogden maintenance areas for carbon monoxide and which causes the significant increments in R307-403-3(1) ~~[above]~~ to be exceeded in the nonattainment or maintenance area is subject to the requirements of R307-403-3(3) ~~[above]~~.

**R307-403-4. Offsets: General Requirements.**

(1) All general offset permitting requirements apply for all offsets regardless of the pollutant at issue. General offset permitting

requirements shall be imposed immediately and directly on all new major stationary sources or major modifications located in a nonattainment area that are major for the pollutant for which the area is designated nonattainment.

~~(1)2~~ Emission offsets must be obtained from the same source or other sources in the same nonattainment area except that the owner or operator of a source may obtain emission offsets in another nonattainment area if:

(a) the other area has an equal or higher nonattainment classification than the area in which the source is located; and

(b) emissions from such other area contribute to a violation of the national ambient air quality standard in the nonattainment area in which the source is located or which is impacted by the source.

~~(2)3~~ Any emission offsets required for a new or modified source shall be in effect and enforceable [by the time] before a new or modified source commences construction[;], [and, by the time a new or modified source commences operation, any emission offsets shall be in effect and enforceable and]The new or modified source shall assure that the total tonnage of increased emissions of the air pollutant from the new or modified source shall be offset by an equal or greater reduction, as applicable, in the actual emissions of such air pollutant from the same or other sources in the area.

~~(3)4~~ Emission reductions otherwise required by the federal Clean Air Act or R307, including the State Implementation Plan shall not be creditable as emission reductions for purposes of any offset requirement. Incidental emission reductions which are not otherwise required by federal or state law shall be creditable as emission reductions if such emission reductions meet the requirements of ~~R307-403-4(1)2~~ and ~~R307-403-4(2)3~~ ~~above~~.

~~(4)5~~ Sources shall be allowed to offset, by alternative or innovative means, emission increases from rocket engine and motor firing, and cleaning related to such firing, at an existing or modified major source that tests rocket engines or motors under the conditions outlined in 42 U.S.C. 7503(e) (Section 173(e)(1) through Section 173(e)(4) of the federal Clean Air Act as amended in 1990).

#### **R307-403-5. Offsets: ~~PM10~~Particulate Matter Nonattainment Areas.**

(1) PM10 Nonattainment Areas. New sources which have a potential to emit, or modified sources which would produce an emission increase equal to or exceeding the tonnage total of combined PM10, sulfur dioxide, and oxides of nitrogen listed below which are located in or impact a PM10 Nonattainment Area as defined in ~~R307-403-5(1)(a) [below]~~, shall obtain an enforceable offset as defined in ~~R307-403-5(1)(b) and R307-403-5(1)(c) [below]~~.

(a) For the purpose of determining whether the owner or operator which proposes to locate a source outside a nonattainment area is required to obtain offsets, the maximum allowable impact on any nonattainment area is 1.0 microgram/cubic meter for a one-year averaging period and 3.0 micrograms/cubic meter for a 24-hour averaging period for any combination of PM10, sulfur dioxide and nitrogen dioxide.

(b) For a total of 50 tons/year or greater, an offset ratio of 1.2:1 of the emission increase is required.

(c) For a total of 25 tons/year but less than 50 tons/year, an offset ratio of 1:1 of the emission increase is required.

(2) For the offset determinations, PM10, sulfur dioxide, and oxides of nitrogen shall be considered on an equal basis. In areas where offsets are required for ~~both~~ PM10, PM2.5 and ozone, the most

stringent emission offset ratio for oxides of nitrogen required by R307-403 or R307-420 shall apply.

(3) PM2.5 Nonattainment Areas. For the purposes of PM2.5 nonattainment areas a major source is:

(a) in a moderate nonattainment area any stationary source of air pollutants which emits or has the potential to emit 100 tons per year or more of direct PM2.5, nitrogen oxides, sulfur dioxides or volatile organic compounds.

(b) in a serious nonattainment area any stationary source of air pollutants which emits or has the potential to emit 70 tons per year or more of direct PM2.5, nitrogen oxides, sulfur dioxides or volatile organic compounds.

(c) any physical change that would occur at a source not qualifying under R307-403-5(3)(a) or R307-403-5(3)(b) as a major source, if the change would constitute a major source by itself.

(d) in PM2.5 nonattainment areas, a new stationary source that is major for nitrogen oxides, sulfur dioxide, or volatile organic compounds shall be considered major for PM2.5. Similarly, a modification to an existing source that is major for nitrogen oxides, sulfur dioxide, or volatile organic compounds shall be considered major for PM2.5.

(4) New major sources or major modifications to existing sources which are located in or would impact a PM2.5 Nonattainment shall obtain an enforceable offset as defined in R307-403-5(b) through R307-403-5(d).

(a) For the purposes of determining what is a significant emission increase or a significant net emission increase and therefore a major modification, significant means a rate of emissions that would equal or exceed 10 tons per year (tpy) of direct PM<sub>2.5</sub>, 40 tpy of sulfur dioxide, 40 tpy of nitrogen oxides, or 40 tpy of volatile organic compounds (VOC).

(b) For the purpose of determining whether the owner or operator which proposes to locate a source outside a nonattainment area is required to obtain offsets, the maximum allowable impact on any PM<sub>2.5</sub> nonattainment area is 0.3 microgram/cubic meter for a one-year averaging period and 1.2 micrograms/cubic meter for a 24-hour averaging period for direct PM2.5.

(c) Any increase in emissions that has been determined to require offset shall be offset at a ratio of no less than 1:1 rounded up to the next whole number.

(d) In areas where offsets may also be required for precursors to PM10 and/or ozone, the most stringent emission offset ratio required by R307-403 shall apply.

(e) Offsets may not be traded between pollutants.

#### **R307-403-6. Offsets: Ozone Nonattainment Areas.**

In any ozone nonattainment area, new sources and modifications to existing sources as defined and outlined in 42 U.S.C. 7511a (Section 182 of the Clean Air Act) shall meet the offset requirements and conditions listed in that section for the applicable classified area and for the identified pollutants.

#### **R307-403-7. Offsets: Baseline.**

The baseline to be used for determination of credit for emission and air quality offsets will be the emission limitations and/or other requirements in the State Implementation Plan (SIP), revised in accordance with the Clean Air Act Section 173(c)(1) or subsequent revisions thereto in effect at the time the application to construct or modify a source is filed. The offset baseline shall be the actual

emissions, as defined in 401-2, of the source from which offset credits are obtained.

**R307-403-8. Offsets: Banking of Emission Offset Credit.**

Banking of emission offset credit will be permitted to the fullest extent allowed by applicable Federal Law as identified in EPA's document "Emissions Trading Policy Statement" published in the Federal Register on December 4, 1986, and 40 CFR 51.165(a)(3)(ii)(c) as amended on June 28, 1989, and 40 CFR 51, Appendix S. To preserve banked emission reductions, the director must identify them in either the Utah SIP or an order issued pursuant to R307-401 and shall provide a registry to identify the person, private entity or governmental authority that has the right to use or allocate the banked emission reductions, and to record any transfers of, or liens on these rights.

**R307-403-9. Construction in Stages.**

When a source is constructed or modified in stages which individually do not have the potential to emit more than [~~100 tons per year~~] the significance level for determining a major source, the allowable emission from all such stages shall be added together in determining the applicability of R307-403.

**R307-403-10. Analysis of Alternatives.**

The owner or operator of a major new source or major modification to be located in a nonattainment area or which would impact a nonattainment area must, in addition to the requirements in R307-403, submit with the notice of intent an adequate analysis of alternative sites, sizes, production processes, and environmental control techniques for such proposed source which demonstrates the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification. The director shall review the analysis. The analysis and the director's comments shall be subject to public comment as required by R307-401-7. The preceding shall also apply in Salt Lake and Davis Counties for new major sources or modifications which are considered major for precursors of ozone, including volatile organic compounds and nitrogen oxides.

**R307-403-11. Actuals PALS.**

The provisions of 40 CFR 51.165(f)(1) through (14) are hereby incorporated by reference.

**KEY: air quality, nonattainment, offsets, permits**

**Date of Enactment or Last Substantive Amendment:** [~~December 5, 2013~~] **2017**

**Notice of Continuation:** May 15, 2017

**Authorizing, and Implemented or Interpreted Law:** 19-2-104; 19-2-108

Environmental Quality, Air Quality  
**R307-504**  
 Oil and Gas Industry: Tank Truck  
 Loading

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 42109

FILED: 09/14/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule amendment is to implement a permit-by-rule system for oil and gas wells. The permit-by-rule system will replace the current minor source permitting system implemented by the Division. This amendment reflects the current Best Available Control Technology (BACT) that is required for gas and oil well facilities that currently apply for a permit to operate. Therefore, to ensure that the permit-by-rule rules are equivalent to current permitting requirements this rule was amended to reflect BACT.

**SUMMARY OF THE RULE OR CHANGE:** The rule requires facilities with emission controls for tank systems to control emissions from truck loading into the tank systems emission controls.

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

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** This rule does not have a cost or savings to the state budget because this rule regulates oil and gas sources.

◆ **LOCAL GOVERNMENTS:** This rule does not have a cost or savings to local governments because this rule regulates oil and gas sources.

◆ **SMALL BUSINESSES:** This proposed rule will not result in a cost or savings to small businesses in Utah. This rule requires well sites that are subject to the new Rule R307-506 to implement volatile organic compound (VOC) emission controls for the loading of liquids containing VOCs at well sites. The rule generally applies to well sites that need to have a permit. A permit would require the same VOC emission controls that are contained in these proposed amendments. Therefore, there is no additional cost for small businesses as a result of these amendments. (EDITOR'S NOTE: The proposed new Rule R307-506 is under Filing No. 42111 in this issue, October 1, 2017, of the Bulletin.)

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No--This rule does not have a cost or savings to "other persons" because the rule impacts owners or operators of oil and gas wells. The owners and operators of these wells are all businesses.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** No additional compliance costs are anticipated. This rule requires well sites that are subject to the new Rule R307-506 to implement volatile organic compound (VOC) emission controls for the loading of liquids containing VOCs at well

sites. The rule generally applies to well sites that need to have a permit. A permit would require the same VOC emission controls that are contained in these proposed amendments. Therefore, there is no additional cost for affected persons as a result of these amendments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that these proposed changes will not result in a fiscal impact to businesses in Utah. This rule requires well sites that are subject to the new Rule R307-506 to implement volatile organic compound (VOC) emission controls for the loading of liquids containing VOCs at well sites. The rule generally applies to well sites that need to have a permit. A permit would require the same VOC emission controls that are contained in these proposed amendments. Therefore, there is no additional cost for businesses as a result of these amendments.

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:  
 ♦ Mat Carlile by phone at 801-536-4116, by FAX at 801-536-4136, or by Internet E-mail at mcarlile@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/15/2017

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:  
 ♦ 10/19/2017 01:00 PM, Department of Environmental Quality, 195 N 1950 W, Board Room 1015, Salt Lake City, UT  
 ♦ 10/25/2017 01:00 PM, TriCounty Health, 133 S 500 E, Vernal UT

THIS RULE MAY BECOME EFFECTIVE ON: 01/04/2018

AUTHORIZED BY: Bryce Bird, Director

**R307. Environmental Quality, Air Quality.**  
**R307-504. Oil and Gas Industry: Tank Truck Loading.**  
**R307-504-1. Purpose.**

R307-504 establishes control requirements for the loading of liquids containing volatile organic compounds (VOCs) at oil or gas well sites.

**R307-504-2. Definitions.**

~~[(1)]~~—The definitions in 40 CFR 60, Subpart OOOO Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution that ~~[is]~~are incorporated by reference in R307-210 apply to R307-504.

~~[(2)]~~—"Bottom Filling" means the filling of a tank through an inlet at or near the bottom of the tank designed to have the opening covered by the liquid after the pipe normally used to withdraw liquid can no longer withdraw any liquid.

~~[(3)]~~—"Submerged Fill Pipe" means any fill pipe with a discharge opening which is entirely submerged when the liquid level is six inches above the bottom of the tank and the pipe normally used to withdraw liquid from the tank can no longer withdraw any liquid.

"Vapor Capture Line" means a connection hose, fitted with a valve that can be connected to tanker trucks during truck loading operations, used to collect VOC emissions from truck loading operations. The other end of the vapor capture line is connected to an existing tank battery or enclosed vapor combustor for the destruction of VOC emissions.

~~[(4)]~~—"Well production facility" means all equipment at a single stationary source directly associated with one or more oil wells or gas wells.

**R307-504-3. Applicability.**

~~(1) R307-504-4(1)~~ applies to any person who loads or permits the loading of any intermediate hydrocarbon liquid or produced water at a well production facility after January 1, 2015.

~~(2) R307-504-4(2)~~ applies to owners and operators that are required to control emissions from storage vessels in accordance with ~~R307-506.~~

**R307-504-4. Tank Truck Loading Requirements.**

~~(1) Tank trucks used for intermediate hydrocarbon liquid or produced water shall be loaded using bottom filling or a submerged fill pipe.~~

~~(2) VOC emissions during truck loading operations shall be controlled at all times using a vapor capture line. The vapor capture line shall achieve no less than 70% capture efficiency and 98% destruction efficiency (95% efficiency from VOC control device and 3% from auto ignitor requirements of R307-503) resulting in an overall control efficiency of no less than 68.6%. An equivalent control technology can be utilized if approved by the director and capable of meeting or exceeding a 68.6% overall control efficiency.~~

**KEY: air pollution, oil, gas**

**Date of Enactment or Last Substantive Amendment: [~~October 7, 2014~~]**2017****

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

Environmental Quality, Air Quality  
**R307-505**  
 Oil and Gas Industry: Registration  
 Requirements

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 42110

FILED: 09/14/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this new rule is to provide the Division of Air Quality (Division) with information necessary to understand what type of oil and gas emission sources and control equipment are currently in existence. As the rule is implemented, the registration of future oil and gas wells is necessary to support the implementation of permit-by-rule. Sources will no longer be obtaining an approval order and operating permit, the Division needs to know the source is operating in the state, the type of equipment it has, and a certification that the source will follow the air quality rules.

**SUMMARY OF THE RULE OR CHANGE:** The rule requires oil and gas sources to register with the Division. This rule covers both existing and new sources.

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

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** This rule does not have a cost or savings to the state budget because this rule regulates oil and gas sources.

◆ **LOCAL GOVERNMENTS:** This rule does not have a cost or savings to local governments because this rule regulates oil and gas sources.

◆ **SMALL BUSINESSES:** The Division has identified 10 small businesses that may be impacted by this rule. This rule requires each company to register its new and existing operations with standard industrial classification codes in the major group 13. This includes industries involved in oil and natural gas exploration, production, and transmission operations; well production facilities; natural gas compressor stations; natural gas processing plants; and commercial oil and gas disposal wells and evaporation ponds. This rule will result in a fiscal impact on small businesses because it requires them to register with the director.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No--This rule does not have a cost or savings to "other persons" because the rule impacts owners or operators of oil and gas wells. The owners and operators of these wells are all businesses.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The compliance cost is about \$100 per registration, which is a one-time cost. An ongoing cost of less than \$100 will also be associated to update a registration when changes are made to the company name, the emission control device strategies are altered, or operations are terminated. Larger companies will ultimately pay more because they will be required to submit more registrations to account for their larger inventory.

Details of the cost analysis and compliance costs are in the department head's comments below.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:**

I. **WHETHER A FISCAL IMPACT TO BUSINESS IS EXPECTED AS A RESULT OF THE PROPOSED RULE AND, IF SO, A DESCRIPTION OF WHY:** The Division has identified 30 companies that may be impacted by this rule. This rule requires each company to register its new and existing operations with standard industrial classification codes in the major group 13. This includes industries involved in oil and natural gas exploration, production, and transmission operations; well production facilities; natural gas compressor stations; natural gas processing plants; and commercial oil and gas disposal wells and evaporation ponds. This rule will result in a fiscal impact on businesses because it requires them to register with the Director.

II. **AN ESTIMATE OF THE TOTAL NUMBER OF BUSINESS ESTABLISHMENTS IN UTAH EXPECTED TO BE IMPACTED:** The Division has identified 30 companies that may be impacted by this rule.

III. **AN ESTIMATE OF THE SMALL BUSINESS ESTABLISHMENTS IN UTAH EXPECTED TO BE IMPACTED:** Of the 30 companies that will be impacted, at least 10 are small businesses.

IV. **A DESCRIPTION OF THE SOURCES OF COST OR SAVINGS AS WELL AS THE EXPECTED NET SAVINGS OR COST TO BUSINESS ESTABLISHMENTS AND SMALL BUSINESS ESTABLISHMENTS AS A RESULT OF THE PROPOSED RULE OVER A ONE-YEAR PERIOD, IDENTIFYING ONETIME AND ONGOING COSTS:** The source of the cost to companies as a result of this rule is the requirement to register its operations with the Division. Registration includes the following general information; company name, mailing address, source location, source manager or point of contact, process description, capacity and quantity of emitting equipment on-site, fuel type of combustion related equipment (i.e. diesel, natural gas, propane, or field gas), emissions control devices installed, emissions, and certification that the facility is in compliance with Rules R307-506 through R307-510. This data should not be difficult to retrieve, and there will be minimal costs associated with the registration requirement. The cost will be the amount the company pays an employee to register online using the Division's web-based tool and any potential fees associated with registration that the Utah Legislature might approve in the future. This should cost no more than \$100 per registration. This is a one-time cost for existing sources, which must be completed before 07/01/2018. An ongoing cost of less than \$100 will also be associated with the need to update a registration when changes are made to the company name, the emission control device strategies are altered, or operations are terminated. There will also be an ongoing cost of less than \$100 per registration for future registrations. These costs will be the same for small and large businesses. Larger companies will ultimately pay more because they will be required to submit more registrations to account for their larger inventory. (EDITOR'S NOTE: The proposed new Rule R307-506 is under Filing No. 42111, the proposed new Rule

R307-507 is under Filing No. 42112, the proposed new Rule R307-508 is under Filing No. 42113, the proposed new Rule R307-509 is under Filing No. 42114, and the proposed new Rule R307-510 is under Filing No. 42115 in this issue, October 1, 2017, of the Bulletin.)

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:

♦ Mat Carlile by phone at 801-536-4116, by FAX at 801-536-4136, or by Internet E-mail at mcarlile@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/15/2017

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 10/19/2017 01:00 PM, Department of Environmental Quality, 195 N 1950 W, Board Room 1015, Salt Lake City, UT  
♦ 10/25/2017 01:00 PM, TriCounty Health, 133 S 500 E, Vernal UT

THIS RULE MAY BECOME EFFECTIVE ON: 01/04/2018

AUTHORIZED BY: Bryce Bird, Director

### **R307. Environmental Quality, Air Quality.**

#### **R307-505. Oil and Gas Industry: Registration Requirements.**

##### **R307-505-1. Purpose.**

R307-505 establishes requirements for sources in the oil and gas industry to register with the Division.

##### **R307-505-2. Applicability.**

(1) R307-505 applies to new and existing operations at a source with Standard Industrial Classification codes in the major group 13, which includes but is not limited to industries involved in oil and natural gas exploration, production, and transmission operations; well production facilities; natural gas compressor stations; natural gas processing plants and commercial oil and gas disposal wells, and evaporation ponds.

(a) A source that is subject to an approval order in accordance with R307-401-8 is exempt from R307-505.

##### **R307-505-3. Registration Requirements**

(1) An owner or operator of a source identified in R307-505-2 that begins operations on or after January 1, 2018, shall register with the director 30 days prior to commencing operation.

(2) An owner or operator of a source identified in R307-505-2 that is in operation before January 1, 2018, shall register with the director by July 1, 2018.

(3) An owner or operator shall update the registration information within 30 days of any of the following:

(a) changes to company name.

(b) removal or addition of control devices, or

(c) termination of operations.

(4) Registration shall be completed online in a format provided by the Division and shall include the following general information: company name, mailing address, source location, source manager or point of contact, process description, capacity and quantity of emitting equipment on-site, fuel type of combustion related equipment (i.e. diesel, natural gas, propane, or field gas), emissions control devices installed, emissions and certification that the facility is in compliance with R307-506 through R307-510.

**KEY: air pollution, oil, gas**

**Date of Enactment or Last Substantive Amendment: 2017**

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

**(a)**

## Environmental Quality, Air Quality **R307-506** Oil and Gas Industry: Storage Vessels

### NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 42111

FILED: 09/14/2017

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this new rule is to implement a permit-by-rule system for oil and gas wells to replace the current minor source permitting system implemented by the Division of Air Quality (Division). This amendment reflects the current Best Available Control Technology (BACT) that is required for gas and oil well facilities that currently apply for a permit to operate. The rule excludes sources that are currently permitted. Therefore, to ensure that the permit-by-rule rules are equivalent to current permitting requirements this rule was amended to reflect BACT.

**SUMMARY OF THE RULE OR CHANGE:** The rule requires oil and gas well sources with storage vessels that meet certain operational limits to control their emissions.

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

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** This rule does not have a cost or savings to the state budget because this rule regulates oil and gas sources.

♦ **LOCAL GOVERNMENTS:** This rule does not have a cost or savings to local governments because this rule regulates oil and gas sources.

♦ **SMALL BUSINESSES:** This rule may have an impact on about 10 small businesses. This impact is discussed in the department head's fiscal analysis below. The Division has considered methods of reducing the negative impact of the rule on small businesses in accordance with Subsection 63G-3-301(6) but cannot establish any additional less stringent requirements, schedules, or deadlines; simplify compliance or reporting requirements; replace design standards with performance standards; or exempt small businesses. However, through the stakeholder process, the Division made several changes to this rule and other rules involved in the permit-by-rule scheme that reduced costs for small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No--This rule does not have a cost or savings to "other persons" because the rule impacts owners or operators of oil and gas wells. The owners and operators of these wells are all businesses.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Most well sites will not be impacted by this rule because they are already required to obtain a permit that would include the storage vessel requirements that are found in Rule R307-506. However, new sources that begin operations on or after 01/01/2018 may be impacted. Sources that begin operations on or after 01/01/2018 and have actual emissions that are less than four tons per year, will need to operate with controls for one year in order to demonstrate whether their actual emissions qualify for an exemption from the control requirements under Subsection R307-506-4(6). The requirement to operate for a year with controls is not a requirement in the current rules. Currently, sources can show that they are a small source that is exempt from the requirement to obtain a permit by using their potential to emit. This is a one-time cost that would only apply to sources that operate for a year and then show that they have less than four tons of annual emissions. This cost will be approximately \$40,000 to \$60,000 to install the control equipment. The cost will be the same for small and large businesses. The cost is considered a one-time cost because the control equipment is removed after a year if the exemption applies, and the equipment can be used on other sites. There may be an ongoing cost if new well sites are constructed and the equipment that is already owned by the company is unusable on those sites. This ongoing cost would be an additional \$40,000 to \$60,000 per site.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:**  
 I. **WHETHER A FISCAL IMPACT TO BUSINESS IS EXPECTED AS A RESULT OF THE PROPOSED RULE AND, IF SO, A DESCRIPTION OF WHY:** Yes, a fiscal impact is expected as a result of proposed Rule R307-506. II. **AN ESTIMATE OF THE TOTAL NUMBER OF BUSINESS ESTABLISHMENTS IN UTAH EXPECTED TO BE IMPACTED:** The Division has identified 30 companies that may be impacted by this rule. III. **AN ESTIMATE OF THE SMALL BUSINESS ESTABLISHMENTS IN UTAH**

**EXPECTED TO BE IMPACTED:** Of the 30 companies that will be impacted, at least 10 are small businesses. IV. **A DESCRIPTION OF THE SOURCES OF COST OR SAVINGS AS WELL AS THE EXPECTED NET SAVINGS OR COST TO BUSINESS ESTABLISHMENTS AND SMALL BUSINESS ESTABLISHMENTS AS A RESULT OF THE PROPOSED RULE OVER A ONE-YEAR PERIOD, IDENTIFYING ONETIME AND ONGOING COSTS:** Most well sites will not be impacted by this rule because they are already required to obtain a permit that would include the storage vessel requirements that are found in Rule R307-506. However, new sources that begin operations on or after 01/01/2018 may be impacted. Sources that begin operations on or after 01/01/2018, and have actual emissions that are less than four tons per year, will need to operate with controls for one year in order to demonstrate whether their actual emissions qualify for an exemption from the control requirements under Subsection R307-506-4(6). The requirement to operate for a year with controls is not a requirement in the current rules. Currently, sources can show that they are a small source that is exempt from the requirement to obtain a permit by using their potential to emit. This is a one-time cost that would only apply to sources that operate for a year and then show that they have less than four tons of annual emissions. This cost will be approximately \$40,000 to \$60,000 to install the control equipment. The cost will be the same for small and large businesses. The cost is considered a one-time cost because the control equipment is removed after a year if the exemption applies, and the equipment can be used on other sites. There may be an ongoing cost if new well sites are constructed and the equipment that is already owned by the company is unusable on those sites. This ongoing cost would be an additional \$40,000 to \$60,000 per site. V. **THE ABOVE ANALYSIS REPRESENTS DAQ'S BEST ESTIMATE AS TO THE FISCAL IMPACT THIS RULE AMENDMENT WILL HAVE ON BUSINESSES:** The Division staff anticipates that most companies will rarely encounter a situation where this rule will result in a fiscal impact that would not already have occurred under the current air quality rules. This is because companies will typically not dig a well if the well would not be productive enough to require controls under Rule R307-506 or require a permit under the current air quality rules. The Division welcomes comments during the public comment period that provide further information regarding costs or savings that may result from the amendments being proposed.

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:  
 ♦ Mat Carlile by phone at 801-536-4116, by FAX at 801-536-4136, or by Internet E-mail at mcarlile@utah.gov



INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/15/2017

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

- ◆ 10/19/2017 01:00 PM, Department of Environmental Quality, 195 N 1950 W, Board Room 1015, Salt Lake City, UT
- ◆ 10/25/2017 01:00 PM, TriCounty Health, 133 S 500 E, Vernal UT

THIS RULE MAY BECOME EFFECTIVE ON: 01/04/2018

AUTHORIZED BY: Bryce Bird, Director

### **R307. Environmental Quality, Air Quality.**

#### **R307-506. Oil and Gas Industry: Storage Vessels.**

##### **R307-506-1. Purpose.**

R307-506 establishes requirements to control emissions of volatile organic compounds (VOCs) from storage vessels associated with oil and gas operations.

##### **R307-506-2. Definitions.**

"Modification to a well site" means:

- (1) a new well is drilled at an existing well site,
- (2) a well at an existing well site is hydraulically fractured,
- or
- (3) a well at an existing well site is hydraulically refractured.

"Storage Vessel" means storage vessel as defined in 40 CFR 60.5430a, Subpart OOOOa Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution, which is incorporated by reference in R307-210.

##### **R307-506-3. Applicability.**

(1) R307-506 applies to each storage vessel located at a well site as defined in 40 CFR 60.5430a Subpart OOOOa Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution.

(a) R307-506 does not apply to storage vessels that are subject to an approval order issued under R307-401-8.

##### **R307-506-4. Storage Vessel Requirements.**

(1) Thief hatches on storage vessels shall be kept closed and latched except during vessel unloading or other maintenance activities.

(2) A storage vessel or collection of storage vessels, that is in operation as of January 1, 2018, with a site-wide throughput of 8,000 barrels or greater of crude oil per year on a rolling 12-month basis shall comply with R307-506-4(2)(a) unless the exemption in R307-506-4(2)(b) applies.

(a) VOC emissions from storage vessels shall either be routed to a process unit where the emissions are recycled, incorporated into a product and/or recovered, or be routed to a VOC control device that is in compliance with R307-508.

(b) A storage vessel or collection of storage vessels shall be exempt from R307-506-4(2)(a) if VOC emissions are demonstrated to be less than four tons per year on a rolling twelve month basis by the following methods:

(i) VOC working and breathing losses shall be calculated using site-specific sampling data and the TANKS 4.09D Emission Estimation Software provided by the EPA.

(ii) VOC flash emissions shall be calculated using site-specific sampling data and the Vasquez-Beggs Equation.

(iii) VOC emissions determined by an alternative method approved by the Director.

(3) Storage vessels that begin operations on or after January 1, 2018, are required to control VOC emissions in accordance with R307-506-4(2)(a) upon startup of operation for one year and then evaluate control requirements in accordance with R307-506-4(6).

(4) An owner or operator that is required to control emissions in accordance with R307-506-4(2) and R307-506-4(3) shall inspect at least once a month each closed vent system, including vessel openings, thief hatches, and bypass devices, for defects that can result in air emissions according to 40 CFR 60.5416a(c).

(a) If defects are discovered, the defects shall be corrected or repaired within 15 days of identification.

(5) Modification to a well site shall require a re-evaluation of site-wide throughput and/or emissions in accordance with R307-506-4(2).

(6) After one year of operation, controls may be removed when site-wide throughput is less than 8,000 barrels of crude oil on a rolling twelve-month basis or actual emissions are demonstrated to be less than four tons per year after one year of operation.

##### **R307-506-5. Recordkeeping**

(1) Records of thief hatch inspection shall be kept for three years.

(a) Records of thief hatch inspections shall include the date of the inspection, the status of the thief hatches, and the date of corrective action taken if required.

(2) Records of crude oil throughput shall be kept for three years and shall be determined on a monthly basis using the production data reported to the Utah Division of Oil, Gas, and Mining.

(3) Records of emission calculations, actual emissions, and site-specific sampling data used to determine applicability with R307-506-4(2)(b) shall be kept as long as the well site is in operation.

**KEY: air pollution, oil, gas**

**Date of Enactment or Last Substantive Amendment: 2017**

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

## Environmental Quality, Air Quality **R307-507** Oil and Gas Industry: Dehydrators

### NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 42112

FILED: 09/14/2017

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to implement a

permit-by-rule system for oil and gas wells to replace the current minor source permitting system implemented by the Division of Air Quality (Division). This amendment reflects the current Best Available Control Technology (BACT) that is required for gas and oil well facilities that currently apply for a permit to operate. The rule excludes sources that are currently permitted. Therefore, to ensure that the permit-by-rule rules are equivalent to current permitting requirements this rule was amended to reflect BACT.

**SUMMARY OF THE RULE OR CHANGE:** The rule requires oil and gas well sources with dehydrators that meet certain emission limits to control their emissions.

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

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** This rule does not have a cost or savings to the state budget because this rule regulates oil and gas sources.

◆ **LOCAL GOVERNMENTS:** This rule does not have a cost or savings to local governments because this rule regulates oil and gas sources.

◆ **SMALL BUSINESSES:** This rule will not result in a cost or savings to small businesses because it is only regulating new sources that would currently be required to get a permit. A minor source permit for dehydrators associated with oil and gas operations would include requirements that are equivalent to the requirements in these rules. Therefore, Rule R307-507 does not add any additional costs to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No--This rule does not have a cost or savings to "other persons" because the rule impacts owners or operators of oil and gas wells. The owners and operators of these wells are all businesses.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** No additional compliance costs are anticipated because this rule regulates new sources that would currently be required to get a permit. A minor source permit for dehydrators associated with oil and gas operations would include requirements that are equivalent to the requirements in these rules. Therefore, Rule R307-507 does not add any additional compliance costs to affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to businesses in Utah. This rule requires emission controls for volatile organic compounds (VOCs) that are emitted from dehydrators associated with oil and gas operations. This rule will not result in a cost to businesses because it is only regulating new sources that would currently be required to get a permit. A minor source permit for dehydrators associated with oil and gas operations would include requirements that

are equivalent to the requirements in these rules. Therefore, Rule R307-507 does not add any additional costs to 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:**

◆ Mat Carlile by phone at 801-536-4116, by FAX at 801-536-4136, or by Internet E-mail at mcarlile@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/15/2017

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 10/19/2017 01:00 PM, Department of Environmental Quality, 195 N 1950 W, Board Room 1015, Salt Lake City, UT  
◆ 10/25/2017 01:00 PM, TriCounty Health, 133 S 500 E, Vernal UT

THIS RULE MAY BECOME EFFECTIVE ON: 01/04/2018

AUTHORIZED BY: Bryce Bird, Director

**R307. Environmental Quality, Air Quality.**

**R307-507. Oil and Gas Industry: Dehydrators.**

**R307-507-1. Purpose.**

R307-507 establishes requirements to control emissions of volatile organic compounds (VOCs) from dehydrators associated with oil and gas operations.

**R307-507-2. Definitions.**

"Dehydrator" means dehydrator as defined in 40 CFR 60.5430a, Subpart OOOOa Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution, which is incorporated by reference in R307-210.

**R307-507-3. Applicability.**

(1) R307-507 applies to each dehydrator located at a well site as defined in 40 CFR 60.5430a, Subpart OOOOa Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution.

(a) R307-507 does not apply to a dehydrator that is subject to an approval order issued under R307-401-8.

**R307-507-4. Dehydrator Requirements.**

(1) Dehydrators with VOC emissions of four tons per year or greater either individually or combined with VOC emissions from storage vessels shall either be routed to a process unit where the emissions are recycled, incorporated into a product, and/or recovered.

or be routed to a VOC control device that is in compliance with R307-508. Dehydrators in operation before January 1, 2018, shall determine applicability with calculated actual emissions. Dehydrators in operation on or after January 1, 2018, shall determine applicability using potential to emit.

(2) Controls may be removed when actual emissions, individually or combined with VOC emissions from storage vessels, are less than four tons per year on a rolling twelve-month basis.

**R307-507-5. Recordkeeping**

Records of emission calculations shall be kept for all periods the plant is in operation if a control device is not installed on-site.

**KEY: air pollution, oil, gas**

**Date of Enactment or Last Substantive Amendment: 2017**

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

**(a)**

## Environmental Quality, Air Quality **R307-508** Oil and Gas Industry: VOC Control Devices

### NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 42113

FILED: 09/14/2017

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this new rule is to implement a permit-by-rule system for oil and gas wells to replace the current minor source permitting system implemented by the Division of Air Quality (Division). This amendment reflects the current Best Available Control Technology (BACT) that is required for gas and oil well facilities that currently apply for a permit to operate. The rule excludes sources that are currently permitted. Therefore, to ensure that the permit-by-rule rules are equivalent to current permitting requirements, this rule was amended to reflect BACT.

**SUMMARY OF THE RULE OR CHANGE:** The rule requires oil and gas well sources with storage vessels and dehydrators that meet certain emission limits to control their emissions and this rule defines the type of control device that is required.

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

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** This rule does not have a cost or savings to the state budget because this rule regulates oil and gas sources.

◆ **LOCAL GOVERNMENTS:** This rule does not have a cost or savings to local governments because this rule regulates oil and gas sources.

◆ **SMALL BUSINESSES:** This rule may have an impact on about 10 small businesses. However, it is anticipated that most companies will rarely encounter a situation where this rule will result in a fiscal impact that would not already have occurred under the current air quality rules. This is because companies will typically not dig a well if the well would not be productive enough to require controls under Rule R307-506 or require a permit under the current air quality rules. Details of the cost analysis and compliance costs are under the department head's comments below. This impact is discussed in the department head's fiscal analysis. (EDITOR'S NOTE: The proposed new Rule R307-506 is under Filing No. 42111 in this issue, October 1, 2017, of the Bulletin.)

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No--This rule does not have a cost or savings to "other persons" because the rule impacts owners or operators of oil and gas wells. The owners and operators of these wells are all businesses.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** It is anticipated that most companies will rarely encounter a situation where this rule will result in a fiscal impact that would not already have occurred under the current air quality rules. This is because companies will typically not dig a well if the well would not be productive enough to require controls under Rule R307-506 or require a permit under the current air quality rules. Details of the cost analysis and compliance costs are under the department head's comments below. The Division has considered methods of reducing the negative impact of the rule on small businesses in accordance with Subsection 63G-3-301(6) but cannot establish any additional less stringent requirements, schedules, or deadlines; simplify compliance or reporting requirements; replace design standards with performance standards; or exempt small businesses. However, through the stakeholder process, the Division made several changes to this rule and other rules involved in the permit-by-rule scheme that reduced costs for small businesses.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:**

I. **WHETHER A FISCAL IMPACT TO BUSINESS IS EXPECTED AS A RESULT OF THE PROPOSED RULE AND, IF SO, A DESCRIPTION OF WHY:** Yes, a minor fiscal impact is expected as a result of proposed Rule R307-508.

II. **AN ESTIMATE OF THE TOTAL NUMBER OF BUSINESS ESTABLISHMENTS IN UTAH EXPECTED TO BE IMPACTED:** The Division has identified 30 companies that may be impacted by this rule. III. **AN ESTIMATE OF THE SMALL BUSINESS ESTABLISHMENTS IN UTAH EXPECTED TO BE IMPACTED:** Of the 30 companies that will be impacted, at least 10 are small businesses. IV. **A DESCRIPTION OF THE SOURCES OF COST OR SAVINGS**

AS WELL AS THE EXPECTED NET SAVINGS OR COST TO BUSINESS ESTABLISHMENTS AND SMALL BUSINESS ESTABLISHMENTS AS A RESULT OF THE PROPOSED RULE OVER A ONE-YEAR PERIOD, IDENTIFYING ONETIME AND ONGOING COSTS: Most well sites will not be impacted by this rule because they are already required to obtain a permit that would include the control device efficiency and minimum equipment inspection requirements that are found in Section R307-508-3. Also, sources that are already subject to an approval order are exempt from these requirements, and they will not have any additional costs as a result of this proposed rule. However, there are some new sources that begin operations on or after 01/01/2018 that may be impacted because they have to have VOC control devices as required by Rule R307-506. The sources that begin operations on or after 01/01/2018, and have actual emissions that are less than four tons per year, will need to operate with controls for one year in order to demonstrate whether their actual emissions qualify for an exemption under Subsection R307-506-4(6). The requirement to operate for a year with controls is not currently a part of the air quality rules. Currently, sources can show that they are a small source that is exempt from the requirement to obtain a permit by using their potential to emit. The few sources that will need to operate for a year to demonstrate that they qualify for the exemption will have to use controls that meet the efficiency and equipment inspection requirements that are found in Section R307-508-3. This is a one-time cost that would only apply to sources that operate for a year and then show that they have less than four tons of annual emissions. The cost will be equal to the cost of installing the control equipment required by Rule R307-506. Control equipment that meets the requirements of this rule amendment is approximately \$40,000 to \$60,000. The cost will be the same for both small and large businesses. The cost is considered a one-time cost because the control equipment is removed after a year, and it can be used on other sites. There may be an ongoing cost if new well sites are being drilled and the equipment that is already owned by the company is unusable. This cost is the same cost that is caused by Rule R307-506. It is a one-time cost that is only incurred once for both Rules R307-506 and R307-508. V. THE ABOVE ANALYSIS REPRESENTS DAQ'S BEST ESTIMATE AS TO THE FISCAL IMPACT THIS RULE AMENDMENT WILL HAVE ON BUSINESSES: The Division staff anticipates that most companies will rarely encounter a situation where this rule will result in a fiscal impact that would not already have occurred under the current air quality rules. This is because companies will typically not dig a well if the well would not be productive enough to require controls under Rule R307-506 or require a permit under the current air quality rules. The Division welcomes comments during the public comment period that provide further information regarding costs or savings that may result from the amendments being proposed.

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:

♦ Mat Carlile by phone at 801-536-4116, by FAX at 801-536-4136, or by Internet E-mail at mcarlile@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/15/2017

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 10/19/2017 01:00 PM, Department of Environmental Quality, 195 N 1950 W, Board Room 1015, Salt Lake City, UT  
♦ 10/25/2017 01:00 PM, TriCounty Health, 133 S 500 E, Vernal UT

THIS RULE MAY BECOME EFFECTIVE ON: 01/04/2018

AUTHORIZED BY: Bryce Bird, Director

**R307. Environmental Quality, Air Quality.**

**R307-508. Oil and Gas Industry: VOC Control Devices.**

**R307-508-1. Purpose.**

R307-508 establishes requirements for VOC control devices associated with oil and gas operations used to control emissions of VOCs.

**R307-508-2. Applicability.**

(1) R307-508 applies to each VOC control device located at a well site as defined in 40 CFR 60.5430a Subpart OOOOa Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution.

(a) R307-508 does not apply to VOC control devices that are subject to an approval order issued under R307-401-8.

**R307-508-3. VOC Control Device Requirements.**

(1) A VOC control device required by R307-506 or R307-507 must have a control efficiency of 95% or greater.

(2) To show compliance with the control efficiency, the VOC control device shall be operated according to the manufacturer's specifications and be certified by the manufacturer to reduce VOC emissions by 95% or greater.

(3) VOC control devices and all associated equipment shall be inspected monthly by audio, visual, or olfactory (AVO) means to ensure the integrity of the equipment is maintained and is operational. If equipment is not operational, corrective action shall be taken within 15 days of discovery.

**R307-508-4. Recordkeeping.**

(1) The owner/operator shall keep and maintain records of the following:

(a) the VOC control device's control efficiency guaranteed by the manufacturer;

- (b) the manufacturer's written operating and maintenance instructions; and
- (c) the VOC control device AVO inspections. These records shall include:
  - (i) the date of the inspection;
  - (ii) the status of the control device and associated equipment; and
  - (iii) date of corrective action taken, if applicable.

**KEY: air pollution, oil, gas**

**Date of Enactment or Last Substantive Amendment: 2017**

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

**(a)**

## Environmental Quality, Air Quality **R307-509**

### Oil and Gas Industry: Leak Detection and Repair Requirements

#### NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 42114

FILED: 09/14/2017

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this new rule is to implement a permit-by-rule system for oil and gas wells to replace the current minor source permitting system implemented by the Division. This amendment reflects the current Best Available Control Technology (BACT) that is required for gas and oil well facilities that currently apply for a permit to operate. The rule excludes sources that are currently permitted. Therefore, to ensure that the permit-by-rule rules are equivalent to current permitting requirements, this rule was amended to reflect BACT.

**SUMMARY OF THE RULE OR CHANGE:** The rule requires oil and gas well sources with storage vessels and dehydrators that meet certain emission limits to control their emissions. These sources that are required to control their emissions will be required to perform inspections for leaks and repair any leaks discovered.

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

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** This rule does not have a cost or savings to the state budget because this rule regulates oil and gas sources.
- ◆ **LOCAL GOVERNMENTS:** This rule does not have a cost or savings to local governments because this rule regulates oil and gas sources.

◆ **SMALL BUSINESSES:** This rule may have an impact on about 10 small businesses. This impact is discussed in the department head's fiscal analysis. The Division has considered methods of reducing the negative impact of the rule on small businesses in accordance with Subsection 63G-3-301(6) but cannot establish any additional less stringent requirements, schedules, or deadlines; simplify compliance or reporting requirements; replace design standards with performance standards; or exempt small businesses. However, through the stakeholder process, the Division made several changes to this rule and other rules involved in the permit-by-rule scheme that reduced costs for small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No--This rule does not have a cost or savings to "other persons" because the rule impacts owners or operators of oil and gas wells. The owners and operators of these wells are all businesses.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Most well sites will not be impacted by this rule because they are already required to obtain a permit that would include the storage vessel requirements that are found in Rule R307-506. However, new sources that begin operations on or after 01/01/2018 may be impacted. Sources that begin operations on or after 01/01/2018, and have actual emissions that are less than four tons per year, will need to operate with controls for one year in order to demonstrate whether their actual emissions qualify for an exemption from the control requirements under Subsection R307-506-4(6). The requirement to operate for a year with controls is not a requirement in the current rules. Currently, sources can show that they are a small source that is exempt from the requirement to obtain a permit by using their potential to emit. This is a one-time cost that would only apply to sources that operate for a year and then show that they have less than four tons of annual emissions. This cost will be approximately \$40,000 to \$60,000 to install the control equipment. The cost will be the same for small and large businesses. The cost is considered a one-time cost because the control equipment is removed after a year if the exemption applies, and the equipment can be used on other sites. There may be an ongoing cost if new well sites are constructed and the equipment that is already owned by the company is unusable on those sites. This ongoing cost would be an additional \$40,000 to \$60,000 per site. (EDITOR'S NOTE: The proposed new Rule R307-506 is under Filing No. 42111 in this issue, October 1, 2017, of the Bulletin.)

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:**  
I. **WHETHER A FISCAL IMPACT TO BUSINESS IS EXPECTED AS A RESULT OF THE PROPOSED RULE AND, IF SO, A DESCRIPTION OF WHY:** Yes, a fiscal impact is expected as a result of proposed Rule R307-509. II. **AN ESTIMATE OF THE TOTAL NUMBER OF BUSINESS ESTABLISHMENTS IN UTAH EXPECTED TO BE**

IMPACTED: The Division has identified 30 companies that may be impacted by this rule. III. AN ESTIMATE OF THE SMALL BUSINESS ESTABLISHMENTS IN UTAH EXPECTED TO BE IMPACTED: Of the 30 companies that will be impacted, at least 10 are small businesses. IV. A DESCRIPTION OF THE SOURCES OF COST OR SAVINGS AS WELL AS THE EXPECTED NET SAVINGS OR COST TO BUSINESS ESTABLISHMENTS AND SMALL BUSINESS ESTABLISHMENTS AS A RESULT OF THE PROPOSED RULE OVER A ONE-YEAR PERIOD, IDENTIFYING ONETIME AND ONGOING COSTS: Many well sites will not be impacted by this rule because they are already subject to leak detection and repair (LDAR) inspection requirements through their permit. Existing small sources will also be exempt from the LDAR requirement as long as they can demonstrate that they are exempt in accordance with Rules R307-506 and R307-507. Well sites that do not meet the minor-source exemption threshold and have failed to obtain the required permit do not face additional fiscal impacts as a result of this rule. This is because those sites should have obtained a permit, and the permit would require LDAR inspections. The only well sites that this rule would have a fiscal impact on are those sites that have to be in operation for a year to demonstrate the small source exemption for the purpose of Rule R307-506. Storage vessels that begin operations on or after 01/01/2018 are required to control VOC emissions in accordance with Subsection R307-506-4(2)(a) to demonstrate that they would be exempt from maintaining emission controls on their equipment. These sources would need to conduct up to two LDAR inspections during the year that they are maintaining emission controls on their equipment as required by Subsection R307-506-4(2)(a). The EPA has estimated that hiring a consultant to conduct an LDAR inspection would cost approximately \$600 per site. see 80 Fed. Reg. at 56,641 (TSD at 72 "The cost for OGI monitoring using an outside contractor was assumed to be \$600 for a well production site."). Since each site will be inspected twice, the total cost would be \$1,200 per site. The state of Colorado estimated a lower cost of \$450 per site for similar LDAR inspections. A large business that is already conducting many LDAR inspections for their permitted sources may find the price to be less than a smaller company that may have only a few well sites. In order to aid businesses, the Division will provide a camera to owners that would like to be trained on how to use it for LDAR inspections. This service will significantly reduce the cost of conducting LDAR inspections. Therefore, the cost of the LDAR inspections required by this rule will be about \$600 per site, but it could be less if a business takes advantage of the Division's services. This will be a one-year cost because controls can be removed if the small source exemption applies, and Rule R307-309 would no longer require LDAR for that site. If the small source exemption does not apply, then the site would need to follow the permit-by-rule, which does not require any costs in addition to what the current permitting system would currently require. This is because LDAR inspections are already required for newly permitted sources. If a leak is detected, there could also be a one-time

cost for repairs. The cost for repairing a leak can range between zero and thousands of dollars depending on the type of leak and the cost of preventing further leakage. This cost for repair will be the same for both small and large businesses. V. THE ABOVE ANALYSIS REPRESENTS DAQ'S BEST ESTIMATE AS TO THE FISCAL IMPACT THIS RULE AMENDMENT WILL HAVE ON BUSINESSES: The Division staff anticipates that most companies will rarely encounter a situation where this rule will result in a fiscal impact that would not already have occurred under the current air quality rules. This is because companies will typically not dig a well if the well would not be productive enough to require controls under Rule R307-506 or require a permit under the current air quality rules. The Division welcomes comments during the public comment period that provide further information regarding costs or savings that may result from the amendments being proposed. (EDITOR'S NOTE: The proposed new Rule R307-507 is under Filing No. 42112 in this issue, October 1, 2017, of the Bulletin.)

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:

♦ Mat Carlile by phone at 801-536-4116, by FAX at 801-536-4136, or by Internet E-mail at mcarlile@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/15/2017

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 10/19/2017 01:00 PM, Department of Environmental Quality, 195 N 1950 W, Board Room 1015, Salt Lake City, UT  
 ♦ 10/25/2017 01:00 PM, TriCounty Health, 133 S 500 E, Vernal UT

THIS RULE MAY BECOME EFFECTIVE ON: 01/04/2018

AUTHORIZED BY: Bryce Bird, Director

**R307. Environmental Quality, Air Quality.**

**R307-509. Oil and Gas Industry: Leak Detection and Repair Requirements.**

**R307-509-1. Purpose.**

R307-509 establishes requirements for conducting leak detection and repairs at oil and gas operations to control emissions of volatile organic compounds.

**R307-509-2. Definitions**

"Fugitive emissions" are considered any visible emissions observed using optical gas imaging or a Method 21 instrument reading of 500 ppm or greater.

"Fugitive emissions component" means any component that has the potential to emit fugitive emissions of VOC, including but not limited to valves, connectors, pressure relief devices, open-ended lines, flanges, covers and closed vent systems, thief hatches or other openings, compressors, instruments, and meters.

**R307-509-3. Applicability.**

(1) R307-509 applies to each fugitive emissions component at a well site as defined in 40 CFR 60.5430a, Subpart OOOOa, Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution and is required to control emissions in accordance with R307-506 and R307-507.

(a) R307-509 does not apply to a fugitive emissions component that is subject to an approval order issued under R307-401-8.

**R307-509-4. Leak Detection and Repair Requirements.**

(1) Applicable sources shall comply with the following:

(a) The owner/operator shall develop an emissions monitoring plan that will be available upon request to review. At a minimum, the plan shall include:

(i) monitoring frequency;

(ii) monitoring technique and equipment;

(iii) procedures and timeframes for identifying and repairing leaks;

(iv) recordkeeping practices; and

(v) calibration and maintenance procedures for monitoring equipment.

(b) The plan shall address monitoring for difficult-to-monitor and unsafe-to-monitor components.

(c) The owner/operator shall conduct monitoring surveys on site to observe each fugitive emissions component for fugitive emissions.

(d) Monitoring surveys shall be conducted according to the following schedule:

(i) No later than 180 days after January 1, 2018, or no later than 60 days after startup of production, as defined in 40 CFR 60 Subpart OOOOa Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution, whichever is later.

(ii) Semiannually after the initial monitoring survey. Consecutive semiannual monitoring surveys shall be conducted at least four months apart.

(iii) Annually after the initial monitoring survey for "difficult-to-monitor" components.

(iv) As required by the owner/operator's monitoring plan for "unsafe-to-monitor" components.

(e) Monitoring surveys shall be conducted using one or both of the following to detect fugitive emissions:

(i) Optical gas imaging (OGI) equipment. OGI equipment shall be capable of imaging gases in the spectral range for the

compound of highest concentration in the potential fugitive emissions source.

(ii) Monitoring equipment that meets U.S. EPA Method 21, 40 CFR Part 60, Appendix A.

(f) If fugitive emissions are detected at any time, the owner/operator shall repair the fugitive emissions component as soon as possible but no later than 15 calendar days after detection. If the repair or replacement is technically infeasible, would require a vent blowdown, a well shutdown or well shut-in, or would be unsafe to repair during operation of the unit, the repair or replacement shall be completed during the next well shutdown, well shut-in, after an unscheduled, planned or emergency vent blowdown or within 24 months, whichever is earlier.

(g) The owner/operator shall resurvey the repaired or replaced fugitive emission component no later than 30 calendar days after the fugitive emission component was repaired.

**R307-509-5. Recordkeeping.**

The owner/operator shall maintain records of the emissions monitoring plan, monitoring surveys, repairs, and resurveys.

**KEY: air pollution, oil, gas**

**Date of Enactment or Last Substantive Amendment: 2017**

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

## Environmental Quality, Air Quality R307-510 Oil and Gas Industry: Natural Gas Engine Requirements

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 42115

FILED: 09/14/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this new rule is to implement a permit-by-rule system for oil and gas wells to replace the current minor source permitting system implemented by the Division of Air Quality (Division). This amendment reflects the current Best Available Control Technology (BACT) that is required for gas and oil well facilities that currently apply for a permit to operate. The rule excludes sources that are currently permitted. Therefore, to ensure that the permit-by-rule rules are equivalent to current permitting requirements, this rule was amended to reflect BACT.

**SUMMARY OF THE RULE OR CHANGE:** The rule provides requirements for natural gas-fired engines at oil and gas well sources that do not currently have a permit and were in operation after 01/01/2016.

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

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: This rule does not have a cost or savings to the state budget because this rule regulates oil and gas sources.
- ◆ LOCAL GOVERNMENTS: This rule does not have a cost or savings to local governments because this rule regulates oil and gas sources.
- ◆ SMALL BUSINESSES: This rule does not have a cost or savings to small businesses, this is because these sites would currently be required to meet similar stack height requirements regardless as to whether this proposed rule was adopted. These requirements would be part of the source's permit.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No--This rule does not have a cost or savings to "other persons" because the rule impacts owners or operators of oil and gas wells. The owners and operators of these wells are all businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No additional compliance cost are anticipated as result of this proposed rule. This rule requires certain stack heights for venting emissions from engines. Since the rule only applies to sites that began operations, installed new engines, or made modifications to existing engines after 01/01/2016. No additional compliance cost are expected, because these sites would currently be required to meet similar stack height requirements regardless as to whether this proposed rule was adopted. These requirements would be part of the source's permit.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to businesses in Utah. This rule requires certain stack heights for venting emissions from engines. Since the rule only applies to sites that began operations, installed new engines, or made modifications to existing engines after 01/01/2016, there is no fiscal impact on businesses. This is because these sites would currently be required to meet similar stack height requirements regardless as to whether this proposed rule was adopted. These requirements would be part of the source's permit.

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:

- ◆ Mat Carlile by phone at 801-536-4116, by FAX at 801-536-4136, or by Internet E-mail at mcarlile@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/15/2017

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

- ◆ 10/19/2017 01:00 PM, Department of Environmental Quality, 195 N 1950 W, Board Room 1015, Salt Lake City, UT
- ◆ 10/25/2017 01:00 PM, TriCounty Health, 133 S 500 E, Vernal UT

THIS RULE MAY BECOME EFFECTIVE ON: 01/04/2018

AUTHORIZED BY: Bryce Bird, Director

### **R307. Environmental Quality, Air Quality.**

#### **R307-510. Oil and Gas Industry: Natural Gas Engine Requirements.**

##### **R307-510-1. Purpose.**

R307-510 establishes requirements for engines associated with oil and gas operations to control emissions nitrogen oxide emissions.

##### **R307-510-2. Applicability.**

(1) R307-510 applies to each natural gas-fired engine at a well site as defined in 40 CFR 60.5430a, Subpart OOOOa Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution, that began operations, installed new engines, or made modifications to existing engines after January 1, 2016.

(a) R307-510 does not apply to a natural gas-fired engine that is subject to an approval order issued under R307-401-8.

##### **R307-510-3. Engine Requirements.**

(1) Regardless of construction, reconstruction, or modification date, each stationary engine at a well site shall comply with 40 CFR Subpart JJJJ when the engine is installed or modified.

(2) Each engine shall vent exhaust gases vertically unrestricted with the following stack height requirements:

(i) Site hp ratings of 306 or higher shall vent exhaust vertically unrestricted with an attached stack height of no less than 10 feet.

(ii) Site hp ratings of 151 to 305 horsepower shall vent exhaust vertically unrestricted with an attached stack height of no less than 8 feet.

(iii) Site hp ratings of 150 horsepower or less have no stack height requirements.

##### **R307-510-4. Recordkeeping.**

The owner/operator shall maintain documentation demonstrating that each stationary engine on-site meets the requirements contained in R307-510-3.



**KEY: air pollution, oil, gas**  
**Date of Enactment or Last Substantive Amendment: 2017**  
**Authorizing, and Implemented or Interpreted Law: 19-2-104(1)**  
**(a)**

**Environmental Quality, Drinking Water**  
**R309-100**  
**Administration: Drinking Water**  
**Program**

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE NO.: 42075  
 FILED: 09/11/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The rule is being amended in conjunction with another filing, Rule R309-105, to improve the efficiency of the plan review process and to remove an unnecessary review requirement imposed upon the division. (EDITOR'S NOTE: the proposed amendment to Section R309-105-6 is under Filing No. 21076 in this issue, October 1, 2017, of the Bulletin.)

**SUMMARY OF THE RULE OR CHANGE:** The proposed amendment applies to Sections R309-100-5 through R309-100-11. It would eliminate the requirement that the Director approve all engineering plans and specifications for public drinking water projects from Section R309-100-5. Instead, it would require only that plans and specifications be approved in writing prior to construction and would not specify who must approve them. This would bring the rule into conformance with a simultaneously proposed amendment to Rule R309-105, which would allow the Director to authorize the Engineering Manager to approve plans and specifications. The proposed amendment would also eliminate the requirement that the Department of Environmental Quality determine the feasibility of adequate water supply for proposed public water systems if requested by the local health department. Because this section of the rule, R309-100-6, will be deleted, the proposed amendment also renumbers five subsequent rule sections, Sections R309-100-7 through R309-100-11.

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

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** In aggregate, the proposed amendment is anticipated to have no cost or savings to the state budget because it does not affect the state budget. It only affects operational procedures within the Division of Drinking Water (DDW).

♦ **LOCAL GOVERNMENTS:** In aggregate, the proposed amendment is anticipated to have no cost or savings to local governments because it does not affect them. It only affects operational procedures within DDW.  
 ♦ **SMALL BUSINESSES:** In aggregate, the proposed amendment is anticipated to have no cost or savings to small businesses because it does not affect them. It only affects operational procedures within DDW.  
 ♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** In aggregate, the proposed amendment is anticipated to have no cost or savings to persons other than small businesses, businesses, or local government entities because it does not affect such persons. It only affects operational procedures within DDW.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The proposed amendment imposes no compliance costs on anyone.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The proposed amendment would not result in a fiscal impact to businesses because it does not affect any business; it only affects operational procedures within DDW.

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

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
 ♦ Bernie Clark by phone at 801-536-0092, or by Internet E-mail at [bernieclark@utah.gov](mailto:bernieclark@utah.gov)

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/31/2017**

**THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2017**

**AUTHORIZED BY: Alan Matheson, Executive Director**

**R309. Environmental Quality, Drinking Water.**  
**R309-100. Administration: Drinking Water Program.**  
**R309-100-5. Approval of Plans and Specifications for Public Water Supply Projects.**

(1) [~~The Director must approve, in writing, a~~ All engineering plans and specifications for public drinking water projects must be approved in writing prior to construction[-], in accordance with [(2) Refer to] R309-105-6 and [/~~or~~] R309-500-6 [for further requirements].

~~([3]2) A public water system shall obtain an Operating Permit[s shall be obtained by the public water system] prior to placing any public drinking water facility into operation as required in R309-500-9.~~

~~**[R309-100-6. Feasibility Reviews.**~~

~~(1) Upon the request of the local health department, the Department of Environmental Quality will conduct a review to determine the "feasibility" of adequate water supply for any proposed public water system (e.g. subdivisions, industrial plants or commercial facilities). Information submitted to the Department for consideration must be simultaneously submitted to the local health department. This feasibility review is a preliminary investigation of the proposed method of water supply and is done in conjunction with a review of proposed methods of wastewater disposal.~~

~~(2) Refer to the Department of Environmental Quality publication "Review Criteria for Establishing the Feasibility of Proposed Housing Subdivisions" available at the Division of Drinking Water.~~

~~**[R309-100-[7]6. Sanitary Survey, Evaluation, and Corrective Action of Existing Facilities.**~~

~~(1) The Director, after considering information gathered during sanitary surveys and facility evaluations, may make determinations of regulatory significance including: monitoring reductions or increases, treatment, variances and exemptions.~~

~~(2) CONDUCTING SANITARY SURVEYS~~

~~(a) The Director shall ensure a sanitary survey is conducted at least every three years on all public water systems. The Director may reduce this frequency to once every five years based on outstanding performance on prior sanitary surveys.~~

~~(b) Sanitary surveys conducted by the following individuals under the circumstances as listed, may be used by the Director for the above determinations:~~

- ~~(i) Division of Drinking Water personnel;~~
- ~~(ii) Utah Department of Environmental Quality District Engineers;~~
- ~~(iii) local health officials;~~
- ~~(iv) Forest Service engineers;~~
- ~~(v) Utah Rural Water Association staff;~~
- ~~(vi) consulting engineers; and~~
- ~~(vii) other qualified individuals authorized in writing by the~~

~~Director.~~

~~(3) Public water systems must provide the Director, at the Director's request, any existing information that will enable the State to conduct a sanitary survey.~~

~~(4) For the purposes of this subpart, a "sanitary survey", as conducted by the Director, includes but is not limited to, an onsite review of the water source(s) (identifying sources of contamination by using results of source water assessments or other relevant information where available), facilities, equipment, operation, maintenance, and monitoring compliance of a public water system to evaluate the adequacy of the system, its sources and operations and the distribution of safe drinking water.~~

~~(5) The sanitary survey must include an evaluation of the applicable components listed in paragraphs (5)(a) through (h) of this section:~~

- ~~(a) Source,~~
- ~~(b) Treatment,~~

- ~~(c) Distribution system,~~
- ~~(d) Finished water storage,~~
- ~~(e) Pumps, pump facilities, and controls,~~
- ~~(f) Monitoring, reporting, and data verification,~~
- ~~(g) System management and operation, and~~
- ~~(h) Operator compliance with State requirements.~~

~~(6) CONDITIONS ON CONDUCT OF SANITARY SURVEYS~~

~~In order for the groups of individuals listed in R309-100-7(2)(b) to conduct sanitary surveys acceptable for consideration by the Director, the following criteria must be met:~~

~~(a) Surveys of all systems involving complete treatment plants must be performed by Division of Drinking Water staff or others authorized in writing by the Director;~~

~~(b) Local Health officials may conduct surveys of systems within their respective jurisdictions;~~

~~(c) U.S. Forest Service (USFS) engineers may conduct surveys of water systems if the system is owned and operated by the USFS or USFS concessionaires;~~

~~(d) Utah Rural Water Association staff may conduct surveys of water systems if the system's population is less than 10,000;~~

~~(e) Consulting Engineers under the direction of a Registered Professional Engineer;~~

~~(f) Other qualified individuals who are authorized in writing by the Director may conduct surveys.~~

~~(7) SANITARY SURVEY REPORT CONTENT~~

~~The Director will prescribe the form and content of sanitary survey reports and be empowered to reject all or part of unacceptable reports.~~

~~(8) ACCESS TO WATER FACILITIES~~

~~Department of Environmental Quality employees after reasonable notice and presentation of credentials, may enter any part of a public water system at reasonable times to inspect the facilities and water quality records, conduct sanitary surveys, take samples and otherwise evaluate compliance with Utah's drinking water rules. All others who have been authorized by the Director to conduct sanitary surveys must have the permission of the water system owner or designated representative before a sanitary survey may be conducted.~~

~~(9) CORRECTIVE ACTION~~

~~Public water systems must comply with requirements found in R309-215-16(3)(a)(iii), R309-215-16(3)(a)(iv), R309-215-16(3)(a)(v), R309-215-16(3)(a)(vi), and R309-215-16(3)(a)(vii).~~

~~(10) Refer to R309-100-8 and R309-105-6 for further requirements.~~

~~**R309-100-[8]7. Rating System.**~~

~~The Director shall assign a rating to each public water supply in order to provide a concise indication of its condition and performance. The criteria to be used for determining a water system's rating shall be as set forth in R309-400.~~

~~**R309-100-[9]8. Orders and Emergency Actions.**~~

~~(1) In situations in which a public water system fails to meet the requirements of these rules, the Director may issue an order to a water supplier to take appropriate protective or corrective measures.~~

~~(2) Failure to comply with these rules or with an order issued by the Director may result in the imposition of penalties as provided in the Utah Safe Drinking Water Act.~~

(3) The Director may respond to emergency situations involving public drinking water, including emergency situations as described in R309-105-18, in a manner appropriate to protect the public health. The Director's response may include the following:

(a) Issuing press releases to inform the public of any confirmed or possible hazards in their drinking water.

(b) Ordering water suppliers to take appropriate measures to protect public health, including issuance of orders pursuant to 63G-4-502, if warranted.

#### **R309-100-~~10~~9. Variances.**

(1) Variances to the requirements of R309-200 of these rules may be granted by the Board to water systems which, because of characteristics of their raw water sources, cannot meet the required maximum contaminant levels despite the application of best technology and treatment techniques available (taking costs into consideration).

(2) The variance will be granted only if doing so will not result in an unreasonable risk to health.

(3) No variance from the maximum contaminant level for total coliforms are permitted.

(4) No variance from the minimum filtration and disinfection requirements of R309-525 and R309-530 will be permitted for sources classified by the Director as directly influenced by surface water.

(6) Within one year of the date any variance is granted, the Board shall prescribe a schedule by which the water system will come into compliance with the maximum contaminant level in question. The requirements of Section 1415 of the Federal Safe Drinking Water Act, PL 104-182, are hereby incorporated by reference. The Board shall provide notice and opportunity for public hearing prior to granting any variance or determining the compliance schedule. Procedures for giving notice and opportunity for hearing will be as outlined in 40 CFR Section 142.44.

#### **R309-100-~~10~~10. Exemptions.**

(1) The Board may grant an exemption from the requirements of R309-200 or from any required treatment technique if:

(a) Due to compelling factors (which may include economic factors), the public water system is unable to comply with contaminant level or treatment technique requirements, and

(b) The public water system was in operation on the effective date of such contaminant level or treatment technique requirement, and

(c) The granting of the exemption will not result in an unreasonable risk to health.

(2) No exemptions from the maximum contaminant level for total coliforms are permitted.

(3) No exemptions from the minimum disinfection requirements of R309-200-5(7) will be permitted for sources classified by the Director as directly influenced by surface water.

(4) Within one year of the granting of an exemption, the Board shall prescribe a schedule by which the water system will come into compliance with contaminant level or treatment technique requirement. The requirements of Section 1416 of the Federal Safe Drinking Water Act, PL 104-182, are hereby incorporated by reference.

(5) The Board shall provide notice and opportunity for an exemption hearing as provided in 40 CFR Section 142.54.

**KEY: drinking water, environmental protection, administrative procedures**

**Date of Enactment or Last Substantive Amendment: [~~February 3, 2011~~2017**

**Notice of Continuation: March 13, 2015**

**Authorizing, and Implemented or Interpreted Law: 19-4-104**

## Environmental Quality, Drinking Water **R309-105-6** Construction of Public Drinking Water Facilities

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42076

FILED: 09/11/2017

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The rule is being amended to improve the efficiency of the plan review process of reviewing requests for exceptions to the rule requiring minimum separation distances between water and sewer lines.

**SUMMARY OF THE RULE OR CHANGE:** The proposed amendment would allow the Director to authorize the Engineering Manager to approve plans and specifications. It would allow the Division of Drinking Water (DDW), in place of the Director, to require modifications to plans and specifications.

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

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** In aggregate, the proposed amendment is anticipated to have no cost or savings to the state budget because it does not affect the state budget. It only affects operational procedures within DDW.

◆ **LOCAL GOVERNMENTS:** In aggregate, the proposed amendment is anticipated to have no cost or savings to local governments because it does not affect them. It only affects operational procedures within DDW.

◆ **SMALL BUSINESSES:** In aggregate, the proposed amendment is anticipated to have no cost or savings to small businesses because it does not affect them. It only affects operational procedures within DDW.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** In aggregate, the proposed amendment is anticipated to have no cost or savings to persons other than small businesses, businesses, or local government entities because it does not affect such persons. It only affects operational procedures within DDW.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendment imposes no compliance costs on anyone.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendment would not result in a fiscal impact to businesses because it does not affect any business; it only affects operational procedures within DDW.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Bernie Clark by phone at 801-536-0092, or by Internet E-mail at [bernieclark@utah.gov](mailto:bernieclark@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/31/2017

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2017

AUTHORIZED BY: Alan Matheson, Executive Director

### **R309. Environmental Quality, Drinking Water.**

#### **R309-105. Administration: General Responsibilities of Public Water Systems.**

#### **R309-105-6. Construction of Public Drinking Water Facilities.**

The following requirements pertain to the construction of public water systems.

(1) Approval of Engineering Plans and Specifications

(a) Complete plans and specifications for all public drinking water projects, as described in R309-500-5, shall be approved in writing (Plan Approval) by the Director prior to the commencement of construction. The Director may also authorize the Engineering Manager for the Division to issue Plan Approvals. A minimum 30-day review time should be assumed.

(b) Appropriate engineering reports, supporting information and master plans may also be required by the Director as needed to evaluate the proposed project. A certificate of convenience and necessity or an exemption therefrom, issued by the Public Service Commission, shall be filed with the Director prior to approval of any plans or specifications for projects described in R309-500-4(1) as new or previously un-reviewed water system.

(2) Acceptable Design and Construction Methods

(a) The design and construction methods of all public drinking water facilities shall conform to the applicable standards contained in R309-500 through R309-550 of these rules. The [Director]Division may require modifications to plans and specifications before approval is granted.

(b) There may be times in which the requirements of the applicable standards contained in R309-500 through R309-550 are not appropriate. Thus, the Director may grant an "exception" to portions of these standards if it can be shown that the granting of such an exception will not jeopardize the public health. The Director may also authorize the Engineering Manager for the Division to grant exceptions to the separation requirements under R309-550-7 if the requirements of this rule are met. In order for the [Director]Division to consider such a request, the public drinking water system shall submit a written request directly from the management of the public [drinking]drinking water system, preferably on system letterhead, that includes the following:

(i) citation of the specific rule for which the "exception" is being requested;

(ii) a detailed explanation, drawings may be included, of why the conditions of rule cannot be met;

(iii) what the system proposes, drawings may be included, in lieu of rule;

(iv) justification the proposed alternative will protect the public health to a similar or better degree than required by rule.

Physical conditions as well as cost may be justification for requesting an "exception-to-rule."

(c) Alternative or new treatment techniques may be developed which are not specifically addressed by the applicable standards contained in R309-500 through R309-550. These treatment techniques may be accepted by the Director if it can be shown that:

(i) They will result in a finished water meeting the requirements of R309-200 of these regulations.

(ii) The technique will produce finished water which will protect public health to the same extent provided by comparable treatment processes outlined in the applicable standards contained in R309-500 through R309-550.

(iii) The technique is as reliable as any comparable treatment process governed by the applicable standards contained in R309-500 through R309-550.

(3) Description of "Public Drinking Water Project"

Refer to R309-500-5 for the description of a public drinking water project and R309-500-6 for required items to be submitted for plan approval.

(4) Specifications for the drilling of a public water supply well may be prepared and submitted by a licensed well driller holding a current Utah Well Driller's Permit if authorized by the Director.

(5) Drawing Quality and Size

Drawings which are submitted shall be compatible with Division of Drinking Water Document storage. Drawings which are illegible or of unusual size will not be accepted for review. Drawing size shall not exceed 30" x 42" nor be less than 8-1/2" x 11".

(6) Requirements After Approval of Plans for Construction

After the approval of plans for construction, and prior to operation of any facilities dealing with drinking water, the items required by R309-500-9 shall be submitted and an operating permit received.

**KEY: drinking water, watershed management**

**Date of Enactment or Last Substantive Amendment: [~~November 22, 2016~~]2017**

**Notice of Continuation: March 13, 2015**

**Authorizing, and Implemented or Interpreted Law: 19-4-104**

## Environmental Quality, Drinking Water

### **R309-110-4**

### Definitions

#### **NOTICE OF PROPOSED RULE**

(Amendment)  
DAR FILE NO.: 42077  
FILED: 09/11/2017

#### **RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The rule is being amended to bring the definition of "Plan Approval" into conformance with a simultaneously proposed amendment to Section R309-105-6 concerning who may approve plans and specifications for a public drinking water project. (EDITOR'S NOTE: The proposed amendment to Section R309-105-6 is under Filing No. 42076 in this issue, October 1, 2017, of the Bulletin.)

**SUMMARY OF THE RULE OR CHANGE:** The proposed amendment would delete the reference to the Director from the definition of "Plan Approval" thereby not prohibiting the Director from authorizing the Engineering Manager to approve plans and specifications. The proposed amendment would also add a reference to Rule R309-105 concerning plan approval and correct a reference to a section of Rule R309-500.

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

#### **ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** In aggregate, the proposed amendment is anticipated to have no cost or savings to the state budget because it does not affect the state budget. It only affects operational procedures within the Division of Drinking Water (DDW).
- ◆ **LOCAL GOVERNMENTS:** In aggregate, the proposed amendment is anticipated to have no cost or savings to local governments because it does not affect them. It only affects operational procedures within DDW.
- ◆ **SMALL BUSINESSES:** In aggregate, the proposed amendment is anticipated to have no cost or savings to small businesses because it does not affect them. It only affects operational procedures within DDW.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** In aggregate, the proposed amendment is anticipated to have no cost or savings to persons other than small businesses, businesses, or local government entities because it does not affect such persons. It only affects operational procedures within DDW.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The proposed amendment imposes no compliance costs on anyone.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The proposed amendment would not result in a fiscal impact to businesses because it does not affect any business; it only affects operational procedures within DDW.

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

#### **DIRECT QUESTIONS REGARDING THIS RULE TO:**

- ◆ Bernie Clark by phone at 801-536-0092, or by Internet E-mail at [bernieclark@utah.gov](mailto:bernieclark@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/31/2017

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2017

AUTHORIZED BY: Alan Matheson, Executive Director

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

As used in R309:

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

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

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

"ANSI/NSF" refers to the American National Standards Institute and NSF International. NSF International has prepared at least two health effect standards dealing with treatment chemicals added to drinking water and system components that will come into contact with drinking water, these being Standard 60 and Standard 61. The American National Standards Institute acts as a certifying agency, and determines which laboratories may certify to these standards.

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

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

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

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

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

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

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

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

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

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

"Board" means the Drinking Water Board.

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

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

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

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

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

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

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

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

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

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

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

"Commission" means the Operator Certification Commission.

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

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

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

"Comprehensive Performance Evaluation" (CPE) is a thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operation and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements. For purposes of compliance with these rules, the comprehensive performance evaluation must consist of at least the following components: Assessment of plant performance; evaluation of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and preparation of a CPE report.

"Confirmed SOC contamination area" means an area surrounding and including a plume of SOC contamination of the soil or water which previous monitoring results have confirmed. The area boundaries may be determined by measuring 3,000 feet horizontally from the outermost edges of the confirmed plume. The area includes deeper aquifers even though only the shallow aquifer is the one contaminated.

"Confluent growth" means a continuous bacterial growth covering the entire filtration area of a membrane filter, or a portion of the filtration area in which discrete bacterial colonies can not be distinguished.

"Consecutive system" is a public water system that receives some or all of its finished water from one or more wholesale systems. Delivery may be through a direct connection or through the distribution system or one or more consecutive systems.

"Contaminant" means any physical, chemical biological, or radiological substance or matter in water.

"Continuing Education Unit" (CEU) means ten contact hours of participation in, and successful completion of, an organized and approved continuing education experience under responsible sponsorship, capable direction, and qualified instruction. College credit in approved courses may be substituted for CEUs on an equivalency basis.

"Conventional Surface Water Treatment" means a series of processes including coagulation, flocculation, sedimentation, filtration and disinfection resulting in substantial particulate removal and inactivation of pathogens.

"Controls" means any codes, ordinances, rules, and regulations that a public water system can cite as currently in effect to regulate potential contamination sources; any physical conditions which may prevent contaminants from migrating off of a site and into surface or ground water; and any site with negligible quantities of contaminants.

"Corrective Action" refers to a rating placed on a system by the Division and means a provisional rating for a public water system not in compliance with the Rules of R309, but making all the necessary changes outlined by the Director to bring them into compliance.

"Corrosion inhibitor" means a substance capable of reducing the corrosiveness of water toward metal plumbing materials, especially lead and copper, by forming a protective film on the interior surface of those materials.

"Credit Enhancement Agreement" means any agreement entered into between the Board, on behalf of the State, and an eligible water system for the purpose of providing methods and assistance to eligible water systems to improve the security for and marketability of drinking water project obligations.

"Criteria" means the conceptual standards that form the basis for DWSP area delineation to include distance, ground-water time of travel, aquifer boundaries, and ground-water divides.

"Criteria threshold" means a value or set of values selected to represent the limits above or below which a given criterion will cease to provide the desired degree of protection.

"Cross-Connection" means any actual or potential connection between a drinking (potable) water system and any other source or system through which it is possible to introduce into the public drinking water system any used water, industrial fluid, gas or substance other than the intended potable water. For example, if you have a pump moving non-potable water and hook into the drinking

water system to supply water for the pump seal, a cross-connection or mixing may lead to contamination of the drinking water. Also see backsiphonage, backpressure and backflow.

"Cross Connection Control Program" means the program administered by the public water system in which cross connections are either eliminated or controlled.

"Cross Connection Control Commission" means the duly constituted advisory subcommittee appointed by the Board to advise the Board on Backflow Technician Certification and the Cross Connection Control Program of Utah.

"CT" or "CT<sub>calc</sub>" is the product of "residual disinfectant concentration" (C) in mg/l determined before or at the first customer, and the corresponding "disinfectant contact time" (T) in minutes, i.e., "C" x "T." If a public water system applies disinfectant at more than one point prior to the first customer, the summation of each CT value for each disinfectant sequence before or at the first customer determines the total percent inactivation or "Total Inactivation Ratio." In determining the Total Inactivation Ratio, the public water system must determine the residual disinfectant concentration of each disinfection sequence and corresponding contact time before any subsequent disinfection application point(s).

"CT<sub>req'd</sub>" is the CT value required when the log reduction credit given the filter is subtracted from the (3-log) inactivation requirement for *Giardia lamblia* or the (4-log) inactivation requirement for viruses.

"CT<sub>99.9</sub>" is the CT value required for 99.9 percent (3-log) inactivation of *Giardia lamblia* cysts. CT<sub>99.9</sub> for a variety of disinfectants and conditions appear in Tables 1.1-1.6, 2.1, and 3.1 of Section 141.74(b)(3) in the code of Federal Regulations (also available from the Division).

"Designated person" means the person appointed by a public water system to ensure that the requirements of their Drinking Water Source Protection Plan(s) for ground water sources and/or surface water sources are met.

"Desired Design Discharge Rate" means the discharge rate selected for the permanent pump installed in a public drinking water well source. This pumping rate is selected by the water system owner or engineer and can match or be the same rate utilized during the constant rate pump test required by R309-515 and R309-600 to determine delineated protection zones. For consideration of the number of permanent residential connections or ERC's that a well source can support (see Safe Yield) the Director will consider 2/3 of the test pumping rate as the safe yield.

"Detectable residual" means the minimum level of free chlorine in the water that the analysis method is capable of detecting and indicating positive confirmation.

"Direct Employment" means that the operator is directly compensated by the drinking water system to operate that drinking water system.

"Direct Filtration" means a series of processes including coagulation and filtration, but excluding sedimentation, resulting in substantial particulate removal.

"Direct Responsible Charge" means active on-site control and management of routine maintenance and operation duties. A person in direct responsible charge is generally an operator of a water treatment plant or distribution system who independently makes decisions during normal operation which can affect the sanitary quality, safety, and adequacy of water delivered to customers. In cases

where only one operator is employed by the system, this operator shall be considered to be in direct responsible charge.

"Director" means the Director of the Division of Drinking Water.

"Disadvantaged Communities" are defined as those communities located in an area which has a median adjusted gross income which is less than or equal to 80% of the State's median adjusted gross income, as determined by the Utah State Tax commission from federal individual income tax returns excluding zero exemptions returns.

"Discipline" means type of certification (Distribution or Treatment).

"Disinfectant Contact Time" ("T" in CT calculations) means the time in minutes that it takes water to move from the point of disinfectant application or the previous point of disinfectant residual measurement to a point before or at the point where residual disinfectant concentration ("C") is measured. Where only one "C" is measured, "T" is the time in minutes that it takes water to move from the point of disinfectant application to a point before or at where residual disinfectant concentration ("C") is measured. Where more than one "C" is measured, "T" is (a) for the first measurement of "C," the time in minutes that it takes water to move from the first or only point of disinfectant application to a point before or at the point where the first "C" is measured and (b) for subsequent measurements of "C," the time in minutes that it takes for water to move from the previous "C" measurement point to the "C" measurement point for which the particular "T" is being calculated. Disinfectant contact time in pipelines must be calculated by dividing the internal volume of the pipe by the maximum hourly flow rate through that pipe. Disinfectant contact time within mixing basins and storage reservoirs must be determined by tracer studies or an equivalent demonstration.

"Disinfection" means a process which inactivates pathogenic organisms in water by chemical oxidants or equivalent agents (see also Primary Disinfection and Secondary Disinfection).

"Disinfection profile" is a summary of daily Giardia lamblia inactivation through the treatment plant.

"Distribution System" means the use of any spring or well source, distribution pipelines, appurtenances, and facilities which carry water for potable use to consumers through a public water supply. Systems which chlorinate groundwater are in this discipline.

"Distribution System Manager" means the individual responsible for all operations of a distribution system.

"Division" means the Utah Division of Drinking Water, who acts as staff to the Director and is also part of the Utah Department of Environmental Quality.

"Dose-monitoring Strategy" is the method by which a UV reactor maintains the required dose at or near some specified value by monitoring UV dose delivery. Such strategies must include, at a minimum, flow rate and UV intensity (measured via duty UV sensor) and lamp status. They sometimes include UVT and lamp power. Two common Dose-monitoring Strategies are the UV Intensity Setpoint Approach and the Calculated Dose Approach.

(1) The "UV Intensity Setpoint Approach" relies on one or more "setpoints" for UV intensity that are established during validation testing to determine UV dose. During operations, the UV intensity as measured by the UV sensors must meet or exceed the setpoint(s) to ensure delivery of the required dose. Reactors must also be operated within validated operation conditions for flow rates and lamp status. In

the UV Intensity Setpoint Approach, UVT does not need to be monitored separately. Instead, the intensity readings by the sensors account for changes in UVT. The operating strategy can be with either a single setpoint (one UV intensity setpoint is used for all validated flow rates) or a variable setpoint (the UV intensity setpoint is determined using a lookup table or equation for a range of flow rates).

(2) The "Calculated Dose Approach" uses a dose-monitoring equation to estimate the UV dose based on operating conditions (typically flow rate, UV intensity, and UVT). The dose-monitoring equation may be developed by the UV manufacturers using numerical methods; or the systems use an empirical dose-monitoring equation developed through validation testing. During reactor operations, the UV reactor control system inputs the measured parameters into the dose-monitoring equation to produce a calculated dose. The system operator divides the calculated dose by the Validation Factor (see the 2006 Final UV Guidance Manual Chapter 5 for more details on the Validation Factor) and compares the resulting value to the required dose for the target pathogen and log inactivation level.

"Dose Equivalent" means the product of the absorbed dose from ionizing radiation and such factors as account for differences in biological effectiveness due to the type of radiation and its distribution in the body as specified by the International Commission of Radiological Units and Measurements (ICRU).

"Drinking Water" means water that is fit for human consumption and meets the quality standards of R309-200. Common usage of terms such as culinary water, potable water or finished water are synonymous with drinking water.

"Drinking Water Project" means any work or facility necessary or desirable to provide water for human consumption and other domestic uses which has at least fifteen service connections or serves an average of twenty-five individuals daily for at least sixty days of the year and includes collection, treatment, storage, and distribution facilities under the control of the operator and used primarily with the system and collection, pretreatment or storage facilities used primarily in connection with the system but not under such control.

"Drinking Water Project Obligation" means any bond, note or other obligation issued to finance all or part of the cost of acquiring, constructing, expanding, upgrading or improving a drinking water project.

"Drinking Water Regional Planning" means a county wide water plan, administered locally by a coordinator, who facilitates the input of representatives of each public water system in the county with a selected consultant, to determine how each public water system will either collectively or individually comply with source protection, operator certification, monitoring (including consumer confidence reports), capacity development (including technical, financial and managerial aspects), environmental issues, available funding and related studies.

"Dual sample set" is a set of two samples collected at the same time and same location, with one sample analyzed for TTHM and the other sample analyzed for HAA5. Dual sample sets are collected for the purposes of conducting an IDSE under R309-210-9 and determining compliance with the TTHM and HAA5 MCLs under R309-210-10.

"Duty UV Sensors (or Duty Sensors)" are on-line sensors installed in the UV reactor and continuously monitor UV intensity during UV equipment operations.



"DWSP Program" means the program to protect drinking water source protection zones and management areas from contaminants that may have an adverse effect on the health of persons.

"DWSP Zone" means the surface and subsurface area surrounding a ground-water or surface water source of drinking water supplying a PWS, over which or through which contaminants are reasonably likely to move toward and reach such water source.

"Emergency Storage" means that storage tank volume which provides water during emergency situations, such as pipeline failures, major trunk main failures, equipment failures, electrical power outages, water treatment facility failures, source water supply contamination, or natural disasters.

"Engineer" means a person licensed under the Professional Engineers and Land Surveyors Licensing Act, 58-22 of the Utah Code, as a "professional engineer" as defined therein.

"Enhanced coagulation" means the addition of sufficient coagulant for improved removal of disinfection byproduct precursors by conventional filtration treatment.

"Enhanced softening" means the improved removal of disinfection byproduct precursors by precipitative softening.

"Equalization Storage" means that storage tank volume which stores water during periods of low demand and releases the water under periods of high demand. Equalization storage provides a buffer between the sources and distribution for the varying daily water demands. Typically, water demands are high in the early morning or evening and relatively low in the middle of the night. A rule-of-thumb for equalization storage volume is that it should be equal to one average day's use.

"Equivalent Residential Connection" (ERC) is a term used to evaluate service connections to consumers other than the typical residential domicile. Public water system management is expected to review annual metered drinking water volumes delivered to non-residential connections and estimate the equivalent number of residential connections that these represent based upon the average of annual metered drinking water volumes delivered to true single family residential connections. This information is utilized in evaluation of the system's source and storage capacities (refer to R309-510).

"Existing ground-water source of drinking water" means a public supply ground-water source for which plans and specifications were submitted to the Division on or before July 26, 1993.

"Existing surface water source of drinking water" means a public supply surface water source for which plans and specifications were submitted to the Division on or before June 12, 2000.

"Filtration" means a process for removing particulate matter from water by passage through porous media.

"Filter profile" is a graphical representation of individual filter performance, based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed.

"Financial Assistance" means a drinking water project loan, credit enhancement agreement, interest buy-down agreement or hardship grant.

"Finished water" is water that is introduced into the distribution system of a public water system and is intended for distribution and consumption without further treatment, except as treatment necessary to maintain water quality in the distribution system (e.g., booster disinfection, addition of corrosion control chemicals).

"Fire Suppression Storage" means that storage tank volume allocated to fire suppression activities. It is generally determined by the requirements of the local fire marshal, expressed in gallons, and determined by the product of a minimum flowrate in gpm and required time expressed in minutes.

"First draw sample" means a one-liter sample of tap water, collected in accordance with an approved lead and copper sampling site plan, that has been standing in plumbing pipes at least 6 hours and is collected without flushing the tap.

"Flash Mix" is the physical process of blending or dispersing a chemical additive into an unblended stream. Flash Mixing is used where an additive needs to be dispersed rapidly (within a period of one to ten seconds). Common usage of terms such as "rapid mix" or "initial mix" are synonymous with flash mix.

"Floc" means flocculated particles or agglomerated particles formed during the flocculation process. Flocculation enhances the agglomeration of destabilized particles and colloids toward settleable (or filterable) particles (flocs). Flocculated particles may be small (less than 0.1 mm diameter) micro flocs or large, visible flocs (0.1 to 3.0 mm diameter).

"Flocculation" means a process to enhance agglomeration of destabilized particles and colloids toward settleable (or filterable) particles (flocs). Flocculation begins immediately after destabilization in the zone of decaying mixing energy (downstream from the mixer) or as a result of the turbulence of transporting flow. Such incidental flocculation may be an adequate flocculation process in some instances. Normally flocculation involves an intentional and defined process of gentle stirring to enhance contact of destabilized particles and to build floc particles of optimum size, density, and strength to be subsequently removed by settling or filtration.

"Flowing stream" is a course of running water flowing in a definite channel.

"fps" means feet per second and is one way of expressing the velocity of water.

"G" is used to express the energy required for mixing and for flocculation. It is a term which is used to compare velocity gradients or the relative number of contacts per unit volume per second made by suspended particles during the flocculation process. Velocity gradients G may be calculated from the following equation:  $G = \text{square root of the value}(550 \text{ times } P \text{ divided by } u \text{ times } V)$ . Where: P = applied horsepower, u = viscosity, and V = effective volume.

"GAC10" means granular activated carbon filter beds with an empty-bed contact time of 10 minutes based on average daily flow and a carbon reactivation frequency of every 180 days, except that the reactivation frequency for GAC10 used as a best available technology for compliance with R309-210-10 MCLs under R309-200-5(3)(i)(A) shall be 120 days.

"GAC20" means granular activated carbon filter beds with an empty-bed contact time of 20 minutes based on average daily flow and a carbon reactivation frequency of every 240 days.

"Geologist" means a person licensed under the Professional Geologist Licensing Act, 58-76 of the Utah Code, as a "professional geologist" as defined therein.

"Geometric Mean" the geometric mean of a set of N numbers  $X_1, X_2, X_3, \dots, X_N$  is the Nth root of the product of the numbers.

"gpd" means gallons per day and is one way of expressing average daily water demands experienced by public water systems.

"gpm" means gallons per minute and is one way of expressing flowrate.

"gpm/sf" means gallons per minute per square foot and is one way of expressing flowrate through a surface area.

"Grade" means any one of four possible steps within a certification discipline of either water distribution or water treatment. Grade I indicates knowledge and experience requirements for the smallest type of public water supply. Grade IV indicates knowledge and experience levels appropriate for the largest, most complex type of public water supply.

"Gross Alpha Particle Activity" means the total radioactivity due to alpha particle emission as inferred from measurements on a dry sample.

"Gross Beta Particle Activity" means the total radioactivity due to beta particle emission as inferred from measurements on a dry sample.

"ground water of high quality" means a well or spring producing water deemed by the Director to be of sufficiently high quality that no treatment is required. Such sources shall have been designed and constructed in conformance with these rules, have been tested to establish that all applicable drinking water quality standards (as given in rule R309-200) are reliably and consistently met, have been deemed not vulnerable to natural or man-caused contamination, and the public water system management have established adequate protection zones and management policies in accordance with rule R309-600.

"ground water of low quality" means a well or spring which, as determined by the Director, cannot reliably and consistently meet the drinking water quality standards described in R309-200. Such sources shall be deemed to be a low quality ground water source if any of the conditions outlined in subsection R309-505-8(1) exist. Ground water that is classified "UDI" is a subset of this definition and requires "conventional surface water treatment" or an acceptable alternative.

"Ground Water Source" means any well, spring, tunnel, adit, or other underground opening from or through which ground water flows or is pumped from subsurface water-bearing formations.

"Ground Water Under the Direct Influence of Surface Water" or "UDI" or "GWUDI" means any water beneath the surface of the ground with significant occurrence of insects or other macro organisms, algae, or large-diameter pathogens such as *Giardia lamblia*, or *Cryptosporidium*, or significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions. Direct influence will be determined for individual sources in accordance with criteria established by the Director. The determination of direct influence may be based on site-specific measurements of water quality and/or documentation of well or spring construction and geology with field evaluation.

"Haloacetic acids"(five) (HAA5) mean the sum of the concentrations in mg/L of the haloacetic acid compounds (monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, and dibromoacetic acid), rounded to two significant figures after addition.

"Hardship Grant" means a grant of monies to a political subdivision that meets the drinking water project loan considerations whose project is determined by the Board to not be economically feasible unless grant assistance is provided. A hardship grant may be authorized in the following forms:

(1) a Planning Advance which will be required to be repaid at a later date, to help meet project costs incident to planning to determine the economic, engineering and financial feasibility of a proposed project;

(2) a Design Advance which will be required to be repaid at a later date, to help meet project costs incident to design including, but not limited to, surveys, preparation of plans, working drawings, specifications, investigations and studies; or

(3) a Project Grant which will not be required to be repaid.

"Hardship Grant Assessment" means an assessment applied to loan recipients. The assessment shall be calculated as a percentage of principal. Hardship grant assessment funds shall be subject to the requirements of UAC R309-700 for hardship grants.

"Hotel, Motel or Resort" shall include tourist courts, motor hotels, resort camps, hostels, lodges, dormitories and similar facilities, and shall mean every building, or structure with all buildings and facilities in connection, kept, used, maintained as, advertised as, or held out to the public to be, a place where living accommodations are furnished to transient guests or to groups normally occupying such facilities on a seasonal or short term basis.

"Hydrogeologic methods" means the techniques used to translate selected criteria and criteria thresholds into mappable delineation boundaries. These methods include, but are not limited to, arbitrary fixed radii, analytical calculations and models, hydrogeologic mapping, and numerical flow models.

"Inactivation" means, in the context of UV disinfection, a process by which a microorganism is rendered unable to reproduce, thereby rendering it unable to infect a host.

"Initial compliance period" means the first full three-year compliance period which begins at least 18 months after promulgation, except for contaminants listed in R309-200-5(3)(a), Table 200-2 numbers 19 to 33; R309-200-5(3)(b), Table 200-3 numbers 19 to 21; and R309-200-5(1)(c), Table 200-1 numbers 1, 5, 8, 11 and 18, initial compliance period means the first full three-year compliance after promulgation for systems with 150 or more service connections (January 1993-December 1995), and first full three-year compliance period after the effective date of the regulation (January 1996-December 1998) for systems having fewer than 150 service connections.

"Intake", for the purposes of surface water drinking water source protection, means the device used to divert surface water and also the conveyance to the point immediately preceding treatment, or, if no treatment is provided, at the entry point to the distribution system.

"Interest Buy-Down Agreement" means any agreement entered into between the Board, on behalf of the State, and a political subdivision, for the purpose of reducing the cost of financing incurred by a political subdivision on bonds issued by the subdivision for drinking water project costs.

"Labor Camp" shall mean one or more buildings, structures, or grounds set aside for use as living quarters for groups of migrant laborers or temporary housing facilities intended to accommodate construction, industrial, mining or demolition workers.

"Lake / reservoir" refers to a natural or man made basin or hollow on the Earth's surface in which water collects or is stored that may or may not have a current or single direction of flow.

"Land management strategies" means zoning and non-zoning controls which include, but are not limited to, the following: zoning and subdivision ordinances, site plan reviews, design and

operating standards, source prohibitions, purchase of property and development rights, public education programs, ground water monitoring, household hazardous waste collection programs, water conservation programs, memoranda of understanding, written contracts and agreements, and so forth.

"Land use agreement" means a written agreement, memoranda or contract wherein the owner(s) agrees not to locate or allow the location of uncontrolled potential contamination sources or pollution sources within zone one of new wells in protected aquifers or zone one of surface water sources. The owner(s) must also agree not to locate or allow the location of pollution sources within zone two of new wells in unprotected aquifers and new springs unless the pollution source agrees to install design standards which prevent contaminated discharges to ground water. This restriction must be binding on all heirs, successors, and assigns. Land use agreements must be recorded with the property description in the local county recorder's office. Refer to R309-600-13(2)(d).

Land use agreements for protection areas on publicly owned lands need not be recorded in the local county recorder office. However, a letter must be obtained from the Administrator of the land in question and meet the requirements described above.

"Large water system" for the purposes of R309-210-6 only, means a water system that serves more than 50,000 persons.

"Lead free" means, for the purposes of R309-210-6, when used with respect to solders and flux refers to solders and flux containing not more than 0.2 percent lead; when used with respect to pipes and pipe fittings refers to pipes and pipe fittings containing not more than 8.0 percent lead; and when used with respect to plumbing fittings and fixtures intended by the manufacturer to dispense water for human ingestion refers to fittings and fixtures that are in compliance with standards established in accordance with 42 U.S.C. 300 g-6(e).

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

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

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

"Level 2 assessment" means an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and (when possible) the likely reason that the system triggered the assessment. A Level 2 assessment provides a more detailed examination of the system (including the system's monitoring and operational practices) than does a Level 1 assessment through the use of more comprehensive investigation and

review of available information, additional internal and external resources, and other relevant practices. It is conducted by an individual approved by the State, which may include the system operator. Minimum elements include review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate (e.g., whether a ground water system is disinfected); existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sample processing. The system must conduct the assessment consistent with any State directives that tailor specific assessment elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system. The system must comply with any expedited actions or additional actions required by the State in the case of an E. coli MCL violation.

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

"Major Bacteriological Routine Monitoring Violation" means that no routine bacteriological sample was taken as required by R309-210-5(1).

"Major Bacteriological Repeat Monitoring Violation" - means that no repeat bacteriological sample was taken as required by R309-210-5(2).

"Major Chemical Monitoring Violation" - means that no initial background chemical sample was taken as required in R309-515-4(5).

"Management area" means the area outside of zone one and within a two-mile radius where the Optional Two-mile Radius Delineation Procedure has been used to identify a protection area.

For wells, land may be excluded from the DWSP management area at locations where it is more than 100 feet lower in elevation than the total drilled depth of the well.

For springs and tunnels, the DWSP management area is all land at elevation equal to or higher than, and within a two-mile radius, of the spring or tunnel collection area. The DWSP management area also includes all land lower in elevation than, and within 100 horizontal feet, of the spring or tunnel collection area. The elevation datum to be used is the point of water collection. Land may also be excluded from the DWSP management area at locations where it is separated from the ground water source by a surface drainage which is lower in elevation than the spring or tunnel collection area.

"Man-Made Beta Particle and Photon Emitters" means all radionuclides emitting beta particles and/or photons listed in Maximum Permissible Body Burdens and maximum Permissible Concentration of Radionuclides in Air or Water for Occupational Exposure, "NBS Handbook 69," except the daughter products of thorium-232, uranium-235 and uranium-238.

"Master Plan" (or "System Capacity and Expansion Report") means a organized plan addressing the present and future demands that will be placed on a public drinking water system by expanding into undeveloped areas or accepting additional service contracts. As a minimum a satisfactory master plan must contain the following elements:

(a) A listing of sources including: the source name, the source type (i.e., well, spring, reservoir, stream etc.) for both existing sources and additional sources identified as needed for system

expansion, the minimum reliable flow of the source in gallons per minute, the status of the water right and the flow capacity of the water right.

(b) A listing of storage facilities including: the storage tank name, the type of material (i.e., steel, concrete etc.), the diameter, the total volume in gallons, and the elevation of the overflow, the lowest level (elevation) of the equalization volume, the fire suppression volume, and the emergency volume or the outlet.

(c) A listing of pump stations including: the pump station name and the pumping capacity in gallons per minute. Under this requirement one does not need to list well pump stations as they are provided in requirement (a) above.

(d) A listing of the various pipeline sizes within the distribution system with their associated pipe materials and, if readily available, the approximate length of pipe in each size and material category. A schematic of the distribution piping showing node points, elevations, length and size of lines, pressure zones, demands, and coefficients used for the hydraulic analysis required by (h) below will suffice.

(e) A listing by customer type (i.e., single family residence, 40 unit condominium complex, elementary school, junior high school, high school, hospital, post office, industry, commercial etc.) along with an assessment of their associated number of ERC'S.

(f) The number of connections along with their associated ERC value that the public drinking water system is committed to serve, but has not yet physically connected to the infrastructure.

(g) A description of the nature and extent of the area currently served by the water system and a plan of action to control addition of new service connections or expansion of the public drinking water system to serve new development(s). The plan shall include current number of service connections and water usage as well as land use projections and forecasts of future water usage.

(h) A hydraulic analysis of the existing distribution system along with any proposed distribution system expansion identified in (g) above.

(i) A description of potential alternatives to manage system growth, including interconnections with other existing public drinking water systems, developer responsibilities and requirements, water rights issues, source and storage capacity issues and distribution issues.

"Maximum Contaminant Level" (MCL) means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system.

"Maximum residual disinfectant level" (MRDL) means a level of a disinfectant added for water treatment that may not be exceeded at the consumer's tap without an unacceptable possibility of adverse health effects. For chlorine and chloramines, a PWS is in compliance with the MRDL when the running annual average of monthly averages of samples taken in the distribution system, computed quarterly, is less than or equal to the MRDL. For chlorine dioxide, a PWS is in compliance with the MRDL when daily samples are taken at the entrance to the distribution system and no two consecutive daily samples exceed the MRDL. MRDLs are enforceable in the same manner as MCLs pursuant to UT Code S 19-4-104. There is convincing evidence that addition of a disinfectant is necessary for control of waterborne microbial contaminants. Notwithstanding the MRDLs listed in R309-200-5(3), operators may increase residual disinfectant levels of chlorine or chloramines (but not chlorine dioxide) in the distribution system to a level and for a time

necessary to protect public health to address specific microbiological contamination problems caused by circumstances such as distribution line breaks, storm runoff events, source water contamination, or cross-connections.

"Maximum residual disinfectant level goal" (MRDLG) means the maximum level of a disinfectant added for water treatment at which no known or anticipated adverse effect on the health of persons would occur, and which allows an adequate margin of safety. MRDLGs are non-enforceable health goals and do not reflect the benefit of the addition of the chemical for control of waterborne microbial contaminants.

"Medium-size water system" for the purposes of R309-210-6 only, means a water system that serves greater than 3,300 and less than or equal to 50,000 persons.

"Membrane filtration" is a pressure or vacuum driven separation process in which particulate matter larger than 1 micrometer is rejected by an engineered barrier, primarily through a size-exclusion mechanism, and which has a measurable removal efficiency of a target organism that can be verified through the application of a direct integrity test. This definition includes that common membrane technologies of microfiltration, ultrafiltration, nanofiltration, and reverse osmosis.

"Metropolitan area sources" means all sources within a metropolitan area. A metropolitan area is further defined to contain at least 3,300 year round residents. A small water system which has sources within a metropolitan system's service area, may have those sources classified as a metropolitan area source.

"MG" means million gallons and is one way of expressing a volume of water.

"MGD" means million gallons per day and is one way of expressing average daily water demands experienced by public water systems or the capacity of a water treatment plant.

"mg/L" means milligrams per liter and is one way of expressing the concentration of a chemical in water. At small concentrations, mg/L is synonymous with "ppm" (parts per million).

"Minor Bacteriological Routine Monitoring Violation" means that not all of the routine bacteriological samples were taken as required by R309-210-5(1).

"Minor Bacteriological Repeat Monitoring Violation" means that not all of the repeat bacteriological samples were taken as required by R309-210-5(2).

"Minor Chemical Monitoring Violation" means that the required chemical sample(s) was not taken in accordance with R309-205 and R309-210.

"Modern Recreation Camp" means a campground accessible by any type of vehicular traffic. The camp is used wholly or in part for recreation, training or instruction, social, religious, or physical education activities or whose primary purpose is to provide an outdoor group living experience. The site is equipped with permanent buildings for the purpose of sleeping, a drinking water supply under pressure, food service facilities, and may be operated on a seasonal or short term basis. These types of camps shall include but are not limited to privately owned campgrounds such as youth camps, church camps, boy or girl scout camps, mixed age groups, family group camps, etc.

"Near the first service connection" means one of the service connections within the first 20 percent of all service connections that are nearest to the treatment facilities.

"Negative Interest" means a loan having loan terms with an interest rate at less than zero percent. The repayment schedule for loans having a negative interest rate will be prepared by the Board.

"New ground water source of drinking water" means a public supply ground water source of drinking water for which plans and specifications are submitted to the Division after July 26, 1993.

"New surface water source of drinking water" means a public supply surface water source of drinking water for which plans and specifications are submitted to the Division after June 12, 2000.

"New Water System" means a system that will become a community water system or non-transient, non-community water system on or after October 1, 1999.

"Non-Community Water System" (NCWS) means a public water system that is not a community water system. There are two types of NCWS's: transient and non-transient.

"Non-distribution system plumbing problem" means a coliform contamination problem in a public water system with more than one service connection that is limited to the specific service connection from which a coliform-positive sample was taken.

"Nonpoint source" means any diffuse source of contaminants or pollutants not otherwise defined as a point source.

"Non-Transient Non-Community Water System" (NTNCWS) means a public water system that regularly serves at least 25 of the same nonresident persons per day for more than six months per year. Examples of such systems are those serving the same individuals (industrial workers, school children, church members) by means of a separate system.

"Not Approved" refers to a rating placed on a system by the Division and means the water system does not fully comply with all the Rules of R309 as measured by R309-400.

"NTU" means Nephelometric Turbidity Units and is an acceptable method for measuring the clarity of water utilizing an electronic nephelometer (see "Standard Methods for Examination of Water and Wastewater").

"Off-specification" means a UV facility is operating outside of the validated operating conditions, for example, at a flow rate higher than the validated range or a UVT below the validated range).

"Operator" means a person who operates, repairs, maintains, and is directly employed by a public drinking water system.

"Operator Certification Commission" means the Commission appointed by the Board as an advisory Commission on public water system operator certification.

"Operating Permit" means written authorization from the Director to actually start utilizing a facility constructed as part of a public water system.

"Optimal corrosion control treatment" for the purposes of R309-210-6 only, means the corrosion control treatment that minimizes the lead and copper concentrations at users' taps while insuring that the treatment does not cause the water system to violate any national primary drinking water regulations.

"Package Plants" refers to water treatment plants manufactured and supplied generally by one company which are reportedly complete and ready to hook to a raw water supply line. Caution, some plants do not completely comply with all requirements of these rules and will generally require additional equipment.

"PCBs" means a group of chemicals that contain polychlorinated biphenyl.

"Peak Day Demand" means the amount of water delivered to consumers by a public water system on the day of highest

consumption, generally expressed in gpd or MGD. This peak day will likely occur during a particularly hot spell in the summer. In contrast, some systems associated with the skiing industry may experience their "Peak Day Demand" in the winter.

"Peak Hourly Flow" means the maximum hourly flow rate from a water treatment plant and utilized when the plant is preparing disinfection profiling as called for in R309-215-14(2).

"Peak Instantaneous Demand" means calculated or estimated highest flowrate that can be expected through any water mains of the distribution network of a public water system at any instant in time, generally expressed in gpm or cfs (refer to section R309-510-9).

"Person" means an individual, corporation, company, association, partnership; municipality; or State, Federal, or tribal agency.

"Picocurie" (pCi) means that quantity of radioactive material producing 2.22 nuclear transformations per minute.

"Plan Approval" means written approval [~~by the Director,~~] of contract plans and specifications for any public drinking water project which have been submitted for review prior to the start of construction pursuant to [(see also) R309-105-6 and R309-500-(7)]6.

"Plant intake" refers to the works or structures at the head of a conduit through which water is diverted from a source (e.g., river or lake) into the treatment plant.

"Plug Flow" is a term to describe when water flowing through a tank, basin or reactors moves as a plug of water without ever dispersing or mixing with the rest of the water flowing through the tank.

"Point of Disinfectant Application" is the point where the disinfectant is applied and water downstream of that point is not subject to re-contamination by surface water runoff.

"Point of Diversion"(POD) is the point at which water from a surface source enters a piped conveyance, storage tank, or is otherwise removed from open exposure prior to treatment.

"Point-of-Entry Treatment Device" means a treatment device applied to the drinking water entering a house or building for the purpose of reducing contaminants in the drinking water distributed throughout the house or building.

"Point-of-Use Treatment Device" means a treatment device applied to a single tap used for the purpose of reducing contaminants in drinking water at that one tap.

"Point source" means any discernible, confined, and discrete source of pollutants or contaminants, including but not limited to any site, pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, animal feeding operation with more than ten animal units, landfill, or vessel or other floating craft, from which pollutants are or may be discharged.

"Political Subdivision" means any county, city, town, improvement district, metropolitan water district, water conservancy district, special service district, drainage district, irrigation district, separate legal or administrative entity created under Title 11, Chapter 13, Interlocal Cooperation Act, or any other entity constituting a political subdivision under the laws of Utah.

"Pollution source" means point source discharges of contaminants to ground or surface water or potential discharges of the liquid forms of "extremely hazardous substances" which are stored in containers in excess of "applicable threshold planning quantities" as specified in SARA Title III. Examples of possible pollution sources include, but are not limited to, the following: storage facilities that

store the liquid forms of extremely hazardous substances, septic tanks, drain fields, class V underground injection wells, landfills, open dumps, landfilling of sludge and septage, manure piles, salt piles, pit privies, drain lines, and animal feeding operations with more than ten animal units.

The following definitions are part of R309-600 and clarify the meaning of "pollution source:"

(1) "Animal feeding operation" means a lot or facility where the following conditions are met: animals have been or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12 month period, and crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Two or more animal feeding operations under common ownership are considered to be a single feeding operation if they adjoin each other, if they use a common area, or if they use a common system for the disposal of wastes.

(2) "Animal unit" means a unit of measurement for any animal feeding operation calculated by adding the following numbers; the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 55 pounds multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

(3) "Extremely hazardous substances" means those substances which are identified in the Sec. 302(EHS) column of the "TITLE III LIST OF LISTS - Consolidated List of Chemicals Subject to Reporting Under SARA Title III," (EPA 550-B-96-015). A copy of this document may be obtained from: NCEPI, PO Box 42419, Cincinnati, OH 45202. Online ordering is also available at <http://www.epa.gov/ncepihom/orderpub.html>.

"Potential contamination source" means any facility or site which employs an activity or procedure which may potentially contaminate ground or surface water. A pollution source is also a potential contamination source.

"ppm" means parts per million and is one way of expressing the concentration of a chemical in water. At small concentrations generally used, ppm is synonymous with "mg/l" (milligrams per liter).

"Practical Quantitation Level" (PQL) means the required analysis standard for laboratory certification to perform lead and copper analyses. The PQL for lead is .005 milligrams per liter and the PQL for copper is 0.050 milligrams per liter.

"Presedimentation" is a preliminary treatment process used to remove gravel, sand and other particulate material from the source water through settling before the water enters the primary clarification and filtration processes in a treatment plant.

"Primary Disinfection" means the adding of an acceptable primary disinfectant or ultraviolet light irradiation during the treatment process to provide adequate levels of inactivation of bacteria and pathogens. The effectiveness is measured through "CT" values, and the "Total Inactivation Ratio," and the ultraviolet light dose. Acceptable primary disinfectants are, chlorine, ozone, ultraviolet light, and chlorine dioxide (see also "CT" and "CT<sub>99.9</sub>").

"Principal Forgiveness" means a loan wherein a portion of the loan amount is "forgiven" upon closing the loan. The terms for principal forgiveness will be as directed by R309-705-8, and by the Board.

"Project Costs" include the cost of acquiring and constructing any drinking water project including, without limitation: the cost of acquisition and construction of any facility or any

modification, improvement, or extension of such facility; any cost incident to the acquisition of any necessary property, easement or right of way; engineering or architectural fees, legal fees, fiscal agent's and financial advisors' fees; any cost incurred for any preliminary planning to determine the economic and engineering feasibility of a proposed project; costs of economic investigations and studies, surveys, preparation of designs, plans, working drawings, specifications and the inspection and supervision of the construction of any facility; interest accruing on loans made under this program during acquisition and construction of the project; and any other cost incurred by the political subdivision, the Board or the Department of Environmental Quality, in connection with the issuance of obligation of the political subdivision to evidence any loan made to it under the law.

"Protected aquifer" means a producing aquifer in which the following conditions are met:

(1) A naturally protective layer of clay, at least 30 feet in thickness, is present above the aquifer;

(2) the PWS provides data to indicate the lateral continuity of the clay layer to the extent of zone two; and

(3) the public supply well is grouted with a grout seal that extends from the ground surface down to at least 100 feet below the surface, and for a thickness of at least 30 feet through the protective clay layer.

"Public Drinking Water Project" means construction, addition to, or modification of any facility of a public water system which may affect the quality or quantity of the drinking water (see also section R309-500-6).

"Public Water System" (PWS) means a system, either publicly or privately owned, providing water through constructed conveyances for human consumption and other domestic uses, which has at least 15 service connections or serves an average of at least 25 individuals daily at least 60 days out of the year and includes collection, treatment, storage, or distribution facilities under the control of the operator and used primarily in connection with the system, or collection, pretreatment or storage facilities used primarily in connection with the system but not under his control (see 19-4-102 of the Utah Code Annotated). All public water systems are further categorized into three different types, community (CWS), non-transient non-community (NTNCWS), and transient non-community (TNCWS). These categories are important with respect to required monitoring and water quality testing found in R309-205 and R309-210 (see also definition of "water system").

"Raw Water" means water that is destined for some treatment process that will make it acceptable as drinking water. Common usage of terms such as lake or stream water, surface water or irrigation water are synonymous with raw water.

"Recreational Home Developments" are subdivision type developments wherein the dwellings are not intended as permanent domiciles.

"Recreational Vehicle Park" means any site, tract or parcel of land on which facilities have been developed to provide temporary living quarters for individuals utilizing recreational vehicles. Such a park may be developed or owned by a private, public or non-profit organization catering to the general public or restricted to the organizational or institutional member and their guests only.

"Reference UV Sensors (or Reference Sensors)" are off-line calibrated UV sensors that are used to assess the duty UV sensors' performance and to determine UV sensor uncertainty.

"Regional Operator" means a certified operator who is in direct responsible charge of more than one public drinking water system.

"Regionalized Water System" means any combination of water systems which are physically connected or operated or managed as a single unit.

"Rem" means the unit of dose equivalent from ionizing radiation to the total body or any internal organ or organ system. A "millirem" (mrem) is 1/1000 of a rem.

"Renewal Course" means a course of instruction, approved by the Subcommittee, which is a prerequisite to the renewal of a Backflow Technician's Certificate.

"Repeat compliance period" means any subsequent compliance period after the initial compliance period.

"Replacement well" means a public supply well drilled for the sole purpose of replacing an existing public supply well which is impaired or made useless by structural difficulties and in which the following conditions are met:

(1) the proposed well location shall be within a radius of 150 feet from an existing ground water supply well; and

(2) the PWS provides a copy of the replacement application approved by the State Engineer (refer to Section 73-3-28 of the Utah Code).

"Required Dose" is the UV dose required for a certain level of log inactivation. Required doses are set forth by the Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR) and R309-215-15(19)(d)(i) Table 215-5 the UV Dose Table.

"Required reserve" means funds set aside to meet requirements set forth in a loan covenant/bond indenture.

"Residual Disinfectant Concentration" ("C" in CT calculations) means the concentration of disinfectant, measured in mg/L, in a representative sample of water.

"Restricted Certificate" means that the operator has qualified by passing an examination but is in a restricted certification status due to lack of experience as an operator.

"Roadway Rest Stop" shall mean any building, or buildings, or grounds, parking areas, including the necessary toilet, hand washing, water supply and wastewater facilities intended for the accommodation of people using such facilities while traveling on public roadways. It does not include scenic view or roadside picnic areas or other parking areas if these are properly identified

"Routine Chemical Monitoring Violation" means no routine chemical sample(s) was taken as required in R309-205, R309-210 and R309-215.

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

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

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

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

"Seasonal system" means a non-community water system that is not operated as a public water system on a year-round basis and starts up and shuts down at the beginning and end of each operating

season. "Secondary Disinfection" means the adding of an acceptable secondary disinfectant to assure that the quality of the water is maintained throughout the distribution system. The effectiveness is measured by maintaining detectable disinfectant residuals throughout the distribution system. Acceptable secondary disinfectants are chlorine, chloramine, and chlorine dioxide.

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

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

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

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

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

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

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

"Significant deficiencies" means defects in design, operation, or maintenance, or a failure or defects in design, operation, or maintenance, or a failure or malfunction of the sources, treatment, storage, or distribution system that the Director determines to be causing, or have potential for causing, the introduction of contamination into the water delivered to consumers.

"Single family structure" for the purposes of R309-210-6 only, means a building constructed as a single-family residence that is currently used as either a residence or a place of business.

"Small water system" means a public water system that serves 3,300 persons or fewer.

"Specialist" means a person who has successfully passed the written certification exam and meets the required experience, but who is not in direct employment with a Utah public drinking water system.

"Stabilized drawdown" means that there is less than 0.5 foot of change in water level measurements in a pumped well for a minimum period of six hours.

"Standard sample" means the aliquot of finished drinking water that is examined for the presence of coliform bacteria.

"SOCs" means synthetic organic chemicals.

"Stabilized Drawdown" means the drawdown measurements taken during a constant-rate yield and drawdown test as outlined in subsection R309-515-14(10)(b) are constant (no change).

"Stock Tight" means a type of fence that can prevent the passage of grazing livestock through its boundary. An example of such fencing is provided by design drawing 02838-3 titled "Cattle Enclosure" designed by the U.S. Department of the Interior, Bureau of Land Management, Division of Technical Services (copies available from the Division).

"Subcommittee" means the Cross Connection Control Subcommittee.

"Supplier of water" means any person who owns or operates a public water system.

"Surface Water" means all water which is open to the atmosphere and subject to surface runoff (see also section R309-515-5(1)). This includes conveyances such as ditches, canals and aqueducts, as well as natural features.

"Surface Water Systems" means public water systems using surface water or ground water under the direct influence of surface water as a source that are subject to filtration and disinfection (Federal SWTR subpart H) and the requirements of R309-215 "Monitoring and Water Quality: Treatment Plant Monitoring Requirements."

"Surface Water Systems (Large)" means public water systems using surface water or ground water under the direct influence of surface water as a source that are subject to filtration and disinfection and serve a population of 10,000 or greater (Federal SWTR subpart P and L) and the requirements of R309-215 "Monitoring and Water Quality: Treatment Plant Monitoring Requirements."

"Surface Water Systems (Small)" means public water systems using surface water or ground water under the direct influence of surface water as a source that are subject to filtration and disinfection and serve a population less than 10,000 (Federal SWTR subpart L, T and P (sanitary survey requirements)) and the requirements of R309-215 "Monitoring and Water Quality: Treatment Plant Monitoring Requirements."

"Susceptibility" means the potential for a PWS (as determined at the point immediately preceding treatment, or if no treatment is provided, at the entry point to the distribution system) to draw water contaminated above a demonstrated background water quality concentration through any overland or subsurface pathway. Such pathways may include cracks or fissures in or open areas of the surface water intake, and/or the wellhead, and/or the pipe/conveyance between the intake and the water distribution system or treatment.

"SUVA" means Specific Ultraviolet Absorption at 254 nanometers (nm), an indicator of the humic content of water. It is a calculated parameter obtained by dividing a sample's ultraviolet absorption at a wavelength of 254 nm ( $UV_{254}$ ) (in  $m^{-1}$ ) by its concentration of dissolved organic carbon (DOC) (in mg/L).

"System with a single service connection" means a system which supplies drinking water to consumers via a single service line.

"T" is short for "Contact Time" and is generally used in conjunction with either the residual disinfectant concentration (C) in determining CT or the velocity gradient (G) in determining mixing energy GT.

"Target Log Inactivation" means the specific log inactivation the PWS wants to achieve for the target pathogen using UV disinfection. The target log inactivation is driven by requirements of the Surface Water Treatment Rule (SWTR), Long Term 1 Enhanced Surface Water Treatment Rule (LT1ESWTR), Interim Enhanced Surface Water Treatment Rule (IESWTR), Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR), and the log

removal/inactivation requirements in R309-215-15, and the Groundwater Rule.

"Ten State Standards" refers to the Recommended Standards For Water Works, 1997 by the Great Lakes Upper Mississippi River Board of State Public Health and Environmental Managers available from Health Education Services, A Division of Health Research Inc., P.O. Box 7126, Albany, New York 12224, (518)439-7286.

"Time of travel" means the time required for a particle of water to move in the producing aquifer from a specific point to a ground water source of drinking water. It also means the time required for a particle of water to travel from a specific point along a surface water body to an intake.

"Total Inactivation Ratio" is the sum of all the inactivation ratios calculated for a series of disinfection sequences, and is indicated or shown as: "Summation sign ( $CT_{calc}/CT_{req'd}$ )."

A total inactivation ratio equal to or greater than 1.0 is assumed to provide the required inactivation of Giardia lamblia cysts.  $CT_{calc}/CT_{99.9}$  equal to 1.0 provides 99.9 percent (3-log) inactivation, whereas  $CT_{calc}/CT_{90}$  equal to 1.0 only provides 90 percent (1-log) inactivation.

"Too numerous to count" (TNTC) means that the total number of bacterial colonies exceeds 200 on a 47 mm diameter membrane filter used for coliform detection.

"Total Organic Carbon" (TOC) means total organic carbon in mg/L measured using heat, oxygen, ultraviolet irradiation, chemical oxidants, or combinations of these oxidants that convert organic carbon to carbon dioxide, rounded to two significant figures.

"Total Trihalomethanes" (TTHM) means the MCL for trihalomethanes. This is the sum of four of ten possible isomers of chlorine/bromine/methane compounds, all known as trihalomethanes (THM). TTHM is defined as the arithmetic sum of the concentrations in micro grams per liter of only four of these (chloroform, bromodichloromethane, dibromochloromethane, and bromoform) rounded to two significant figures. This measurement is made by samples which are "quenched," meaning that a chlorine neutralizing agent has been added, preventing further THM formation in the samples.

"Training Coordinating Committee" means the voluntary association of individuals responsible for environmental training in the state of Utah.

"Transient Non-Community Water System" (TNCWS) means a non-community public water system that does not serve 25 of the same nonresident persons per day for more than six months per year. Examples of such systems are those, RV park, diner or convenience store where the permanent nonresident staff number less than 25, but the number of people served exceeds 25.

"Treatment Plant" means those facilities capable of providing any treatment to any waterserving a public drinking water system. (Examples would include but not be limited to disinfection, conventional surface water treatment, alternative surface water treatment methods, corrosion control methods, aeration, softening, etc.).

"Treatment Plant Manager" means the individual responsible for all operations of a treatment plant.

"Trihalomethanes" (THM) means any one or all members of this class of organic compounds.

"Trihalomethane Formation Potential" (THMFP) - these samples are collected just following disinfection and measure the highest possible TTHM value to be expected in the water distribution system. The formation potential is measured by not neutralizing the



disinfecting agent at the time of collection, but storing the sample seven days at 25 degrees C prior to analysis. A chlorine residual must be present in these samples at the end of the seven day period prior to analysis for the samples to be considered valid for this test. Samples without a residual at the end of this period must be resampled if this test is desired.

"Turbidity Unit" refers to NTU or Nephelometric Turbidity Unit.

"Two-stage lime softening" is a process in which chemical addition and hardness precipitation occur in each of two distinct unit clarification processes in series prior to filtration.

"UDI" means under direct influence (see also "Ground Water Under the Direct Influence of Surface Water").

"Uncovered finished water storage facility" is a tank, reservoir, or other facility used to store water that will undergo no further treatment to reduce microbial pathogens except residual disinfection and is directly open to the atmosphere.

"Unprotected aquifer" means any aquifer that does not meet the definition of a protected aquifer.

"Unregulated Contaminant" means a known or suspected disease causing contaminant for which no maximum contaminant level has been established.

"Unrestricted Certificate" means that a certificate of competency issued by the Director when the operator has passed the appropriate level written examination and has met all certification requirements at the discipline and grade stated on the certificate.

"UV Dose" means the UV energy per unit area incident on a surface, typically reported in units of  $\text{mJ}/\text{cm}^2$  or  $\text{J}/\text{m}^2$ . The UV dose received by a waterborne microorganism in a reactor vessel accounts for the effects on UV intensity of the absorbance of the water, absorbance of the quartz sleeves, reflection and refraction of light from the water surface and reactor walls, and the germicidal effectiveness of the UV wavelengths transmitted. The following terms are related to UV dose:

(1) "Reduction Equivalent Dose (RED)" means the UV dose derived by entering the log inactivation measured during full-scale reactor testing into the UV dose-response curve that was derived through collimated beam testing. RED values are always specific to the challenge microorganism used during experimental testing and the validation test conditions for full-scale reactor testing.

(2) "Required Dose" means the UV dose in units of  $\text{mJ}/\text{cm}^2$  needed to achieve the target log inactivation for the target pathogen. The required dose is specified in the Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR).

(3) "Validated Dose" means the UV dose in units of  $\text{mJ}/\text{cm}^2$  delivered by the UV reactor as determined through validation testing. The validated dose is compared to the Required Dose to determine log inactivation credit.

(4) "Calculated Dose" - the RED calculated using the dose-monitoring equation that was developed through validation testing.

"UV Facility" means all of the components of the UV disinfection process, including (but not limited to) UV reactors, control systems, piping, valves, and building (if applicable).

"UV Intensity" means the UV power passing through a unit area perpendicular to the direction of propagation. UV intensity is used to describe the magnitude of UV light measured by UV sensors in a reactor or with a radiometer in bench-scale UV experiments.

"UV Reactor" means the vessel or chamber where exposure to UV light takes place, consisting of UV lamps, quartz sleeves, UV

sensors, quartz sleeve cleaning systems, and baffles or other hydraulic controls. The UV reactor also includes additional hardware for monitoring UV dose delivery; typically comprised of (but not limited to): UV sensors and UVT monitors.

"UV Reactor Validation" is experimental testing to determine the operating conditions under which a UV reactor delivers the dose required for inactivation credit of *Cryptosporidium*, *Giardia lamblia*, and viruses.

"UV Transmittance (UVT)" is a measure of the fraction of incident light transmitted through a material (e.g., water sample or quartz). The UVT is usually reported for a wavelength of 254 nm and a pathlength of 1-cm. If an alternate pathlength is used, it should be specified or converted to units of  $\text{cm}^{-1}$ .

"Validation Factor" - an uncertainty term that accounts for the bias and uncertainty associated with UV validation testing.

"Validated Operating Conditions" - the operating conditions under which the UV reactor is confirmed as delivering the dose required for LT2ESWTR inactivation credit. These operating conditions must include flow rate, UV intensity as measured by a UV sensor, and UV lamp status. The term "Validated Operating Conditions" is also commonly referred to as the "validated range" or the "validated limits."

"Virus" means a virus of fecal origin which is infectious to humans.

"Waterborne Disease Outbreak" means the significant occurrence of acute infectious illness, epidemiologically associated with the ingestion of water from a public water system, as determined by the appropriate local or State agency.

"Watershed" means the topographic boundary that is the perimeter of the catchment basin that contributes water through a surface source to the intake structure. For the purposes of surface water DWSP, if the topographic boundary intersects the state boundary, the state boundary becomes the boundary of the watershed.

"Water Supplier" means a person who owns or operates a public drinking water system.

"Water System" means all lands, property, rights, rights-of-way, easements and related facilities owned by a single entity, which are deemed necessary or convenient to deliver drinking water from source to the service connection of a consumer(s). This includes all water rights acquired in connection with the system, all means of conserving, controlling and distributing drinking water, including, but not limited to, diversion or collection works, springs, wells, treatment plants, pumps, lift stations, service meters, mains, hydrants, reservoirs, tanks and associated appurtenances within the property or easement boundaries under the control of or controlled by the entity owning the system.

In accordance with R309, certain water systems may be exempted from monitoring requirements, but such exemption does not extend to submittal of plans and specifications for any modifications considered a public drinking water project.

"Wellhead" means the physical structure, facility, or device at the land surface from or through which ground water flows or is pumped from subsurface, water-bearing formations.

"Wholesale system" is a public water system that treats source water as necessary to produce finished water and then delivers some or all of that finished water to another public water system. Delivery may be through a direct connection or through the distribution system of one or more consecutive systems.

"Zone of Influence" corresponds to area of the upper portion of the cone of depression as described in "Groundwater and Wells," second edition, by Fletcher G. Driscoll, Ph.D., and published by Johnson Division, St. Paul, Minnesota.

**KEY: drinking water, definitions**

**Date of Enactment or Last Substantive Amendment:** [~~May 1, 2016~~]2017

**Notice of Continuation:** March 13, 2015

**Authorizing, and Implemented or Interpreted Law:** 19-4-104

**Health, Health Care Financing,  
Coverage and Reimbursement Policy  
R414-1-31  
Withholding of Payments**

**NOTICE OF PROPOSED RULE  
(Amendment)**

DAR FILE NO.: 42096

FILED: 09/13/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this change is to update and clarify Medicaid policy in relation to a provider's response to a request for information and the withholding of payments.

**SUMMARY OF THE RULE OR CHANGE:** This amendment specifies when the Department may withhold provider payments, and clarifies the Department's responsibility to provide written notice for this purpose.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 26-1-5 and Section 26-18-3

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** There is no impact to the state budget because this change only clarifies Medicaid policy in relation to a provider's response to a request for information and the withholding of payments.

◆ **LOCAL GOVERNMENTS:** There is no budget impact to local governments because they do not reimburse providers under the Medicaid program.

◆ **SMALL BUSINESSES:** There is no impact to small businesses because this change only clarifies Medicaid policy in relation to a provider's response to a request for information and the withholding of payments.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to Medicaid providers and to Medicaid members because this change only clarifies Medicaid policy in relation to a provider's response to a request for information and the withholding of payments.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs to a single Medicaid provider or to a Medicaid member because this change only clarifies Medicaid policy in relation to a provider's response to a request for information and the withholding of payments.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to businesses.

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

HEALTH  
HEALTH CARE FINANCING,  
COVERAGE AND REIMBURSEMENT POLICY  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY, UT 84116-3231  
or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov or mail at PO Box 143102, Salt Lake City, UT 84114-3102

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/31/2017

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2017

AUTHORIZED BY: Joseph Miner, MD, Executive Director

**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

**R414-1. Utah Medicaid Program.**

**R414-1-31. Withholding of Payments.**

(1) In addition to other remedies allowed by law and unless specified otherwise, the Department may withhold payments to a provider if:

(a) the provider fails to provide the requested information within 30 calendar days from the date of a written request for information; or

(b) the provider has an outstanding balance owing the Department for any reason, including, but not limited to, claims adjustments or a provider assessment.

(2) The Department shall provide written notice before withholding payments.

(3) When the Department rescinds withholding of payments to a provider, it will, without notice, resume payments according to the regular claims payment cycle.

**KEY: Medicaid**

**Date of Enactment or Last Substantive Amendment:** [~~July 1,~~] 2017

**Notice of Continuation: February 15, 2017**

**Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3; 26-34-2**

## Human Services, Recovery Services **R527-231** Review and Adjustment of Child Support Order

### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 42100

FILED: 09/14/2017

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The rule provides information about the review and adjustment of child support orders. Currently, the rule states that if either parent is incarcerated, the Office of Recovery Services/Child Support Services (ORS/CSS) shall not be required to review and pursue adjustment of a support award. Pursuant to a recent revision to 45 Code of Federal Regulations (CFR) 303.8, published on 12/20/2016, that statement within this rule is no longer true. The revised federal regulation offers three options to states (i.e., ORS/CSS for Utah) when working with incarcerated parents: 1) ORS/CSS may initiate a review and, if appropriate, adjust the child support order without requiring a request for review and adjustment after learning that a noncustodial parent will be incarcerated for more than 180 calendar days and upon notice to both parents; 2) ORS/CSS may notify both parents, within 15 days of learning that a parent will be incarcerated for more than 180 calendar days, of the right to request a review and adjustment and the place and manner in which the request should be made; or 3) the state must have a law or rule which modifies a child support order by operation of law upon incarceration. Under any of the three options available, ORS/CSS must be able to modify child support orders during periods of incarceration; therefore, this proposed amendment removes the statement banning this practice for ORS/CSS.

**SUMMARY OF THE RULE OR CHANGE:** Pursuant to a recent revision of 45 CFR 303.8 (published 12/20/2016), ORS/CSS must be able to review and adjust child support orders during periods of incarceration for one of the parents. Therefore, Section R527-231-2 is being amended to remove a sentence which states, "If either parent is incarcerated, ORS/CSS shall not be required to review and pursue adjustment of a support award."

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** 45 CFR 303.8 and Section 62A-1-111 and Section 62A-11-107 and Section 62A-11-320.5 and Section 62A-11-320.6 and Section 78B-12-210

#### ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** While the underlying federal mandate to accommodate review and adjustment requests even during periods of incarceration will increase the number of review and adjustments completed by the ORS/CSS, the increased costs and workload are due to the underlying federal mandate, not to this proposed rule amendment. The amendment to this rule simply allows ORS/CSS to be in compliance with the federal mandate; therefore, there are no anticipated costs or savings directly related to the proposed amendment to this rule. Compliance with the federal regulations allows ORS/CSS to maintain a certified state plan in accordance with Title IV-D of the Social Security Act, which maintains Utah's eligibility for federal funding of its Title IV-D (child support) program.

♦ **LOCAL GOVERNMENTS:** Neither the review and adjustment process, nor the ability of ORS/CSS to complete that process for incarcerated parents, affects local governments; therefore, there are no anticipated costs or savings due to the proposed amendment for this rule.

♦ **SMALL BUSINESSES:** Neither the review and adjustment process, nor the ability of ORS/CSS to complete that process for incarcerated parents, affects small businesses; therefore, there are no anticipated costs or savings due to the proposed amendment for this rule.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Neither the review and adjustment process, nor the ability of ORS/CSS to complete that process for incarcerated parents, affects persons other than small businesses, businesses, or local government entities; therefore, there are no anticipated costs or savings due to the proposed amendment for this rule.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Affected persons related to the review and adjustment process would be the parents who are the subjects of child support orders. While participating in any review and adjustment process may involve incidental postal costs to the parents as they provide necessary documentation related to their incomes, those incidental costs are not altered due to this proposed rule amendment. Any review and adjustment process completed on behalf of parents by ORS/CSS saves the parents from paying court filing fees, attorney fees, etc. That said, this specific amendment simply allows the ORS/CSS to provide review and adjustment services during periods of incarceration in order to be in compliance with a new federal mandate to perform these services; therefore, there are no anticipated costs or savings for affected persons directly due to the proposed amendment for this rule.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule is being amended to remove one sentence related to ORS/CSS performing reviews and adjustments of child support orders while parents are incarcerated. The sentence must be removed in order for ORS/CSS to be compliant with a recent change to federal regulations. The review and adjustment process performed by ORS/CSS does not involve

or affect private businesses. After conducting a thorough analysis, it was determined that the proposed amendment to this rule will not result in a fiscal impact to businesses.

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

HUMAN SERVICES  
RECOVERY SERVICES  
515 E 100 S  
SALT LAKE CITY, UT 84102-4211  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Casey Cole by phone at 801-741-7523, by FAX at 801-536-8509, or by Internet E-mail at cacole@utah.gov
- ◆ Julene Robbins by phone at 801-538-4521, by FAX at 801-538-3942, or by Internet E-mail at jhonesrobbins@utah.gov
- ◆ Kimia Golchin by phone at 801-741-7409, by FAX at 801-536-8540, or by Internet E-mail at kimiagolchin@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/31/2017

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2017

AUTHORIZED BY: Liesa Stockdale, Director

**R527. Human Services, Recovery Services.**

**R527-231. Review and Adjustment of Child Support Order.**

**R527-231-1. Authority and Purpose.**

1. The Department of Human Services is authorized to create rules necessary for the provision of social services by Section 62A-1-111. The Office of Recovery Services is authorized to adopt, amend, and enforce rules as necessary by Section 62A-11-107.

2. The purpose of this rule is to provide details as to when the Office of Recovery Services/Child Support Services (ORS/CSS) may conduct a review of a Child Support Order. It specifies when a review will not be conducted and if a review has terminated, when an order may be reviewed again.

**R527-231-2. Review and Adjustment of Child Support Order.**

1. If the child is within one year of emancipation, ORS/CSS shall not be required to review the award for potential adjustment.

2. If the location of either parent is unknown, ORS/CSS shall not be required to review the support award for possible adjustment until both parents are located.

3. ORS/CSS shall pursue the setting of statutory child support guideline amounts in review and adjustment proceedings, based on the current and prospective incomes of the parties. [~~If either parent is incarcerated, ORS/CSS shall not be required to review and pursue adjustment of a support award.~~]

4. ORS/CSS shall pursue adjustment of a court order only for child support or medical support provisions. ORS/CSS shall not pursue modification of a court order for custody, visitation, property division or other non-child support related provisions.

5. If the parent requesting the review does not provide the necessary information for ORS/CSS to conduct the review, ORS/CSS shall send notice to the address on record for the requesting and non-requesting parents that the review process will be terminated unless the non-requesting parent requests that the review process continue.

6. If the review process is terminated, ORS/CSS shall not be required to review the order for a period of one year.

**KEY: child support**

**Date of Enactment or Last Substantive Amendment:** [~~May 15, 2008~~]**2017**

**Notice of Continuation:** November 3, 2015

**Authorizing, and Implemented or Interpreted Law:** 45 CFR 303.8; [78B-12-210;]62A-1-111; 62A-11-107; 62A-11-320.5; 62A-11-320.6; 78B-12-210

**Regents (Board of), Administration**  
**R765-613**  
**Public Safety Officer Career**  
**Advancement Reimbursement Program**

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 42073

FILED: 09/08/2017

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: S.B. 165 from the 2017 General Session created the Public Safety Officer Career Advancement Reimbursement program which requires an administrative rule.

SUMMARY OF THE RULE OR CHANGE: This rule provides guidance in the administration and application process for the Public Safety Officer Career Advancement Reimbursement program established in S.B. 165 (2017). In addition to the application procedure, this rule outlines the timetable for reimbursement of higher education tuition and fees for certified peace officers in degree programs that may enable the applicant to advance in their law enforcement career.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53B-8-112

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** By law this program has an initial appropriation from the fiscal 2018 budget of \$200,000. This will be an ongoing annual appropriation until changed by the legislature.

◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to any local government through this rule or program.

◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to any small business through this rule or program.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost or savings to any person through this rule or program.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no anticipated compliance cost for any person through the implementation of this rule or program.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on any business or other type of entity from this rule.

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

REGENTS (BOARD OF)  
ADMINISTRATION  
BOARD OF REGENTS BUILDING, THE GATEWAY  
60 SOUTH 400 WEST  
SALT LAKE CITY, UT 84101-1284  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Ronell Crossley by phone at 801-321-7291, by FAX at 801-321-7299, or by Internet E-mail at rcrossley@utahsbr.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/31/2017

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2017

AUTHORIZED BY: Dave Buhler, Commissioner of Higher Education

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**R765. Regents (Board of), Administration.**

**R765-613. Public Safety Officer Career Advancement Reimbursement (POSCAR)**

**R765-613-1. Purpose.**

The PSOCAR Program is a state funded tuition reimbursement for peace officers enrolled in criminal justice related programs at a Utah System of Higher Education (USHE) institution, available for up to eight academic years.

**R765-613-2. References**

2.1. Utah Code Section 53B-8-112 (Public Safety Officer Career Advancement Scholarship)

2.2. Utah Code Section 63G-4-202 (Designation of adjudicative proceedings as informal - Standards - Undesignated proceedings formal)

**R765-613-3. Effective Date**

These policies and procedures are effective May 19, 2017.

**R765-613-4. Application Process**

4.1. Qualified applicants may be reimbursed up to half of tuition and fees with a maximum of \$5,000 per year, subject to

funding. If the total applicant awards exceed available funding in any given year, the Board will reduce reimbursement amounts evenly across all qualified applicants, maintaining that the minimum designated amounts for particular rural counties are met.

4.2. To qualify, applicants must be:

4.2.1. a certified peace officer, currently employed by a Utah law enforcement agency.

4.2.2. employed by a Utah law enforcement agency as a certified peace officer for three consecutive years prior to the completion of the academic year for which he or she is seeking reimbursement, and

4.2.3. employed by a Utah law enforcement agency as a certified peace officer for one additional year after the completion of that academic year.

4.3. The application will be available at the Board of Regents website, [higheredu.utah.org](http://higheredu.utah.org). Applicants must complete the entire application and include all required documentation and certifications including:

4.3.1. Employer certification from an authorized representative of each employer for the four year period.

4.3.2. A copy of the tuition payment receipt(s) and transcript(s) with final grades for the enrollment period.

**R765-613-5. Application Deadlines**

5.1. The 2017 application will allow for reimbursement to criminal justice students who were enrolled during the 2015-2016 academic year, defined as July 1, 2015 to June 30, 2016, who meet program requirements. Application deadlines for subsequent years will retain these time frames, adjusted for the next year.

5.2. For the first year of the program, qualified applicants may submit applications beginning July 1, 2017, after the post-enrollment work component is complete. Applicants for subsequent years may begin submitting applications July 1 of the year in which they are applying.

5.3. 2017 applications are due by November 1, 2017 to be considered for funding.

Applications must be postmarked or received by the criminal justice department at the institution by the application deadline in order to be considered. The deadline for subsequent years applications will be September 1st. The postmark or received by requirements remain the same. Application deadlines may be extended at the discretion of the Commissioner of Higher Education or designee.

**R765-613-6. Appeals Process**

6.1. Applicants who wish to appeal a reimbursement decision may do so, in writing to the Commissioner of Higher Education or designee. The applicant's appeal shall be postmarked within 30 days from the date on which the reimbursement decision was made.

6.2. Applicants shall include all relevant arguments and documentation in their written appeals.

6.3. The Commissioner of Higher Education or designee shall review the appeal and issue a written decision in accordance with the Utah Administrative Procedures Act.

6.4. Appeals proceedings under this section are designated as informal pursuant to Utah Code Section 63G-4-202.

**KEY: tuition reimbursement, higher education, peace officers, POSCAR**

**Date of Enactment or Last Substantive Amendment: 2017**  
**Authorizing, Implemented, or Interpreted Law: 53B-8-112**

**Tax Commission, Administration**  
**R861-1A-42**  
**Waiver of Penalty and Interest for**  
**Reasonable Cause Pursuant to Utah**  
**Code Ann. Section 59-1-401**

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE NO.: 42101  
 FILED: 09/14/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The proposed amendment expands the circumstances that constitute reasonable cause to waive a penalty imposed on a taxpayer by the Tax Commission.

**SUMMARY OF THE RULE OR CHANGE:** The proposed amendment expands the circumstances that may constitute reasonable cause to waive a penalty to include failure by a tax advisor to file a return or make a tax payment on behalf of a taxpayer that has exercised ordinary business care, prudence, and diligence in determining whether to seek further advice.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 59-1-401

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** Immaterial--The proposed amendment may allow additional taxpayers to meet the criteria to have penalty waived.
- ◆ **LOCAL GOVERNMENTS:** Immaterial--The proposed amendment may allow additional taxpayers to meet the criteria to have penalty waived.
- ◆ **SMALL BUSINESSES:** Immaterial--The proposed amendment may allow additional taxpayers to meet the criteria to have penalty waived.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Immaterial--The proposed amendment may allow additional taxpayers to meet the criteria to have penalty waived.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** None--The proposed amendment may allow a taxpayer who qualifies on certain advice by a tax advisor to qualify for a waiver of penalties related to the action or non-action of the tax advisor.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** After an exhaustive search, we determined there is no fiscal

impact because the amendment reflects current agency practice.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 TAX COMMISSION  
 ADMINISTRATION  
 210 N 1950 W  
 SALT LAKE CITY, UT 84134-0002  
 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](mailto:cj@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/31/2017

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2017

AUTHORIZED BY: Rebecca Rockwell, Commissioner

**R861. Tax Commission, Administration.**

**R861-1A. Administrative Procedures.**

**R861-1A-42. Waiver of Penalty and Interest for Reasonable Cause Pursuant to Utah Code Ann. Section 59-1-401.**

- (1) Procedure.
- (a) A taxpayer may request a waiver of penalties or interest for reasonable cause under Section 59-1-401 if the following conditions are met:
- (i) the taxpayer provides a signed statement, with appropriate supporting documentation, requesting a waiver;
  - (ii) the total tax owed for the period has been paid;
  - (iii) the tax liability is based on a return the taxpayer filed with the commission, and not on an estimate provided by the taxpayer or the commission;
  - (iv) the taxpayer has not previously received a waiver review for the same period; and
  - (v) the taxpayer demonstrates that there is reasonable cause for waiver of the penalty or interest.
- (b) Upon receipt of a waiver request, the commission shall:
- (i) review the request;
  - (ii) notify the taxpayer if additional documentation is needed to consider the waiver request; and
  - (iii) review the account history for prior waiver requests, taxpayer deficiencies, and historical support for the reason given.
- (c) Each request for waiver is judged on its individual merits.
- (d) If the request for waiver of penalty or interest is denied, the taxpayer has a right to appeal. Procedures for filing appeals are found in Title 63G, Chapter 4, Administrative Procedures Act, and commission rules.
- (e) If a taxpayer first requests a waiver of penalties or interest in an appeal to the commission, the taxpayer is not required to meet Subsections (1)(a)(i) through (iv).

(2) Reasonable Cause for Waiver of Interest. Grounds for waiving interest are more stringent than for penalty. To be granted a waiver of interest, the taxpayer must prove that the commission gave the taxpayer erroneous information or took inappropriate action that contributed to the error.

(3) Reasonable Cause for Waiver of Penalty. The following clearly documented circumstances may constitute reasonable cause for a waiver of penalty:

(a) Timely Mailing:

(i) The taxpayer mailed the return with payment to the commission by the due date and it was not timely delivered by the post office through no fault of the taxpayer.

(ii) In cases where the taxpayer cannot document a post office error, the penalties may be waived if the taxpayer:

(A) has an excellent history of compliance;

(B) proves that sufficient funds were in the bank as of the date of payment, and the check was written in numerical order; and

(C) presents documentation showing that the return or payment was mailed timely.

(b) Wrong Filing Place: The return or payment was filed on time, but was delivered to the wrong office or agency.

(c) Death or Serious Illness:

(i) The death or serious illness of a taxpayer or a member of the taxpayer's immediate family caused the delay.

(ii) With respect to a business, trust or estate, the death or illness must have been of the individual, or the immediate family of the individual, who had sole authority to file the return.

(iii) The death or illness must have occurred on or immediately prior to the due date of the return.

(d) Unavoidable Absence: The person having sole responsibility to file the return was absent from the state due to circumstances beyond his or her control.

(e) Disaster Relief:

(i) A delay in reporting, filing, or paying was due either to a federal or state declared disaster or to a natural disaster, such as fire or accident, that results in the destruction of records or disruption of business.

(ii) If delinquency or delay is due to a federally declared disaster, federal relief guidelines shall be followed.

(iii) In the absence of federal guidelines, and for other listed disasters, the taxpayer must demonstrate the matter was corrected within a reasonable time, given the circumstances.

(f) Reliance on Erroneous Tax Commission Information:

(i) Underpayments and late filings or payments were attributable to incorrect advice obtained from the commission, unless the taxpayer gave the commission inaccurate or insufficient information.

(ii) Proof of erroneous information may be based on written communication provided by the commission or, if the taxpayer clearly documents, verbal communication. Clear documentation of verbal communication should include the dates, times, and names of commission employees who provided the erroneous information.

(iii) A failure to comply will also be excused if it is demonstrated that the taxpayer requested the necessary tax forms and instructions timely, and the commission failed to timely provide the forms and instructions requested.

(g) Tax Commission Office Visit: The taxpayer proves that before expiration of the time for filing the return or making the

payment, the taxpayer visited a commission office for information or help in preparing the return and a commission employee was not available for consultation.

(h) Unobtainable Records: For reasons beyond the taxpayer's control, the taxpayer was unable to obtain records to determine the amount of tax due.

(i) Reliance on Competent Tax Advisor: The taxpayer:

~~[(i) The taxpayer fails to file a return after furnishing all necessary and relevant information to a competent tax advisor, who incorrectly advised the taxpayer that a return was not required.~~

~~[(ii) The taxpayer is required, and has an obligation, to file the return. Reliance on a tax advisor to prepare a return does not automatically constitute reasonable cause for failure to file or pay. The taxpayer must demonstrate that ordinary business care, prudence, and diligence were exercised in determining whether to seek further advice.]~~ (i) furnishes all necessary and relevant information to a competent tax advisor, and the tax advisor:

(A) incorrectly advises the taxpayer;

(B) fails to timely file a return on behalf of the taxpayer;

or

(C) fails to make a payment on behalf of the taxpayer;

and

(ii) demonstrates that the taxpayer exercised ordinary business care, prudence, and diligence in determining whether to seek further advice.

(j) First Time Filer:

(i) It is the first return required to be filed and the taxes were filed and paid within a reasonable time after the due date.

(ii) The commission may also consider waiving penalties on the first return after a filing period change if the return is filed and tax is paid within a reasonable time after the due date.

(k) Bank Error:

(i) The taxpayer's bank has made an error in returning a check, making a deposit or transferring money.

(ii) A letter from the bank verifying its error is required.

(l) Compliance History:

(i) The commission will consider the taxpayer's recent history for payment, filing, and delinquencies in determining whether a penalty may be waived.

(ii) The commission will also consider whether other tax returns or reports are overdue at the time the waiver is requested.

(m) Employee Embezzlement: The taxpayer shows that failure to pay was due to employee embezzlement of the tax funds and the taxpayer was unable to obtain replacement funds from any other source.

(n) Recent Tax Law Change: The taxpayer's failure to file and pay was due to a recent change in tax law that the taxpayer could not reasonably be expected to be aware of.

(4) Other Considerations for Determining Reasonable Cause.

(a) The commission allows for equitable considerations in determining whether reasonable cause exists to waive a penalty. Equitable considerations include:

(i) whether the commission had to take legal means to collect the taxes;

(ii) if the error is caught and corrected by the taxpayer;

(iii) the length of time between the event cited and the filing date;

(iv) typographical or other written errors; and

(v) other factors the commission deems appropriate.

(b) Other clearly supported extraordinary and unanticipated reasons for late filing or payment, which demonstrate reasonable cause and the inability to comply, may justify a waiver of the penalty.

(c) In most cases, ignorance of the law, carelessness, or forgetfulness does not constitute reasonable cause for waiver. Nonetheless, other supporting circumstances may indicate that reasonable cause for waiver exists.

(d) Intentional disregard, evasion, or fraud does not constitute reasonable cause for waiver under any circumstance.

**KEY: developmental disabilities, grievance procedures, taxation, disclosure requirements**

**Date of Enactment or Last Substantive Amendment: [June 8], 2017**

**Notice of Continuation: November 10, 2016**

**Authorizing, and Implemented or Interpreted Law: 10-1-405; 41-1a-209; 52-4-207; 59-1-205; 59-1-207; 59-1-210; 59-1-301; 59-1-302.1; 59-1-304; 59-1-401; 59-1-403; 59-1-404; 59-1-405; 59-1-501; 59-1-502.5; 59-1-602; 59-1-611; 59-1-705; 59-1-706; 59-1-1004; 59-1-1404; 59-7-505; 59-10-512; 59-10-532; 59-10-533; 59-10-535; 59-12-107; 59-12-114; 59-12-118; 59-13-206; 59-13-210; 59-13-307; 59-10-544; 59-14-404; 59-2-212; 59-2-701; 59-2-705; 59-2-1003; 59-2-1004; 59-2-1006; 59-2-1007; 59-2-704; 59-2-924; 59-7-517; 63G-3-301; 63G-4-102; 76-8-502; 76-8-503; 59-2-701; 63G-4-201; 63G-4-202; 63G-4-203; 63G-4-204; 63G-4-205 through 63G-4-209; 63G-4-302; 63G-4-401; 63G-4-503; 63G-3-201(2); 68-3-7; 68-3-8.5; 69-2-5; 42 USC 12201; 28 CFR 25.107 1992 Edition**

## Tax Commission, Property Tax **R884-24P-33**

### 2017 Personal Property Valuation Guides and Schedules Pursuant to Utah Code Ann. Section 59-2-301

#### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42102

FILED: 09/14/2017

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The valuation guides and schedules contained in this section are reviewed and updated annually by the Property Tax Division. The personal property guides and schedules are used for local property tax valuation and assessment of business personal property, and certain motor vehicles by county assessors.

**SUMMARY OF THE RULE OR CHANGE:** Section 59-2-107 authorizes the State Tax Commission to promulgate rules that define classes of items considered to be personal property and provide valuation percent good schedules to value locally

assessed personal property. County assessors must use the percent good schedules as contained in this rule. Any deviation which affects an entire class or type of personal property requires a written report documenting the schedule change to be submitted to the Tax Commission for approval prior to use.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 59-2-301

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** The amount of savings or cost to the state budget is not affected by this rule. Tax revenue generated by taxing personal property is distributed to local governments to finance public services, programs, school districts, and local districts. No tax revenues generated by taxation of personal property will be retained by state government.

◆ **LOCAL GOVERNMENTS:** The amount of savings or cost to local governments is undetermined. Local governmental entities receive tax revenue based on increased or decreased personal property values and the change in the annual property tax rate. Increases or decreases in 2018 property tax revenue cannot be determined, even if there were no changes in the percent good tables, because taxpayer acquisitions and deletions of personal property during 2018 are unknown. The proposed personal property schedules in this amendment are raised, lowered, or remain the same for 2018 based upon the type and age of the personal property assessed. Schedules used to value business personal property increase or decrease based upon the calculation of economic trends from cost indexes published by the Marshall Valuation Service. It is anticipated that the change in the annual property tax rate will have a larger impact on revenue than will the proposed amendments to this rule.

◆ **SMALL BUSINESSES:** In the aggregate, the amount of savings or cost to individuals and businesses is undetermined. Affected persons pay property taxes based on increased or decreased personal property values and the change in the annual property tax rate. The proposed personal property schedules in this rule are raised, lowered, or remain the same for 2018 based upon the type and age of the property. Since some schedules are increased and some decreased, it is not possible to determine the change to affected persons without knowing the 2018 personal property mix compared to the previous year.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** In the aggregate, the amount of savings or cost to individuals and businesses is undetermined. Affected persons pay property taxes based on increased or decreased personal property values and the change in the annual property tax rate. The proposed personal property schedules in this rule are raised, lowered, or remain the same for 2018 based upon the type and age of the property. Since some schedules are increased and some decreased, it is not possible to determine the change to affected persons without knowing the 2018 personal property mix compared to the previous year.



**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Local business owners and property tax practitioners will once again be required to be aware of new percent good figures. This is an annual occurrence; therefore, the compliance cost in completing the assessment process will not change. The change in taxes charged for these businesses depends entirely on the owner's mix of personal property since some percent good schedules are increasing and others decreasing. For example, the owner of a business may discard some personal property items and add new equipment or replace equipment which may increase or decrease personal property values. In addition, the personal property percent good schedule percentages often change from the previous year due to current economic conditions.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The fiscal impact on businesses is undetermined. Some personal property schedules are raised, some are lowered, and some remain the same. Without knowing the 2018 personal property mix compared to the previous year, it is not possible to determine the impact on affected businesses.

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](mailto:cj@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/31/2017

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2017

AUTHORIZED BY: Rebecca Rockwell, Commissioner

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**R884. Tax Commission, Property Tax.**

**R884-24P. Property Tax.**

**R884-24P-33. [2017]2018 Personal Property Valuation Guides and Schedules Pursuant to Utah Code Ann. Section 59-2-301.**

(1) Definitions.

(a)(i) "Acquisition cost" does not include indirect costs such as debugging, licensing fees and permits, insurance, or security.

(ii) Acquisition cost may correspond to the cost new for new property, or cost used for used property.

(b)(i) "Actual cost" includes the value of components necessary to complete the vehicle, such as tanks, mixers, special containers, passenger compartments, special axles, installation, engineering, erection, or assembly costs.

(ii) Actual cost does not include sales or excise taxes, maintenance contracts, registration and license fees, dealer charges, tire tax, freight, or shipping costs.

(c) "Cost new" means the actual cost of the property when purchased new.

(i) Except as otherwise provided in this rule, the Tax Commission and assessors shall rely on the following sources to determine cost new:

(A) documented actual cost of the new or used vehicle; or

(B) recognized publications that provide a method for approximating cost new for new or used vehicles.

(ii) For the following property purchased used, the taxing authority may determine cost new by dividing the property's actual cost by the percent good factor for that class:

(A) class 6 heavy and medium duty trucks;

(B) class 13 heavy equipment;

(C) class 14 motor homes;

(D) class 17 vessels equal to or greater than 31 feet in length; and

(E) class 21 commercial trailers.

(d) For purposes of Sections 59-2-108 and 59-2-1115, "item of taxable tangible personal property" means a piece of equipment, machinery, furniture, or other piece of tangible personal property that is functioning at its highest and best use for the purpose it was designed and constructed and is generally capable of performing that function without being combined with other items of personal property. An item of taxable tangible personal property is not an individual component part of a piece of machinery or equipment, but the piece of machinery or equipment. For example, a fully functioning computer is an item of taxable tangible personal property, but the motherboard, hard drive, tower, or sound card are not.

(e) "Percent good" means an estimate of value, expressed as a percentage, based on a property's acquisition cost or cost new, adjusted for depreciation and appreciation of all kinds.

(i) The percent good factor is applied against the acquisition cost or the cost new to derive taxable value for the property.

(ii) Percent good schedules are derived from an analysis of the Internal Revenue Service Class Life, the Marshall and Swift Cost index, other data sources or research, and vehicle valuation guides such as Penton Price Digests.

(2) Each year the Property Tax Division shall update and publish percent good schedules for use in computing personal property valuation.

(a) Proposed schedules shall be transmitted to county assessors and interested parties for comment before adoption.

(b) A public comment period will be scheduled each year and a public hearing will be scheduled if requested by ten or more interested parties or at the discretion of the Commission.

(c) County assessors may deviate from the schedules when warranted by specific conditions affecting an item of personal property. When a deviation will affect an entire class or type of personal property, a written report, substantiating the changes with verifiable data, must be presented to the Commission. Alternative schedules may not be used without prior written approval of the Commission.

(d) A party may request a deviation from the value established by the schedule for a specific item of property if the use of the schedule does not result in the fair market value for the property at the retail level of trade on the lien date, including any relevant installation and assemblage value.

(3) The provisions of this rule do not apply to:

(a) a vehicle subject to the age-based uniform fee under Section 59-2-405.1;

(b) the following personal property subject to the age-based uniform fee under Section 59-2-405.2:

- (i) an all-terrain vehicle;
- (ii) a camper;
- (iii) an other motorcycle;
- (iv) an other trailer;
- (v) a personal watercraft;
- (vi) a small motor vehicle;
- (vii) a snowmobile;
- (viii) a street motorcycle;
- (ix) a tent trailer;
- (x) a travel trailer; and

(xi) a vessel, including an outboard motor of the vessel, that is less than 31 feet in length and

(c) an aircraft subject to the uniform statewide fee under Section 59-2-404.

(4) Other taxable personal property that is not included in the listed classes includes:

(a) Supplies on hand as of January 1 at 12:00 noon, including office supplies, shipping supplies, maintenance supplies, replacement parts, lubricating oils, fuel and consumable items not held for sale in the ordinary course of business. Supplies are assessed at total cost, including freight-in.

(b) Equipment leased or rented from inventory is subject to ad valorem tax. Refer to the appropriate property class schedule to determine taxable value.

(c) Property held for rent or lease is taxable, and is not exempt as inventory. For entities primarily engaged in rent-to-own, inventory on hand at January 1 is exempt and property out on rent-to-own contracts is taxable.

(5) Personal property valuation schedules may not be appealed to, or amended by, county boards of equalization.

(6) All taxable personal property, other than personal property subject to an age-based uniform fee under Section 59-2-405.1 or 59-2-405.2, or a uniform statewide fee under Section 59-2-404, is classified by expected economic life as follows:

(a) Class 1 - Short Life Property. Property in this class has a typical life of more than one year and less than four years. It is fungible in that it is difficult to determine the age of an item retired from service.

(i) Examples of property in the class include:

- (A) barricades/warning signs;
- (B) library materials;
- (C) patterns, jigs and dies;
- (D) pots, pans, and utensils;
- (E) canned computer software;
- (F) hotel linen;
- (G) wood and pallets;
- (H) video tapes, compact discs, and DVDs; and
- (I) uniforms.

(ii) With the exception of video tapes, compact discs, and DVDs, taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

(iii) A licensee of canned computer software shall use one of the following substitutes for acquisition cost of canned computer software if no acquisition cost for the canned computer software is stated:

(A) retail price of the canned computer software;

(B) if a retail price is unavailable, and the license is a nonrenewable single year license agreement, the total sum of expected payments during that 12-month period; or

(C) if the licensing agreement is a renewable agreement or is a multiple year agreement, the present value of all expected licensing fees paid pursuant to the agreement.

(iv) Video tapes, compact discs, and DVDs are valued at \$15.00 per tape or disc for the first year and \$3.00 per tape or disc thereafter.

TABLE 1

Year of Acquisition	Percent Good of Acquisition Cost
[16] 17	[69] 70%
[15] 16	[40] 41%
[14] 15 and prior	10%

(b) Class 2 - Computer Integrated Machinery.

(i) Machinery shall be classified as computer integrated machinery if all of the following conditions are met:

(A) The equipment is sold as a single unit. If the invoice breaks out the computer separately from the machine, the computer must be valued as Class 12 property and the machine as Class 8 property.

(B) The machine cannot operate without the computer and the computer cannot perform functions outside the machine.

(C) The machine can perform multiple functions and is controlled by a programmable central processing unit.

(D) The total cost of the machine and computer combined is depreciated as a unit for income tax purposes.

(E) The capabilities of the machine cannot be expanded by substituting a more complex computer for the original.

(ii) Examples of property in this class include:

- (A) CNC mills;
- (B) CNC lathes;

(C) high-tech medical and dental equipment such as MRI equipment, CAT scanners, and mammography units.

(iii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 2

Year of Acquisition	Percent Good of Acquisition Cost
[16] 17	[88] 89%
[15] 16	[78] 80%
[14] 15	[67] 69%
[13] 14	[57] 58%
[12] 13	47%
[11] 12	[36] 37%
[10] 11	24%
[09] 10 and prior	12%

(c) Class 3 - Short Life Trade Fixtures. Property in this class generally consists of electronic types of equipment and includes property subject to rapid functional and economic obsolescence or severe wear and tear.

(i) Examples of property in this class include:

- (A) office machines;
- (B) alarm systems;
- (C) shopping carts;
- (D) ATM machines;
- (E) small equipment rentals;
- (F) rent-to-own merchandise;
- (G) telephone equipment and systems;
- (H) music systems;
- (I) vending machines;
- (J) video game machines; and
- (K) cash registers.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 3

Year of Acquisition	Percent Good of Acquisition Cost
[16]17	[82]84%
[15]16	[67]68%
[14]15	51%
[13]14	[34]35%
[12]13 and prior	18%

(d) Class 5 - Long Life Trade Fixtures. Class 5 property is subject to functional obsolescence in the form of style changes.

(i) Examples of property in this class include:

- (A) furniture;
- (B) bars and sinks;
- (C) booths, tables and chairs;
- (D) beauty and barber shop fixtures;
- (E) cabinets and shelves;
- (F) displays, cases and racks;
- (G) office furniture;
- (H) theater seats;
- (I) water slides; ~~and~~
- (J) signs, mechanical and electrical; and
- (K) LED component of a billboard.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 5

Year of Acquisition	Percent Good of Acquisition Cost
[16]17	[89]90%
[15]16	[80]82%
[14]15	[74]72%
[13]14	[64]62%
[12]13	[52]53%
[11]12	[43]44%
[10]11	[32]33%
[09]10	22%
[08]09 and prior	12%

(e) Class 6 - Heavy and Medium Duty Trucks.

(i) Examples of property in this class include:

- (A) heavy duty trucks;
- (B) medium duty trucks;
- (C) crane trucks;
- (D) concrete pump trucks; and
- (E) trucks with well-boring rigs.

(ii) Taxable value is calculated by applying the percent good factor against the cost new.

(iii) Cost new of vehicles in this class is defined as follows:

- (A) the documented actual cost of the vehicle for new vehicles; or
- (B) 75 percent of the manufacturer's suggested retail price.

(iv) For state assessed vehicles, cost new shall include the value of attached equipment.

(v) The [2017]2018 percent good applies to [2017]2018 models purchased in [2016]2017.

(vi) Trucks weighing two tons or more have a residual taxable value of \$1,750.

TABLE 6

Model Year	Percent Good of Cost New
[17]18	90%
[16]17	[70]73%
[15]16	[64]67%
[14]15	[59]62%
[13]14	[53]56%
[12]13	[48]51%
[11]12	[42]45%
[10]11	[36]40%
[09]10	[31]35%
[08]09	[25]29%
[07]08	20%
[06]07	15%
[05]06	10%
[04]05 and prior	4%

(f) Class 7 - Medical and Dental Equipment. Class 7 property is subject to a high degree of technological development by the health industry.

(i) Examples of property in this class include:

- (A) medical and dental equipment and instruments;
- (B) exam tables and chairs;
- (C) microscopes; and
- (D) optical equipment.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 7

Year of Acquisition	Percent Good of Acquisition Cost
[16]17	[90]92%
[15]16	[84]85%
[14]15	[76]77%
[13]14	[68]69%
[12]13	[61]62%
[11]12	[54]55%
[10]11	[45]46%
[09]10	37%

[08]09	29%
[07]08	[20]21%
[06]07 and prior	11%

[10]11	[45]46%
[09]10	37%
[08]09	29%
[07]08	[20]21%
[06]07 and prior	11%

(g) Class 8 - Machinery and Equipment. Property in this class is subject to considerable functional and economic obsolescence created by competition as technologically advanced and more efficient equipment becomes available.

(i) Examples of property in this class include:

- (A) manufacturing machinery;
- (B) amusement rides;
- (C) bakery equipment;
- (D) distillery equipment;
- (E) refrigeration equipment;
- (F) laundry and dry cleaning equipment;
- (G) machine shop equipment;
- (H) processing equipment;
- (I) auto service and repair equipment;
- (J) mining equipment;
- (K) ski lift machinery;
- (L) printing equipment;
- (M) bottling or cannery equipment;
- (N) packaging equipment; and
- (O) pollution control equipment.

(ii) Except as provided in Subsection (6)(g)(iii), taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

(iii)(A) Notwithstanding Subsection (6)(g)(ii), the taxable value of the following oil refinery pollution control equipment required by the federal Clean Air Act shall be calculated pursuant to Subsection (6)(g)(iii)(B):

- (I) VGO (Vacuum Gas Oil) reactor;
- (II) HDS (Diesel Hydrotreater) reactor;
- (III) VGO compressor;
- (IV) VGO furnace;
- (V) VGO and HDS high pressure exchangers;
- (VI) VGO, SRU (Sulfur Recovery Unit), SWS (Sour Water Stripper), and TGU; (Tail Gas Unit) low pressure exchangers;
- (VII) VGO, amine, SWS, and HDS separators and drums;
- (VIII) VGO and tank pumps;
- (IX) TGU modules; and
- (X) VGO tank and VGO tank air coolers.

(B) The taxable value of the oil refinery pollution control equipment described in Subsection (6)(g)(iii)(A) shall be calculated by:

- (I) applying the percent good factor in Table 8 against the acquisition cost of the property; and
- (II) multiplying the product described in Subsection (6)(g)(iii)(B)(I) by 50%.

TABLE 8

Year of Acquisition	Percent Good of Acquisition Cost
[16]17	[90]92%
[15]16	[84]85%
[14]15	[76]77%
[13]14	[68]69%
[12]13	[61]62%
[11]12	[54]55%

(h) Class 9 - Off-Highway Vehicles.

(i) Because Section 59-2-405.2 subjects off-highway vehicles to an age-based uniform fee, a percent good schedule is not necessary.

(i) Class 10 - Railroad Cars. The Class 10 schedule was developed to value the property of railroad car companies. Functional and economic obsolescence is recognized in the developing technology of the shipping industry. Heavy wear and tear is also a factor in valuing this class of property.

(i) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 10

Year of Acquisition	Percent Good of Acquisition Cost
[16]17	[92]94%
[15]16	[87]89%
[14]15	[81]82%
[13]14	[75]76%
[12]13	[70]71%
[11]12	[65]66%
[10]11	[57]58%
[09]10	[51]52%
[08]09	[46]47%
[07]08	[40]41%
[06]07	34%
[05]06	[27]28%
[04]05	19%
[03]04 and prior	9%

(j) Class 11 - Street Motorcycles.

(i) Because Section 59-2-405.2 subjects street motorcycles to an age-based uniform fee, a percent good schedule is not necessary.

(k) Class 12 - Computer Hardware.

(i) Examples of property in this class include:

- (A) data processing equipment;
- (B) personal computers;
- (C) main frame computers;
- (D) computer equipment peripherals;
- (E) cad/cam systems; and
- (F) copiers.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 12

Year of Acquisition	Percent Good of Acquisition Cost
[16]17	62%
[15]16	46%
[14]15	21%
[13]14	9%
[12]13 and prior	7%

(l) Class 13 - Heavy Equipment.

(i) Examples of property in this class include:

- (A) construction equipment;
- (B) excavation equipment;
- (C) loaders;
- (D) batch plants;
- (E) snow cats; and
- (F) pavement sweepers.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

(iii) ~~[2017]~~2018 model equipment purchased in ~~[2016]~~2017 is valued at 100 percent of acquisition cost.

TABLE 13

Year of Acquisition	Percent Good of Acquisition Cost
<del>[16]</del> 17	<del>[49]</del> 48%
<del>[15]</del> 16	<del>[46]</del> 45%
<del>[14]</del> 15	<del>[43]</del> 42%
<del>[13]</del> 14	40%
<del>[12]</del> 13	<del>[38]</del> 37%
<del>[11]</del> 12	<del>[35]</del> 34%
<del>[10]</del> 11	32%
<del>[09]</del> 10	29%
<del>[08]</del> 09	26%
<del>[07]</del> 08	<del>[24]</del> 23%
<del>[06]</del> 07	21%
<del>[05]</del> 06	18%
<del>[04]</del> 05	15%
<del>[03]</del> 04 and prior	13%

(m) Class 14 - Motor Homes.

(i) Taxable value is calculated by applying the percent good against the cost new.

(ii) The ~~[2017]~~2018 percent good applies to ~~[2017]~~2018 models purchased in ~~[2016]~~2017.

(iii) Motor homes have a residual taxable value of \$1,000.

TABLE 14

Model Year	Percent Good of Cost New
<del>[17]</del> 18	90%
<del>[16]</del> 17	<del>[71]</del> 69%
<del>[15]</del> 16	<del>[67]</del> 65%
<del>[14]</del> 15	<del>[63]</del> 61%
<del>[13]</del> 14	<del>[59]</del> 58%
<del>[12]</del> 13	<del>[56]</del> 54%
<del>[11]</del> 12	<del>[52]</del> 50%
<del>[10]</del> 11	<del>[48]</del> 47%
<del>[09]</del> 10	<del>[44]</del> 43%
<del>[08]</del> 09	<del>[40]</del> 39%
<del>[07]</del> 08	<del>[37]</del> 35%
<del>[06]</del> 07	<del>[33]</del> 32%
<del>[05]</del> 06	<del>[29]</del> 28%
<del>[04]</del> 05	<del>[25]</del> 24%
<del>[03]</del> 04	<del>[22]</del> 21%
<del>[02]</del> 03	<del>[18]</del> 17%
<del>[01]</del> 02 and prior	<del>[14]</del> 15%

(n) Class 15 - Semiconductor Manufacturing Equipment.

Class 15 applies only to equipment used in the production of semiconductor products. Equipment used in the semiconductor manufacturing industry is subject to significant economic and functional obsolescence due to rapidly changing technology and economic conditions.

(i) Examples of property in this class include:

- (A) crystal growing equipment;
- (B) die assembly equipment;
- (C) wire bonding equipment;
- (D) encapsulation equipment;
- (E) semiconductor test equipment;
- (F) clean room equipment;
- (G) chemical and gas systems related to semiconductor manufacturing;
- (H) deionized water systems;
- (I) electrical systems; and
- (J) photo mask and wafer manufacturing dedicated to semiconductor production.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 15

Year of Acquisition	Percent Good of Acquisition Cost
<del>[16]</del> 17	47%
<del>[15]</del> 16	34%
<del>[14]</del> 15	24%
<del>[13]</del> 14	15%
<del>[12]</del> 13 and prior	6%

(o) Class 16 - Long-Life Property. Class 16 property has a long physical life with little obsolescence.

(i) Examples of property in this class include:

- (A) ~~[billboards]~~billboard (excluding LED component);
- (B) sign towers;
- (C) radio towers;
- (D) ski lift and tram towers;
- (E) non-farm grain elevators;
- (F) bulk storage tanks;
- (G) underground fiber optic cable;
- (H) solar panels and supporting equipment; and
- (I) pipe laid in or affixed to land.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 16

Year of Acquisition	Percent Good of Acquisition Cost
<del>[16]</del> 17	<del>[94]</del> 95%
<del>[15]</del> 16	<del>[90]</del> 92%
<del>[14]</del> 15	<del>[86]</del> 87%
<del>[13]</del> 14	<del>[81]</del> 83%
<del>[12]</del> 13	<del>[79]</del> 80%
<del>[11]</del> 12	<del>[76]</del> 77%
<del>[10]</del> 11	<del>[70]</del> 71%
<del>[09]</del> 10	<del>[66]</del> 67%
<del>[08]</del> 09	64%
<del>[07]</del> 08	<del>[60]</del> 62%
<del>[06]</del> 07	59%
<del>[05]</del> 06	<del>[54]</del> 55%
<del>[04]</del> 05	<del>[49]</del> 50%
<del>[03]</del> 04	<del>[43]</del> 44%
<del>[02]</del> 03	<del>[36]</del> 37%
<del>[01]</del> 02	<del>[29]</del> 30%
<del>[00]</del> 01	<del>[22]</del> 23%
<del>[99]</del> 00	15%
<del>[98]</del> 99 and prior	8%

(p) Class 17 - Vessels Equal to or Greater Than 31 Feet in Length.

(i) Examples of property in this class include:

(A) houseboats equal to or greater than 31 feet in length;

(B) sailboats equal to or greater than 31 feet in length;

and

(C) yachts equal to or greater than 31 feet in length.

(ii) A vessel, including an outboard motor of the vessel, under 31 feet in length:

(A) is not included in Class 17;

(B) may not be valued using Table 17; and

(C) is subject to an age-based uniform fee under Section 59-2-405.2.

(iii) Taxable value is calculated by applying the percent good factor against the cost new of the property.

(iv) The Tax Commission and assessors shall rely on the following sources to determine cost new for property in this class:

(A) the following publications or valuation methods:

(I) the manufacturer's suggested retail price listed in the ABOS Marine Blue Book;

(II) for property not listed in the ABOS Marine Blue Book but listed in the NADA Marine Appraisal Guide, the NADA average value for the property divided by the percent good factor; or

(III) for property not listed in the ABOS Marine Blue Book or the NADA Appraisal Guide:

(aa) the manufacturer's suggested retail price for comparable property; or

(bb) the cost new established for that property by a documented valuation source; or

(B) the documented actual cost of new or used property in this class.

(v) The ~~2017~~2018 percent good applies to ~~2017~~2018 models purchased in ~~2016~~2017.

(vi) Property in this class has a residual taxable value of \$1,000.

TABLE 17

Model Year	Percent Good of Cost New
<del>17</del> 18	90%
<del>16</del> 17	<del>66</del> 65%
<del>15</del> 16	<del>64</del> 63%
<del>14</del> 15	61%
<del>13</del> 14	<del>59</del> 58%
<del>12</del> 13	<del>57</del> 56%
<del>11</del> 12	54%
<del>10</del> 11	52%
<del>09</del> 10	<del>50</del> 49%
<del>08</del> 09	47%
<del>07</del> 08	45%
<del>06</del> 07	43%
<del>05</del> 06	41%
<del>04</del> 05	38%
<del>03</del> 04	36%
<del>02</del> 03	34%
<del>01</del> 02	<del>31</del> 32%
<del>00</del> 01	<del>29</del> 30%
<del>99</del> 00	27%
<del>98</del> 99	<del>24</del> 25%
<del>97</del> 98	<del>20</del> 21%
<del>96</del> 97 and prior	<del>16</del> 17%

(q) Class 17a - Vessels Less Than 31 Feet in Length

(i) Because Section 59-2-405.2 subjects vessels less than 31 feet in length to an age-based uniform fee, a percent good schedule is not necessary.

(r) Class 18 - Travel Trailers and Class 18a - Tent Trailers/Truck Campers.

(i) Because Section 59-2-405.2 subjects travel trailers and tent trailers/truck campers to an age-based uniform fee, a percent good schedule is not necessary.

(s) Class 20 - Petroleum and Natural Gas Exploration and Production Equipment. Class 20 property is subject to significant functional and economic obsolescence due to the volatile nature of the petroleum industry.

(i) Examples of property in this class include:

(A) oil and gas exploration equipment;

(B) distillation equipment;

(C) wellhead assemblies;

(D) holding and storage facilities;

(E) drill rigs;

(F) reinjection equipment;

(G) metering devices;

(H) cracking equipment;

(I) well-site generators, transformers, and power lines;

(J) equipment sheds;

(K) pumps;

(L) radio telemetry units; and

(M) support and control equipment.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 20

Year of Acquisition	Percent Good of Acquisition Cost
<del>16</del> 17	<del>92</del> 93%
<del>15</del> 16	<del>84</del> 85%
<del>14</del> 15	<del>79</del> 80%
<del>13</del> 14	<del>72</del> 73%
<del>12</del> 13	<del>65</del> 66%
<del>11</del> 12	<del>59</del> 60%
<del>10</del> 11	<del>53</del> 54%
<del>09</del> 10	<del>45</del> 46%
<del>08</del> 09	<del>39</del> 40%
<del>07</del> 08	33%
<del>06</del> 07	26%
<del>05</del> 06	<del>18</del> 19%
<del>04</del> 05 and prior	10%

(t) Class 21 - Commercial Trailers.

(i) Examples of property in this class include:

(A) dry freight van trailers;

(B) refrigerated van trailers;

(C) flat bed trailers;

(D) dump trailers;

(E) livestock trailers; and

(F) tank trailers.

(ii) Taxable value is calculated by applying the percent good factor against the cost new of the property. For state assessed vehicles, cost new shall include the value of attached equipment.

(iii) The ~~2017~~2018 percent good applies to ~~2017~~2018 models purchased in ~~2016~~2017.

(iv) Commercial trailers have a residual taxable value of \$1,000.

TABLE 21

Model Year	Percent Good of Cost New
[17] 18	95%
[16] 17	[87] 86%
[15] 16	[83] 82%
[14] 15	[79] 78%
[13] 14	[75] 74%
[12] 13	[71] 70%
[11] 12	[67] 66%
[10] 11	[63] 62%
[09] 10	[59] 58%
[08] 09	[55] 54%
[07] 08	51%
[06] 07	47%
[05] 06	41%
[04] 05	36%
[03] 04	30%
[02] 03	25%
[01] 02 and prior	17%

(u) Class 21a - Other Trailers (Non-Commercial).

(i) Because Section 59-2-405.2 subjects this class of trailers to an age-based uniform fee, a percent good schedule is not necessary.

(v) Class 22 - Passenger Cars, Light Trucks/Utility Vehicles, and Vans.

(i) Class 22 vehicles fall within four subcategories: domestic passenger cars, foreign passenger cars, light trucks, including utility vehicles, and vans.

(ii) Because Section 59-2-405.1 subjects Class 22 property to an age-based uniform fee, a percent good schedule is not necessary.

(w) Class 22a - Small Motor Vehicles.

(i) Because Section 59-2-405.2 subjects small motor vehicles to an age-based uniform fee, a percent good schedule is not necessary.

(x) Class 23 - Aircraft Required to be Registered With the State.

(i) Because Section 59-2-404 subjects aircraft required to be registered with the state to a statewide uniform fee, a percent good schedule is not necessary.

(y) Class 24 - Leasehold Improvements on Exempt Real Property.

(i) The Class 24 schedule is to be used only for those leasehold improvements where the underlying real property is owned by an entity exempt from property tax under Section 59-2-1101. See Tax Commission rule R884-24P-32. Leasehold improvements include:

- (A) walls and partitions;
- (B) plumbing and roughed-in fixtures;
- (C) floor coverings other than carpet;
- (D) store fronts;
- (E) decoration;
- (F) wiring;
- (G) suspended or acoustical ceilings;

(H) heating and cooling systems; and

(I) iron or millwork trim.

(ii) Taxable value is calculated by applying the percent good factor against the cost of acquisition, including installation.

(iii) The Class 3 schedule is used to value short life leasehold improvements.

TABLE 24

Year of Installation	Percent of Installation Cost
[16] 17	94%
[15] 16	88%
[14] 15	82%
[13] 14	77%
[12] 13	71%
[11] 12	65%
[10] 11	59%
[09] 10	54%
[08] 09	48%
[07] 08	42%
[06] 07	36%
[05] 06 and prior	30%

(z) Class 25 - Aircraft Parts Manufacturing Tools and Dies. Property in this class is generally subject to rapid physical, functional, and economic obsolescence due to rapid technological and economic shifts in the airline parts manufacturing industry. Heavy wear and tear is also a factor in valuing this class of property.

(i) Examples of property in this class include:

- (A) aircraft parts manufacturing jigs and dies;
- (B) aircraft parts manufacturing molds;
- (C) aircraft parts manufacturing patterns;
- (D) aircraft parts manufacturing taps and gauges; and
- (E) aircraft parts manufacturing test equipment.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 25

Year of Acquisition	Percent Good of Acquisition Cost
[16] 17	[82] 84%
[15] 16	[67] 69%
[14] 15	[51] 52%
[13] 14	[35] 36%
[12] 13	19%
[11] 12 and prior	4%

(aa) Class 26 - Personal Watercraft.

(i) Because Section 59-2-405.2 subjects personal watercraft to an age-based uniform fee, a percent good schedule is not necessary.

(bb) Class 27 - Electrical Power Generating Equipment and Fixtures

(i) Examples of property in this class include:

- (A) electrical power generators; and
- (B) control equipment.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 27

Year of Acquisition	Percent Good of Acquisition Cost
[16] 17	97%
[15] 16	95%
[14] 15	92%
[13] 14	90%
[12] 13	87%
[11] 12	84%
[10] 11	82%
[09] 10	79%
[08] 09	77%
[07] 08	74%
[06] 07	71%
[05] 06	69%
[04] 05	66%
[03] 04	64%
[02] 03	61%
[01] 02	58%
[00] 01	56%
[99] 00	53%
[98] 99	51%
[97] 98	48%
[96] 97	45%
[95] 96	43%
[94] 95	40%
[93] 94	38%
[92] 93	35%
[91] 92	32%
[90] 91	30%
[89] 90	27%
[88] 89	25%
[87] 88	22%
[86] 87	19%
[85] 86	17%
[84] 85	14%
[83] 84	12%
[82] 83 and prior	9%

- (i) the property is an item of taxable tangible personal property with an acquisition cost of \$1,000 or less; and
- (ii) the property is eligible as a deductible expense under Section 162 or Section 179, Internal Revenue Code, in the year of acquisition, regardless of whether the deduction is actually claimed.

TABLE 28

Year of Acquisition	Percent Good of Acquisition Cost
[16] 17	75%
[15] 16	50%
[14] 15	25%
[13] 14 and prior	0%

The provisions of this rule shall be implemented and become binding on taxpayers beginning January 1, [2017]2018.

**KEY: taxation, personal property, property tax, appraisals**  
**Date of Enactment or Last Substantive Amendment: June 8, 2017**  
**Notice of Continuation: November 10, 2016**  
**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**

(cc) Class 28 - Noncapitalized Personal Property. Property shall be classified as noncapitalized personal property if the following conditions are met:

**End of the Notices of Proposed Rules Section**



# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at <https://rules.utah.gov/>. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

**REVIEWS** are governed by Section 63G-3-305.

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## Administrative Services, Facilities Construction and Management

### R23-4

#### Suspension/Debarment

#### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 42065  
FILED: 09/07/2017

#### 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 sets forth the basis and guidelines for suspension or debarment from consideration for award of contracts by the Division of Facilities Construction and Management (DFCM). This rule is authorized under Subsection 63A-5-103(1), which directs the Building Board to make rules necessary for the discharge of the duties of DFCM, and Subsection 63G-6-208(2), which authorizes the Building Board to make rules regarding the procurement of construction, architect-engineering services, and leases.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule sets forth the guidelines for suspension or debarment from consideration for award of

contracts by DFCM by clarifying definitions, eligibility, and causes for suspension/debarment procedures. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
ADMINISTRATIVE SERVICES  
FACILITIES CONSTRUCTION AND MANAGEMENT  
ROOM 4110 STATE OFFICE BLDG  
450 N STATE ST  
SALT LAKE CITY, UT 84114-1201  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Cecilia Niederhauser by phone at 801-538-3261, by FAX at 801-538-9694, or by Internet E-mail at [cniederhauser@utah.gov](mailto:cniederhauser@utah.gov)

AUTHORIZED BY: Jim Russell, Director

EFFECTIVE: 09/07/2017

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## Administrative Services, Facilities Construction and Management

### R23-5

#### Contingency Funds

#### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 42066  
FILED: 09/07/2017

#### 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 establishes policies and procedures regarding contingency funds held by the Division of Facilities Construction and Management (DFCM). It provides guidelines for the source, use and reporting of contingency funds as provided in Title 63A, Chapter 5. This rule is authorized under Subsection 63A-5-103(1)(e), which directs the Building Board to make rules necessary for the discharge of the duties of DFCM.

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.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is needed because it clarifies the authority, definition, applicability, general provisions, funding, and use of the statewide Contingency Reserve, funding and use of the Project Reserve, and reporting requirements for DFCM. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 ADMINISTRATIVE SERVICES  
 FACILITIES CONSTRUCTION AND MANAGEMENT  
 ROOM 4110 STATE OFFICE BLDG  
 450 N STATE ST  
 SALT LAKE CITY, UT 84114-1201  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Cecilia Niederhauser by phone at 801-538-3261, by FAX at 801-538-9694, or by Internet E-mail at [cniederhauser@utah.gov](mailto:cniederhauser@utah.gov)

AUTHORIZED BY: Jim Russell, Director

EFFECTIVE: 09/07/2017

**Administrative Services, Facilities  
 Construction and Management  
 R23-6**

**Value Engineering and Life Cycle  
 Costing of State Owned Facilities Rules  
 and Regulations**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 42067  
 FILED: 09/07/2017

**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 implements Subsections 63A-5-103(1)(f) and 63A-5-206(8). It is the purpose of this rule to ensure that state-owned facilities be life cycle cost effective. To achieve this objective, Value Engineering and Life Cycle Cost Analysis is to be used in the facility design process by the Division of Facilities Construction and Management (DFCM).

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.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is authorized under Subsection 63A-5-103(1)(e), which directs the Building Board to make rules necessary for the discharge of the duties of DFCM. It provides and clarifies purpose, authority, definitions, scope, special exemption procedures, methodology, application, and responsibilities for DFCM. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 ADMINISTRATIVE SERVICES  
 FACILITIES CONSTRUCTION AND MANAGEMENT  
 ROOM 4110 STATE OFFICE BLDG  
 450 N STATE ST  
 SALT LAKE CITY, UT 84114-1201  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Cecilia Niederhauser by phone at 801-538-3261, by FAX at 801-538-9694, or by Internet E-mail at [cniederhauser@utah.gov](mailto:cniederhauser@utah.gov)

AUTHORIZED BY: Jim Russell, Director

EFFECTIVE: 09/07/2017

**Administrative Services, Facilities  
 Construction and Management  
 R23-9**

**Cooperation with Local Government  
 Planning**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 42068  
FILED: 09/07/2017

**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 provides for cooperation with local government planning efforts when siting, designing, and constructing facilities on state property. This rule is authorized under Section 63A-5-103 which directs the Building Board to make rules necessary for the discharge of its duties and those of the Division of Facilities Construction and Management (DFCM). The statutory provisions that set forth the relationship between the planning and zoning authority of local governments and the construction of facilities on state property are contained in Section 63A-5-206.

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.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary to renew this rule because it sets forth the purpose and authority, definitions, exemption from local government planning and zoning authority, consideration of local government planning, and additional requirements for secured facilities for DFCM. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
ADMINISTRATIVE SERVICES  
FACILITIES CONSTRUCTION AND MANAGEMENT  
ROOM 4110 STATE OFFICE BLDG  
450 N STATE ST  
SALT LAKE CITY, UT 84114-1201  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Cecilia Niederhauser by phone at 801-538-3261, by FAX at 801-538-9694, or by Internet E-mail at [cniederhauser@utah.gov](mailto:cniederhauser@utah.gov)

AUTHORIZED BY: Jim Russell, Director

EFFECTIVE: 09/07/2017

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**Administrative Services, Facilities  
Construction and Management**

**R23-10**

**Naming of State Buildings**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 42069  
FILED: 09/07/2017

**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 defines which entities have the authority to name state buildings. This rule is authorized under Subsection 63A-5-103(1)(e), which directs the Building Board to make rules necessary for the discharge of the duties of the Division of Facilities Construction and Management (DFCM).

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.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is needed because it provides and clarifies the purpose, authority, policy, and legislative action required to name a state building. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
ADMINISTRATIVE SERVICES  
FACILITIES CONSTRUCTION AND MANAGEMENT  
ROOM 4110 STATE OFFICE BLDG  
450 N STATE ST  
SALT LAKE CITY, UT 84114-1201  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Cecilia Niederhauser by phone at 801-538-3261, by FAX at 801-538-9694, or by Internet E-mail at [cniederhauser@utah.gov](mailto:cniederhauser@utah.gov)

AUTHORIZED BY: Jeff Reddoor, State Building Board Manager

EFFECTIVE: 09/07/2017

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**Administrative Services, Facilities  
Construction and Management**

**R23-12**

**Building Code Appeals Process**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 42064  
FILED: 09/07/2017

**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: According to Subsection 58-56-8(2), this rule establishes procedures for the appeal of decisions made by the State Building Code Official in regards to the application and interpretation of building codes. The statutory provisions governing the application and enforcement of building codes with state facilities are contained in Title 58, Chapter 56, and in Section 63A-5-206.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Division of Facilities Construction and Management (DFCM) would like to keep this rule because it establishes procedures for the appeal of decisions made by the Building Official in regards to the application and interpretation of state building codes. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
ADMINISTRATIVE SERVICES  
FACILITIES CONSTRUCTION AND MANAGEMENT  
ROOM 4110 STATE OFFICE BLDG  
450 N STATE ST  
SALT LAKE CITY, UT 84114-1201  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Cecilia Niederhauser by phone at 801-538-3261, by FAX at 801-538-9694, or by Internet E-mail at cniederhauser@utah.gov

AUTHORIZED BY: Jim Russell, Director

EFFECTIVE: 09/07/2017

**Administrative Services, Facilities  
Construction and Management**

**R23-14**

**Management of Roofs on State  
Buildings**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 42070  
FILED: 09/07/2017

**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 provides for the management of roofs on state buildings to prevent damage to the roof and to improve the security of state buildings. This rule is authorized under Section 63A-5-103 which directs the Building Board to make rules necessary for the discharge of its duties and those of the Division of Facilities Construction and Management (DFCM).

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.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is needed because it provides and clarifies purpose and authority, definitions, buildings managed by DFCM, buildings managed by responsible agencies, and access to Capital Improvement Funds for roofing repairs for DFCM. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
ADMINISTRATIVE SERVICES  
FACILITIES CONSTRUCTION AND MANAGEMENT  
ROOM 4110 STATE OFFICE BLDG  
450 N STATE ST  
SALT LAKE CITY, UT 84114-1201  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Cecilia Niederhauser by phone at 801-538-3261, by FAX at 801-538-9694, or by Internet E-mail at cniederhauser@utah.gov

AUTHORIZED BY: Jeff Reddoor, State Building Board Manager

EFFECTIVE: 09/07/2017

**Administrative Services, Facilities  
Construction and Management  
R23-21**

**Division of Facilities Construction and  
Management Lease Procedures**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 42071  
FILED: 09/07/2017

**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: As provided in Subsection 63A-6-208(2), this rule establishes procedures for the procurement of leasing of real property. The Building Board's authority to adopt rules for the activities of the Division of Facilities Construction and Management (DFCM) is set forth in Subsection 63A-5-103(1)(e). The statutory provisions governing the procurement of leasing of real property by DFCM are contained in Title 63G, Chapter 6; Title 63A, Chapter 5; and Title 4, Chapter 1.

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.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is needed because it establishes procedures for the procurement of leasing of real property. It provides clarification concerning purpose and authority, new leases, renewal of leases and options, lease advertisement procedures and specifications, and non-state tenants utilizing state-owned space. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
ADMINISTRATIVE SERVICES  
FACILITIES CONSTRUCTION AND MANAGEMENT  
ROOM 4110 STATE OFFICE BLDG  
450 N STATE ST  
SALT LAKE CITY, UT 84114-1201  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Cecilia Niederhauser by phone at 801-538-3261, by FAX at 801-538-9694, or by Internet E-mail at [cniederhauser@utah.gov](mailto:cniederhauser@utah.gov)

AUTHORIZED BY: Jeff Reddoor, State Building Board  
Manager

EFFECTIVE: 09/07/2017

**Administrative Services, Facilities  
Construction and Management  
R23-24**

**Capital Projects Utilizing Non-  
appropriated Funds**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 42072  
FILED: 09/07/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The purpose of this rule is to establish the policy of the Utah State Building Board relative to projects which are funded partially or totally by non-appropriated funds; and establish requirements for verification of funding and the timing of reimbursements to the Division of Facilities Construction and Management (DFCM) for expenditures made. This rule is authorized under Subsection 63A-5-103(1)(e), which directs the Building Board to make rules necessary for the discharge of the duties of DFCM.

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.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is necessary in order to establish the policy concerning verification of funding and timing of reimbursements to DFCM for Capital Project expenditures. It also provides clarification concerning purpose, authority, and background. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
ADMINISTRATIVE SERVICES  
FACILITIES CONSTRUCTION AND MANAGEMENT  
ROOM 4110 STATE OFFICE BLDG  
450 N STATE ST  
SALT LAKE CITY, UT 84114-1201  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Cecilia Niederhauser by phone at 801-538-3261, by FAX at 801-538-9694, or by Internet E-mail at cniederhauser@utah.gov

AUTHORIZED BY: Jeff Reddoor, State Building Board Manager

EFFECTIVE: 09/07/2017

**Commerce, Corporations and  
Commercial Code  
R154-1**

**Central Filing System for Agriculture  
Product Liens**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 42079  
FILED: 09/11/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The state system incorporating federal code for agriculture products. It also creates a masterlist for liens on farm equipment, crops, and livestock. This is required according to Section 70A-9a-308.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There were no comments received regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Division is still the operator for the federal central filing system. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
COMMERCE  
CORPORATIONS AND COMMERCIAL CODE  
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:  
♦ Kathy Berg by phone at 801-530-6216, by FAX at 801-530-6438, or by Internet E-mail at kberg@utah.gov

AUTHORIZED BY: Kathy Berg, Director

EFFECTIVE: 09/11/2017

**Education, Administration  
R277-108  
Annual Assurance of Compliance by  
Local School Boards**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 42087  
FILED: 09/13/2017

**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 53A-1-401 allows the Utah State Board of Education (Board) to make rules to execute the Board's duties and responsibilities under the Utah Constitution, state law, and allows the Board to withhold disbursements of state aid to any district which fails to comply with rules adopted in accordance with the 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 R277-108 continues to be necessary because it provides local school boards with a list of laws requiring local school board action and a means of assuring that local school boards are in compliance. 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](mailto:angie.stallings@schools.utah.gov)

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

EFFECTIVE: 09/13/2017

## Education, Administration

**R277-420**

## Aiding Financially Distressed School Districts

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 42088  
FILED: 09/13/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-19-105(5) requires the Utah State Board of Education (Board) to develop standards for defining and aiding financially distressed school districts; 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 R277-420 continues to be necessary because it specifies eligibility requirements and procedures for interfund transfers for financially distressed school districts. 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](mailto:angie.stallings@schools.utah.gov)

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

EFFECTIVE: 09/13/2017

## Education, Administration

**R277-422**

## State Supported Voted Local Levy, Board Local Levy and Reading Improvement Program

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 42089  
FILED: 09/13/2017

**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 53A-1-401 allows the Utah State Board of Education (Board) to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; Subsection 53A-1-402(1)(e) directs the Board to establish rules for school productivity and cost effectiveness measures, federal programs, school budget formats, and financial, statistical, and student accounting requirements; and Sections 53A-17a-150 and 53A-17a-164 require the Board to distribute money to local education agencies through the voted and board levy guarantee programs and the K-3 Reading Improvement Program.

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 R277-422 continues to be necessary because it specifies requirements, timelines, and clarifications for the state-supported voted local levy, the board local levy, and the Reading Improvement Program. 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.

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](mailto:angie.stallings@schools.utah.gov)

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](mailto:angie.stallings@schools.utah.gov)

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

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

EFFECTIVE: 09/13/2017

EFFECTIVE: 09/13/2017

Education, Administration

**R277-424**

Indirect Costs for State Programs

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 42090  
FILED: 09/13/2017

**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 53A-1-401 allows the Utah State Board of Education (Board) to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and Subsection 53A-1-402(1)(e) directs the Board to establish rules for financial, statistical, and student accounting requirements.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No 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 R277-424 continues to be necessary because it establishes standards for claiming costs for state programs. Therefore, this rule should be continued.

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

EDUCATION  
ADMINISTRATION

Education, Administration

**R277-426**

Definition of Private and Non-Profit Schools for Federal Program Services

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 42091  
FILED: 09/13/2017

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53A-1-402(3) allows the Utah State Board of Education (Board) to administer federal funds and to distribute them to eligible applicants; 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 R277-426 continues to be necessary because it defines requirements that private, non-public, and non-profit schools must meet in conjunction with federal program criteria to receive services under federal laws requiring the public education system to serve students in these schools. 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](mailto:angie.stallings@schools.utah.gov)

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

EFFECTIVE: 09/13/2017

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](mailto:angie.stallings@schools.utah.gov)

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

EFFECTIVE: 09/13/2017

Education, Administration  
**R277-454**

Construction Management of School Building Projects

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 42092  
FILED: 09/13/2017

**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 53A-20-103 requires the Utah State Board of Education (Board) to prepare an annual school plant capital outlay report of all local education agencies, which includes information on the number and size of building projects completed and under construction; 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 R277-454 continues to be necessary because it specifies the standards local boards of education shall follow in using construction management for school construction projects. Therefore, this rule should be continued.

Education, Administration  
**R277-474**

School Instruction and Human Sexuality

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 42093  
FILED: 09/13/2017

**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: Subsections 53A-13-101(1) and (3) direct the Utah State Board of Education (Board) to adopt rules to allow local school boards to adopt human sexuality education materials or programs and provide human sexuality instruction as in accordance with Section 53A-13-101; 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 R277-474 continues to be necessary because it provides requirements for local education

agencies and individual educators to select instructional materials about human sexuality and maturation, provide notice to parents of proposed human sexuality and maturation discussions and instruction, and provide direction to public education employees regarding instruction and discussion of maturation and human sexuality with students. 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](mailto:angie.stallings@schools.utah.gov)

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

EFFECTIVE: 09/13/2017

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R277-509 continues to be necessary because it specifies the procedure under which the Board issues licenses to student teachers and interns. 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](mailto:angie.stallings@schools.utah.gov)

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

EFFECTIVE: 09/13/2017

**Education, Administration**  
**R277-509**  
**Licensure of Student Teachers and Interns**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 42094  
FILED: 09/13/2017

**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 53A-1-401 allows the Utah State Board of Education (Board) to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; Subsection 53A-6-104(1) permits the Board to issue licenses for educators; and Subsection 53A-6-401(3) directs the Board to establish a procedure for obtaining and evaluating relevant information about license applicants.

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.

**Education, Administration**  
**R277-522**  
**Entry Years Enhancements (EYE) for Quality Teaching - Level 1 Utah Teachers**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
DAR FILE NO.: 42095  
FILED: 09/13/2017

**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 53A-1-401 allows the Utah State Board of Education (Board) to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and Section 53A-6-106 directs the Board to establish rules for the training and experience required of educator license applicants.

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 R277-522 continues to be necessary because it outlines required entry years enhancements of professional and emotional support for Level 1 teachers to develop successful teaching skills and strategies with assistance from experienced colleagues. 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](mailto:angie.stallings@schools.utah.gov)

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

EFFECTIVE: 09/13/2017

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

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 42074  
FILED: 09/08/2017

**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 19-2-104(1)(a) gives the Air Quality Board the authority to make rules regarding the control, abatement, and prevention of air pollution from all sources. These provisions authorize this rule because Rule R307-214 incorporates by reference the federal standards for emissions of hazardous pollutants from various sources.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There were no written comments received regarding this rule since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule gives Utah the authority to enforce emission standards that would otherwise be enforced solely by the federal government. In order to retain control over hazardous air pollutants in the state, the rule 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](mailto:rstephens@utah.gov)

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 09/08/2017

**Environmental Quality, Water Quality  
R317-8  
Utah Pollutant Discharge Elimination  
System (UPDES)**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 42081  
FILED: 09/12/2017

**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 19-5-107 authorizes the Utah Water Quality Board to require discharge permits to control the management of sewage sludge or to prevent or control the discharge of pollutants, including effluent limitations for the discharge of waste into the waters of the state. Subsection 19-5-108(1) authorizes the Utah Water Quality Board to make rules and requires the submission of plans, specifications, and other information to the Director in connection with the issuance of discharge permits.

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 in the last five years regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is required by the Utah Water Quality Board to implement Utah's Pollutant Discharge Elimination System (UPDES). It provides the structure for the surface water discharge permit. The rule is required to maintain state primacy for administering the UPDES program. If Utah does not obtain and maintain primacy to regulate the UPDES rules at least equivalent to the federal rules, then the Environmental Protection Agency will regulate the federal rules using direct implementation procedures. In promulgating the rule, the Utah Water Quality Board made the determination that the UPDES Program is best administered at the state level. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Judy Etherington by phone at 801-536-4344, by FAX at 801-536-4301, or by Internet E-mail at jetherington@utah.gov

AUTHORIZED BY: Erica Gaddis, Director

EFFECTIVE: 09/12/2017

**Financial Institutions, Banks  
 R333-5**

**Discount Securities Brokerage Service  
 by Banks**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 42124  
 FILED: 09/15/2017

**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 7-1-301(3)(a) grants

the commissioner power to authorize a state-chartered depository institution all rights, powers, privileges, benefits, or immunities it would possess if it were chartered under the laws of the United States. Section 7-3-3.2 authorizes banks to engage in the business of purchasing, selling, underwriting, and dealing in securities subject to the limitations of this section.

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 supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule limits securities activities to "discount brokerage" services and gives state-chartered banks competitive equality with national banks which have their principal office in this state by granting the same rights and privileges to state chartered bank as are enjoyed by Utah's national banks. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 FINANCIAL INSTITUTIONS  
 BANKS  
 ROOM 201  
 324 S STATE ST  
 SALT LAKE CITY, UT 84111-2393  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Paul Allred by phone at 801-538-8854, by FAX at 801-538-8894, or by Internet E-mail at pallred@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 09/15/2017

**Financial Institutions, Banks  
 R333-7**

**Investment by a State-Chartered Bank  
 in Shares of Open-End Investment  
 Companies**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 42060  
 FILED: 09/05/2017

**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 7-1-301(8)(b)(i) authorizes the Commissioner to establish eligible classes and types of investments for the deposits and funds for financial institutions if the restrictions or requirements are not more stringent than those applicable under federal law or regulation to federally-chartered institutions of the same class.

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 supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule permits a state-chartered bank to purchase for its own account shares of open-end investment companies subject to certain restrictions. The rule expands eligible classes and types of investments for state-chartered banks and gives them rights, privileges, and powers granted to national banks. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 FINANCIAL INSTITUTIONS  
 BANKS  
 ROOM 201  
 324 S STATE ST  
 SALT LAKE CITY, UT 84111-2393  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Paul Allred by phone at 801-538-8854, by FAX at 801-538-8894, or by Internet E-mail at [pallred@utah.gov](mailto:pallred@utah.gov)

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 09/05/2017

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**Financial Institutions, Banks  
 R333-8  
 Authority for Banks to Issue  
 Subordinated Capital Notes or  
 Debentures**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 42125  
 FILED: 09/15/2017

**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 7-1-301(8)(v) authorizes the commissioner to put "limitations on the amount and type of borrowings by each class of financial institution in relation to the amount of its capital and the character and condition of its assets and its deposits and other liabilities". Section 7-3-28 covers the issuance of capital notes or debentures, when they shall be subordinated, that they may not exceed certain limitations, that the amount for not maturing within one year will be added to the capital of the bank, and other regulations for protection.

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 supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule establishes the criteria and procedures for issuance of subordinated capital notes or debentures and limitations on the total amount of such instruments which may be outstanding in order to protect the bank's depositors and shareholders. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 FINANCIAL INSTITUTIONS  
 BANKS  
 ROOM 201  
 324 S STATE ST  
 SALT LAKE CITY, UT 84111-2393  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Paul Allred by phone at 801-538-8854, by FAX at 801-538-8894, or by Internet E-mail at [pallred@utah.gov](mailto:pallred@utah.gov)

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 09/15/2017

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**Financial Institutions, Banks  
R333-9**

**Indemnification of Directors, Officers,  
and Employees**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 42126  
FILED: 09/15/2017

**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 7-1-301(4) authorizes the commissioner to safeguard the interest of shareholders, members, depositors, and other customers of institutions. Section 7-3-13 restricts changes in the articles of incorporation if the change would result in the impairment of the rights, remedies, or securities of depositors and other creditors.

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 supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule defines, clarifies, and limits the extent to which a state-chartered bank may provide in its articles of incorporation or bylaws for the indemnification of directors, officers, and employees. The rule also deters acts that could threaten the safety and soundness of banks by specifically prohibiting the indemnification of directors, officers, and employees. Therefore, this rule should be continued.

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

FINANCIAL INSTITUTIONS  
BANKS  
ROOM 201  
324 S STATE ST  
SALT LAKE CITY, UT 84111-2393  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Paul Allred by phone at 801-538-8854, by FAX at 801-538-8894, or by Internet E-mail at [pallred@utah.gov](mailto:pallred@utah.gov)

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 09/15/2017

**Financial Institutions, Banks  
R333-10**

**Securities Activities of Subsidiaries and  
Affiliates of State-Chartered Banks**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 42127  
FILED: 09/15/2017

**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 7-3-3.2 authorizes banks to engage in the business of purchasing, selling, underwriting, and dealing in securities subject to the limitations of this section. Section 7-3-21 outlines the conditions of stock ownership by banks.

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 supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule establishes safeguards to ensure that subsidiaries or affiliates engaged in securities activities do not endanger the safety and soundness of the state-chartered banks. Therefore, this rule should be continued.

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

FINANCIAL INSTITUTIONS  
BANKS  
ROOM 201  
324 S STATE ST  
SALT LAKE CITY, UT 84111-2393  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Paul Allred by phone at 801-538-8854, by FAX at 801-538-8894, or by Internet E-mail at [pallred@utah.gov](mailto:pallred@utah.gov)

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 09/15/2017

Financial Institutions, Credit Unions  
**R337-2**

Conversion from a Federal to a State-Chartered Credit Union

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 42059  
FILED: 09/05/2017

**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 7-1-301 authorizes rulemaking authority to the Commissioner; Section 7-1-706 grants the Commissioner authority to exercise procedural power; and Subsection 7-1-713(4) authorizes the conversion of financial institutions from federal to state-chartered.

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 supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule establishes the requirements and procedures for converting from a federally-chartered credit union to a state-chartered credit union. Therefore, this rule should be continued.

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

FINANCIAL INSTITUTIONS  
CREDIT UNIONS  
ROOM 201  
324 S STATE ST  
SALT LAKE CITY, UT 84111-2393  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Paul Allred by phone at 801-538-8854, by FAX at 801-538-8894, or by Internet E-mail at [pallred@utah.gov](mailto:pallred@utah.gov)

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 09/05/2017

Financial Institutions, Credit Unions  
**R337-5**

Allowance for Loan and Lease Losses - Credit Unions

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 42061  
FILED: 09/05/2017

**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 7-9-29 states that credit unions shall establish an allowance account for loan losses subject to regulation as the commissioner may prescribe.

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 supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is necessary because it requires an allowance account for loan losses and prescribes the optional methods of determining the required amount. Therefore, this rule should be continued.

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

FINANCIAL INSTITUTIONS  
CREDIT UNIONS  
ROOM 201  
324 S STATE ST  
SALT LAKE CITY, UT 84111-2393  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Paul Allred by phone at 801-538-8854, by FAX at 801-538-8894, or by Internet E-mail at [pallred@utah.gov](mailto:pallred@utah.gov)

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 09/05/2017

Health, Health Care Financing,  
Coverage and Reimbursement Policy  
**R414-2A**  
Inpatient Hospital Services

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 42138  
FILED: 09/15/2017

**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 26-18-3 requires the Department of Health (Department) to implement the Medicaid program through administrative rules. Additionally, 42 CFR 440.10 authorizes the provision of inpatient hospital services.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department did not receive any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department will continue this rule because it implements provisions for member eligibility, hospital admissions, the Prepaid Mental Health Plan, service coverage, copayment, and reimbursement.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
HEALTH  
HEALTH CARE FINANCING,  
COVERAGE AND REIMBURSEMENT POLICY  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY, UT 84116-3231  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 09/15/2017

Health, Health Care Financing,  
Coverage and Reimbursement Policy  
**R414-3A**  
Outpatient Hospital Services

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 42139  
FILED: 09/15/2017

**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 26-18-3 requires the Department of Health (Department) to implement the Medicaid program through administrative rules. Additionally, 42 CFR 440.20 authorizes the provision of outpatient hospital services.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department did not receive any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department will continue this rule because it implements provisions for member eligibility, program access, the Prepaid Mental Health Plan, prior authorization, service coverage, copayment, and reimbursement.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
HEALTH  
HEALTH CARE FINANCING,  
COVERAGE AND REIMBURSEMENT POLICY  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY, UT 84116-3231  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 09/15/2017



Housing Corporation (Utah),  
Administration

**R460-1**

Authority and Purpose

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 42129  
FILED: 09/15/2017

**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: Title 63H, Chapter 8, Part 1, as amended (the Act), is the enabling legislation of the Utah Housing Corporation (UHC). Section 63H-8-301 of the Act grants UHC the power to adopt, amend, and repeal rules. Section 63H-8-302 of the Act states that UHC shall make rules governing the activities authorized by its enabling legislation.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: UHC has received no comments, either orally or in writing, supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule is necessary to provide a clear statement to the public and any entity with which UHC may conduct business of the rulemaking authority and responsibility granted to UHC by statute.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
HOUSING CORPORATION (UTAH)  
ADMINISTRATION  
2479 LAKE PARK BLVD  
WEST VALLEY CITY, UT 84120  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Jonathan Hanks by phone at 801-902-8221, by FAX at 801-902-8321, or by Internet E-mail at [jhanks@uthc.org](mailto:jhanks@uthc.org)

AUTHORIZED BY: Grant Whitaker, President and CEO

EFFECTIVE: 09/15/2017

Housing Corporation (Utah),  
Administration

**R460-2**

Definition of Terms Used Throughout  
R460

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 42130  
FILED: 09/15/2017

**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: Title 63H, Chapter 8, Part 1, as amended (the Act), is the enabling legislation of the Utah Housing Corporation (UHC). Section 63H-8-301 of the Act grants UHC the power to adopt, amend, and repeal rules. Section 63H-8-302 of the Act states that UHC shall make rules governing the activities authorized by its enabling legislation.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: UHC has received no comments, either orally or in writing, supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary to continue this rule to provide the public with clear definitions of terms used in UHC's rules.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
HOUSING CORPORATION (UTAH)  
ADMINISTRATION  
2479 LAKE PARK BLVD  
WEST VALLEY CITY, UT 84120  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Jonathan Hanks by phone at 801-902-8221, by FAX at 801-902-8321, or by Internet E-mail at [jhanks@uthc.org](mailto:jhanks@uthc.org)

AUTHORIZED BY: Grant Whitaker, President and CEO

EFFECTIVE: 09/15/2017

Housing Corporation (Utah),  
Administration

**R460-3**

Programs of UHC

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 42131  
FILED: 09/15/2017

**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: Title 63H, Chapter 8, Part 1, as amended (the Act), is the enabling legislation of the Utah Housing Corporation (UHC). Section 63H-8-301 of the Act grants UHC the power to adopt, amend, and repeal rules. Section 63H-8-302 of the Act states that UHC shall make rules governing the activities authorized by its enabling legislation.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: UHC has received no comments, either orally or in writing, supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The continuation of this rule is necessary to provide the public with a clear statement of the programs available from UHC and the general purpose and scope of each of those programs which have been created under authority granted to UHC by statute.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
HOUSING CORPORATION (UTAH)  
ADMINISTRATION  
2479 LAKE PARK BLVD  
WEST VALLEY CITY, UT 84120  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Jonathan Hanks by phone at 801-902-8221, by FAX at 801-902-8321, or by Internet E-mail at [jhanks@uthc.org](mailto:jhanks@uthc.org)

AUTHORIZED BY: Grant Whitaker, President and CEO

EFFECTIVE: 09/15/2017

Housing Corporation (Utah),  
Administration

**R460-4**

Additional Servicing Rules (Reserved)

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 42132  
FILED: 09/15/2017

**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: Title 63H, Chapter 8, Part 1, as amended (the Act), is the enabling legislation of the Utah Housing Corporation (UHC). Section 63H-8-301 of the Act grants UHC the power to adopt, amend, and repeal rules. Section 63H-8-302 of the Act states that UHC shall make rules governing the activities authorized by its enabling legislation.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: UHC has received no comments, either orally or in writing, supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The justification for continuing this rule, even though it is only "reserved", is that the mortgage servicing world continues to evolve, with a few state housing agencies beginning to service loans for other states, beginning in the last several years. Furthermore, UHC services all of its own loans and may add language to this rule at a future date.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
HOUSING CORPORATION (UTAH)  
ADMINISTRATION  
2479 LAKE PARK BLVD  
WEST VALLEY CITY, UT 84120  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Jonathan Hanks by phone at 801-902-8221, by FAX at 801-902-8321, or by Internet E-mail at [jhanks@uthc.org](mailto:jhanks@uthc.org)

AUTHORIZED BY: Grant Whitaker, President and CEO

EFFECTIVE: 09/15/2017

Housing Corporation (Utah),  
Administration

**R460-5**

Termination of Eligibility to Participate  
in Programs

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 42133  
FILED: 09/15/2017

**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: Title 63H, Chapter 8, Part 1, as amended (the Act), is the enabling legislation of the Utah Housing Corporation (UHC). Section 63H-8-301 of the Act grants UHC the power to adopt, amend, and repeal rules. Section 63H-8-302 of the Act states that UHC shall make rules governing the activities authorized by its enabling legislation.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: UHC has received no comments, either orally or in writing, supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary to continue this rule to provide the public with a clear statement of what type of activity and/or behavior by a participant in UHC's programs may lead to the termination of that participant's eligibility to continue to participate in UHC's programs.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
HOUSING CORPORATION (UTAH)  
ADMINISTRATION  
2479 LAKE PARK BLVD  
WEST VALLEY CITY, UT 84120  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Jonathan Hanks by phone at 801-902-8221, by FAX at 801-902-8321, or by Internet E-mail at [jhanks@uthc.org](mailto:jhanks@uthc.org)

AUTHORIZED BY: Grant Whitaker, President and CEO

EFFECTIVE: 09/15/2017

Housing Corporation (Utah),  
Administration

**R460-6**

Adjudicative Proceedings

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 42134  
FILED: 09/15/2017

**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: Title 63H, Chapter 8, Part 1, as amended (the Act), is the enabling legislation of the Utah Housing Corporation (UHC). Section 63H-8-301 of the Act grants UHC the power to adopt, amend, and repeal rules. Section 63H-8-302 of the Act states that UHC shall make rules governing the activities authorized by its enabling legislation.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: UHC has received no comments, either orally or in writing, supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary to continue this rule to provide the public with a clear statement of the process UHC will follow when UHC determines that an adjudicative proceeding is necessary.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
HOUSING CORPORATION (UTAH)  
ADMINISTRATION  
2479 LAKE PARK BLVD  
WEST VALLEY CITY, UT 84120  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Jonathan Hanks by phone at 801-902-8221, by FAX at 801-902-8321, or by Internet E-mail at [jhanks@uthc.org](mailto:jhanks@uthc.org)

AUTHORIZED BY: Grant Whitaker, President and CEO

EFFECTIVE: 09/15/2017

Housing Corporation (Utah),  
Administration

**R460-7**

Public Petitions for Declaratory Orders

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 42135  
FILED: 09/15/2017

**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: Title 63H, Chapter 8, Part 1, as amended (the Act), is the enabling legislation of the Utah Housing Corporation (UHC). Section 63H-8-301 of the Act grants UHC the power to adopt, amend, and repeal rules. Section 63H-8-302 of the Act states that UHC shall make rules governing the activities authorized by its enabling legislation.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: UHC has received no comments, either orally or in writing, supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary to continue this rule to provide the public with a clear statement of the procedures required for petitions for declaratory orders with regard to the applicability of rules, statutes, and orders governing or issued by UHC.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
HOUSING CORPORATION (UTAH)  
ADMINISTRATION  
2479 LAKE PARK BLVD  
WEST VALLEY CITY, UT 84120  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Jonathan Hanks by phone at 801-902-8221, by FAX at 801-902-8321, or by Internet E-mail at [jhanks@uthc.org](mailto:jhanks@uthc.org)

AUTHORIZED BY: Grant Whitaker, President and CEO

EFFECTIVE: 09/15/2017

Housing Corporation (Utah),  
Administration

**R460-8**

Americans with Disabilities Act (ADA)  
Complaint Procedures

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 42136  
FILED: 09/15/2017

**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: Title 63H, Chapter 8, Part 1, as amended (the Act), is the enabling legislation of the Utah Housing Corporation (UHC). Section 63H-8-301 of the Act grants UHC the power to adopt, amend, and repeal rules. Section 63H-8-302 of the Act states that UHC shall make rules governing the activities authorized by its enabling legislation.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: UHC has received no comments, either orally or in writing, supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: It is necessary to continue this rule to provide the public with a clear procedure UHC will follow for the prompt and equitable resolution of any complaints filed under the Americans with Disabilities Act.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
HOUSING CORPORATION (UTAH)  
ADMINISTRATION  
2479 LAKE PARK BLVD  
WEST VALLEY CITY, UT 84120  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Jonathan Hanks by phone at 801-902-8221, by FAX at 801-902-8321, or by Internet E-mail at [jhanks@uthc.org](mailto:jhanks@uthc.org)

AUTHORIZED BY: Grant Whitaker, President and CEO

EFFECTIVE: 09/15/2017

**Insurance, Title and Escrow  
Commission  
R592-5  
Title Insurance Product or Service  
Approval for a Dual Licensed Title  
Licensee**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 42099  
FILED: 09/13/2017

**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 31A-2-404 authorizes the Title and Escrow Commission to make rules regarding title insurance matters in accordance with the Utah Administrative Rulemaking Act, with the concurrence of the Insurance Commissioner, and with proper notice being given to the Office of Administrative Rules and the Real Estate Commission. Subsection 31A-2-405(5) authorizes the Title and Escrow Commission to make rules subject to Section 31A-2-404 to implement the filing requirements under Subsection 31A-2-405(2).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has received no written comments regarding this rule during the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: On 09/11/2017, the Title and Escrow Commission directed the Utah Insurance Department to continue Rule R592-5. The rule sets requirements for a dual licensed title licensee to obtain approval from the Insurance Commissioner or expedited approval from the Title and Escrow Commission to sell a title insurance product.

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

INSURANCE  
TITLE AND ESCROW COMMISSION  
ROOM 3110 STATE OFFICE BLDG  
450 N MAIN ST  
SALT LAKE CITY, UT 84114-1201  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

AUTHORIZED BY: Steve Gooch, Information Specialist

EFFECTIVE: 09/13/2017

**Natural Resources, Administration  
R634-1  
Americans With Disabilities Complaint  
Procedures**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 42103  
FILED: 09/14/2017

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is promulgated pursuant to Subsection 63G-3-201(2). The Department of Natural Resources, pursuant to 28 CFR 35.107, 2002 ed., adopts, defines, and publishes within this rule complaint procedures providing for prompt and equitable resolution of complaints filed in accordance with Title II of the Americans With Disabilities Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments supporting or opposing Rule R634-1 were received since January 2013 when the rule was last reviewed.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R634-1 implements the provisions of Title II of the Americans With Disabilities Act, 42 USC 12201, which provides that no qualified individual with a disability, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by this or any such entity. Therefore, this rule should be continued.

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

NATURAL RESOURCES  
ADMINISTRATION  
ROOM 3710  
1594 W NORTH TEMPLE

SALT LAKE CITY, UT 84116-3154  
 or at the Office of Administrative Rules.

SALT LAKE CITY, UT 84116-3154  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Kaelyn Anfinson by phone at 801-538-7201, by FAX at 801-538-7315, or by Internet E-mail at kaelyn@utah.gov

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Barbara Allen by phone at 801-538-72352, by FAX at 801-538-7279, or by Internet E-mail at barbara@utah.gov

AUTHORIZED BY: Michael Styler, Executive Director

AUTHORIZED BY: Eric Millis, Director

EFFECTIVE: 09/14/2017

EFFECTIVE: 09/15/2017

**Natural Resources, Water Resources  
 R653-2  
 Financial Assistance from the Board of  
 Water Resources**

**Transportation, Operations,  
 Aeronautics  
 R914-1  
 Rules and Regulations**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 42128  
 FILED: 09/15/2017

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 42062  
 FILED: 09/05/2017

**NOTICE OF REVIEW AND STATEMENT OF  
 CONTINUATION**

**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: Title 73, Chapter 10, establishes the Board of Water Resources and details its authority and procedure for providing loans for constructing water projects, bringing state-owned dams up to current standards, and funding large state water projects.

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The Aeronautics Act, at Subsection 72-10-103(1), requires the Department of Transportation (Department) to make rules "governing the establishment, location, and use of air navigation facilities; regulating the use, licensing, and supervision of airports; establishing minimum standards with which all air navigation facilities, flying clubs, aircraft, gliders, pilots, and airports must comply; and safeguarding from accident and protecting the safety of persons operating or using aircraft and persons and property on the ground." The Department has promulgated this rule to comply with those requirements.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any written comments during and since the last five-year review of the rule from interested persons supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Board of Water Resources receives many applications each year for funding assistance to build much needed water projects and upgrade existing dams to current standards throughout the state, and has been directed by the state legislature to establish a fund to help pay for future large water projects in the state (Lake Powell Pipeline and Bear River Development). Therefore, this rule should be continued.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The safety of persons operating or using aircraft and persons and property on the ground is the primary purpose of the Aeronautics Act and a core responsibility of the Department. This rule is a resource the Department must have in place to satisfy that responsibility. Therefore, this rule must be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 NATURAL RESOURCES  
 WATER RESOURCES  
 ROOM 310  
 1594 W NORTH TEMPLE

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

TRANSPORTATION  
OPERATIONS, AERONAUTICS  
135 N 2400 W  
SALT LAKE CITY, UT 84116-2982  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at [cwnewman@utah.gov](mailto:cwnewman@utah.gov)  
♦ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at [jimpalmer@utah.gov](mailto:jimpalmer@utah.gov)  
♦ Linda Hull by phone at 801-965-4253, or by Internet E-mail at [lhull@utah.gov](mailto:lhull@utah.gov)

AUTHORIZED BY: Carlos Braceras, Executive Director

EFFECTIVE: 09/05/2017

**Transportation, Operations,  
Aeronautics  
R914-2  
Safety Rules and Procedures for  
Aircraft Operations on Roads**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION  
DAR FILE NO.: 42063  
FILED: 09/05/2017**

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized and required by Subsection 72-10-117(3) of the Aeronautics Act, Subsection 72-10-103(1) of the Act requires the Department of Transportation (Department) to make rules "governing the establishment, location, and use of air navigation facilities; regulating the use, licensing, and supervision of airports; establishing minimum standards with which all air navigation facilities, flying clubs, aircraft, gliders, pilots, and airports must comply; and safeguarding from accident and protecting the safety of persons operating or using aircraft and persons and property on the ground." The Department has promulgated this rule to comply with the requirements of those subsections.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any written comments during and since the last five-year

review of the rule from interested persons supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Subsection 72-10-117(3), as well as other sections of the Aeronautics Act, require the Department to make rules that provide for the safety of the flying and motoring public. Providing for the safety of the public is a core responsibility of the Department. This rule is a resource the Department must have in place to satisfy that responsibility. Therefore, this rule should be continued.

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

TRANSPORTATION  
OPERATIONS, AERONAUTICS  
135 N 2400 W  
SALT LAKE CITY, UT 84116-2982  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at [cwnewman@utah.gov](mailto:cwnewman@utah.gov)  
♦ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at [jimpalmer@utah.gov](mailto:jimpalmer@utah.gov)  
♦ Linda Hull by phone at 801-965-4253, or by Internet E-mail at [lhull@utah.gov](mailto:lhull@utah.gov)

AUTHORIZED BY: Carlos Braceras, Executive Director

EFFECTIVE: 09/05/2017

**Transportation, Preconstruction  
R930-7  
Utility Accommodation**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION  
DAR FILE NO.: 42085  
FILED: 09/12/2017**

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is promulgated pursuant to Subsection 72-6-116(2), which authorizes the Utah Department of Transportation (UDOT) to regulate and make rules for the installation, construction, maintenance, repair, renewal, system upgrade, and relocation of utility facilities within state administered highways, including ordering their relocation as may become necessary.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has received written comments during and since the last five-year review of the rule from interested persons supporting or opposing the rule. CenturyLink submitted written comments on 10/17/2016 that suggested UDOT make several substantive changes, as well as a number of technical, stylistic, and grammatical changes to a proposed amendment to the rule. Persons within UDOT responsible for Rule R930-7 reviewed, discussed, and considered CenturyLink's suggested changes to the proposed amendment during a meeting held on 10/20/2016. Some of CenturyLink's suggestions were accepted and edited into the proposed rule, while others were not.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Through the Code of Federal Regulations (23 CFR 645.215(a)), the U.S. Department of Transportation requires each state to submit a statement to the Federal Highway Administration (FHWA) on the authority of utility companies to use and occupy the right of way of state highways, the state highway agency's power to regulate the use, and the policies the state employs or proposes to employ for accommodating utilities within the right of way of federal-aid highways under its jurisdiction. This rule demonstrates compliance with 23 CFR Part 645.215(a) and to FHWA. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 TRANSPORTATION  
 PRECONSTRUCTION  
 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:  
 ♦ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at [cwnewman@utah.gov](mailto:cwnewman@utah.gov)  
 ♦ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at [jimpalmer@utah.gov](mailto:jimpalmer@utah.gov)  
 ♦ Linda Hull by phone at 801-965-4253, or by Internet E-mail at [lhull@utah.gov](mailto:lhull@utah.gov)

AUTHORIZED BY: Carlos Braceras, Executive Director

EFFECTIVE: 09/12/2017

**Workforce Services, Housing and  
 Community Development  
 R990-12  
 State Small Business Credit Initiative  
 Program Fund**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 42080  
 FILED: 09/12/2017

**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: In 2010, Congress passed the State Small Business Credit Initiative Act of 2010, 12 U.S.C. 5701 et seq. This federal statute provides funding for state programs that support financing of small businesses. In response to Congress's action, the Utah Legislature created the State Small Business Credit Initiative Program Fund, Section 35A-8-1201 et seq. Per statute, the Fund may "make loans and guarantees...for programs that leverage private lending to help finance small businesses and manufacturers that are creditworthy but not receiving the loans needed to expand and create jobs". Subsection 35A-8-1201(1)(a). The Department of Workforce Services has the specific authority to make rules for administering the program in accordance with federal requirements as per Subsection 35A-8-1202(3).

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 necessary to administer the federal funds provided to the State for use in the State Small Business Credit Initiative Program Fund. Therefore, the rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 WORKFORCE SERVICES  
 HOUSING AND COMMUNITY DEVELOPMENT  
 140 E BROADWAY  
 SALT LAKE CITY, UT 84111-2333  
 or at the Office of Administrative Rules.



DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Nathan White by phone at 801-526-9647, or by Internet E-mail at [nwhite@utah.gov](mailto:nwhite@utah.gov)

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 09/12/2017

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**End of the Five-Year Notices of Review and Statements of Continuation Section**



## NOTICES OF RULE EFFECTIVE DATES

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State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the 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.

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### Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal & Reenact

REP = Repeal

### Health

Health Care Financing, Coverage and Reimbursement Policy

No. 41927 (AMD): R414-1-5. Incorporations by Reference

Published: 08/01/2017

Effective: 09/15/2017

No. 41557 (AMD): R414-305-5. Resource Provisions for Parents and Caretaker Relatives, Pregnant Woman, and Child Under Non-MAGI-Based Community and Institutional Medicaid

Published: 05/15/2017

Effective: 09/13/2017

No. 41557 (CPR): R414-305-5. Resource Provisions for Parents and Caretaker Relatives, Pregnant Woman, and Child Under Non-MAGI-Based Community and Institutional Medicaid

Published: 08/01/2017

Effective: 09/13/2017

Family Health and Preparedness, Licensing

No. 41909 (AMD): R432-600. Abortion Clinic Rule

Published: 08/01/2017

Effective: 09/13/2017

### Money Management Council

Administration

No. 41928 (NEW): R628-2. Investment of Funds of Public Education Foundations Established under Section 53A-4-205 or Funds Acquired by Gift, Devise, or Bequest

Published: 08/01/2017

Effective: 09/07/2017

### Public Safety

Highway Patrol

No. 41863 (REP): R714-220. Standards for Protective Headgear

Published: 07/15/2017

Effective: 09/12/2017

No. 41865 (REP): R714-230. Standards and Specifications for Vehicle Seat Belts and Safety Harnesses

Published: 07/15/2017

Effective: 09/12/2017

No. 41864 (REP): R714-240. Standards and Specifications for Child Restraint Devices and Safety Belts

Published: 07/15/2017

Effective: 09/12/2017

**End of the Notices of Rule Effective Dates Section**



**RULES INDEX  
BY AGENCY (CODE NUMBER)  
AND  
BY KEYWORD (SUBJECT)**

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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, 2017 through September 15, 2017. 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 (801-538-3003).

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 (<https://rules.utah.gov/>).

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## 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
<b>ADMINISTRATIVE SERVICES</b>					
<u>Debt Collection</u>					
R21-1	Transfer of Collection Responsibility of State Agencies	41374	NSC	04/10/2017	Not Printed
R21-1	Transfer of Collection Responsibility of State Agencies	41743	5YR	06/07/2017	2017-13/229
R21-2	Office of State Debt Collection Administrative Procedures	41376	5YR	03/17/2017	2017-8/59
R21-3	Debt Collection Through Administrative Offset	41377	5YR	03/17/2017	2017-8/59
<u>Facilities Construction and Management</u>					
R23-1	Procurement Rules with Numbering Related to the Procurement Code	41266	5YR	02/01/2017	2017-4/57
R23-3	Planning, Programming, Request for Capital Development Projects and Operation and Maintenance Reporting	40947	AMD	01/20/2017	2016-23/6
R23-3	Planning, Programming, Request for Capital Development Projects and Operation and Maintenance Reporting for State Owned Facilities	41578	AMD	07/12/2017	2017-11/6
R23-3-4	Authorization of Programs	41666	NSC	07/19/2017	Not Printed
R23-4	Suspension/Debarment	42065	5YR	09/07/2017	Not Printed
R23-5	Contingency Funds	42066	5YR	09/07/2017	Not Printed
R23-6	Value Engineering and Life Cycle Costing of State Owned Facilities Rules and Regulations	42067	5YR	09/07/2017	Not Printed
R23-9	Cooperation with Local Government Planning	42068	5YR	09/07/2017	Not Printed
R23-10	Naming of State Buildings	42069	5YR	09/07/2017	Not Printed
R23-12	Building Code Appeals Process	42064	5YR	09/07/2017	Not Printed
R23-14	Management of Roofs on State Buildings	42070	5YR	09/07/2017	Not Printed
R23-19	Facility Use Rules	41267	5YR	02/01/2017	2017-4/57
R23-20	Free Speech Activities	41268	5YR	02/01/2017	2017-4/58
R23-21	Division of Facilities Construction and Management Lease Procedures	42071	5YR	09/07/2017	Not Printed
R23-24	Capital Projects Utilizing Non-appropriated Funds	42072	5YR	09/07/2017	Not Printed
R23-30	State Facility Energy Efficiency Fund	40946	AMD	01/20/2017	2016-23/11
<u>Finance</u>					
R25-5	Payment of Per Diem to Boards	41796	NSC	06/29/2017	Not Printed
R25-7	Travel-Related Reimbursements for State Employees	41127	EMR	01/06/2017	2017-3/71
R25-7	Travel-Related Reimbursements for State Employees	41147	AMD	03/10/2017	2017-3/2
R25-7	Travel-Related Reimbursements for State Employees	41797	EMR	07/01/2017	2017-13/221

R25-7	Travel-Related Reimbursements for State Employees	41798	AMD	08/07/2017	2017-13/8
R25-14	Payment of Attorney's Fees in Death Penalty Cases	41124	5YR	01/06/2017	2017-3/79
R25-20	Indigent Defense Funds Board, Procedures for Electronic Meetings	41327	5YR	02/21/2017	2017-6/29
<u>Fleet Operations</u>					
R27-1	Definitions	41105	AMD	02/21/2017	2017-2/4
R27-3	Vehicle Use Standards	41106	AMD	02/21/2017	2017-2/6
R27-4	Vehicle Replacement and Expansion of State Fleet	41107	AMD	02/21/2017	2017-2/12
R27-7	Safety and Loss Prevention of State Vehicles	41609	AMD	07/11/2017	2017-11/11
<u>Inspector General of Medicaid Services (Office of)</u>					
R30-1	Office of Inspector General of Medicaid Services	41487	5YR	04/21/2017	2017-10/163
<u>Purchasing and General Services</u>					
R33-1	Utah Procurement Rule, General Procurement Provisions	41534	AMD	06/21/2017	2017-10/4
R33-4	Supplemental Procurement Procedures	41535	AMD	06/21/2017	2017-10/7
R33-4-101b	Vendors with Exclusive Authorization to Bid	41292	NSC	03/06/2017	Not Printed
R33-5	Other Standard Procurement Processes	41536	AMD	06/21/2017	2017-10/10
R33-5	Other Standard Procurement Processes	41665	NSC	06/26/2017	Not Printed
R33-6	Bidding	41539	AMD	06/21/2017	2017-10/15
R33-7	Request for Proposals	41540	AMD	06/21/2017	2017-10/18
R33-8	Exceptions to Standard Procurement Process	41544	AMD	06/21/2017	2017-10/27
R33-8-102	Adding Additional Funds to a Contract	41023	AMD	02/02/2017	2016-24/4
R33-9	Cancellations, Rejections, and Debarment	41545	AMD	06/21/2017	2017-10/31
R33-11	Form of Bonds	41546	AMD	06/21/2017	2017-10/35
R33-12	Terms and Conditions, Contracts, Change Orders and Costs	41547	AMD	06/21/2017	2017-10/37
R33-13	General Construction Provisions	41548	AMD	06/21/2017	2017-10/43
R33-15	Procurement of Design Profession Services	41549	AMD	06/21/2017	2017-10/47
R33-16	Protests	40898	AMD	01/20/2017	2016-22/10
R33-16	Protests	41550	AMD	06/21/2017	2017-10/48
R33-17	Procurement Appeals Board	41551	AMD	06/21/2017	2017-10/51
R33-18	Appeals to Court and Court Proceedings	41552	AMD	06/21/2017	2017-10/54
R33-19-101	Encouraged to Obtain Legal Advice From Legal Counsel	41553	AMD	06/21/2017	2017-10/55
R33-21-201e	Division May Charge Administrative Fees on State Cooperative Contracts - Prohibition Against Other Procurement Units Charging Fees on State Contracts	41554	AMD	06/21/2017	2017-10/56
R33-25	Executive Branch Insurance Procurement	41555	AMD	06/21/2017	2017-10/57
<u>Records Committee</u>					
R35-1-2	Procedures for Appeal Hearings	41478	AMD	06/22/2017	2017-9/2
R35-2-2	Declining Requests for Hearings	41479	AMD	06/22/2017	2017-9/4
<u>Risk Management</u>					
R37-1	Risk Management General Rules	41601	5YR	05/05/2017	2017-11/209
R37-2	Risk Management State Workers' Compensation Insurance Administration	41602	5YR	05/05/2017	2017-11/210
R37-3	Risk Management Adjudicative Proceedings	41603	5YR	05/05/2017	2017-11/210
R37-4	Adjusted Utah Governmental Immunity Act Limitations on Judgments	41604	5YR	05/05/2017	2017-11/211
AGRICULTURE AND FOOD					
<u>Administration</u>					
R51-2	Administrative Procedures for Informal Proceedings Before the Utah Department of Agriculture and Food	41120	5YR	01/03/2017	2017-2/45

RULES INDEX

Animal Industry

R58-1	Admission, Identification, and Inspection of Livestock, Poultry, and Other Animals	41168	5YR	01/12/2017	2017-3/79
R58-3	Brucellosis Vaccination Requirements	41164	5YR	01/12/2017	2017-3/80
R58-6	Poultry	41165	5YR	01/12/2017	2017-3/80
R58-11	Slaughter of Livestock and Poultry	40951	AMD	01/12/2017	2016-23/16
R58-11	Slaughter of Livestock and Poultry	41372	NSC	04/05/2017	Not Printed
R58-11	Slaughter of Livestock and Poultry	41467	NSC	05/15/2017	Not Printed
R58-18	Elk Farming	41162	5YR	01/12/2017	2017-3/81
R58-19	Compliance Procedures	41194	5YR	01/18/2017	2017-4/58
R58-21	Trichomoniasis	41471	AMD	06/14/2017	2017-9/5
R58-22	Equine Infectious Anemia (EIA)	41163	5YR	01/12/2017	2017-3/81
R58-23	Equine Viral Arteritis (EVA)	41167	5YR	01/12/2017	2017-3/82

Horse Racing Commission (Utah)

R52-7	Horse Racing	41102	AMD	03/06/2017	2017-1/4
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Marketing and Development

R65-5	Utah Red Tart and Sour Cherry Marketing Order	41860	5YR	06/29/2017	2017-14/53
R65-11	Utah Sheep Marketing Order	41859	5YR	06/29/2017	2017-14/53

Plant Industry

R68-15	Quarantine Pertaining to Japanese Beetle, (Popillia Japonica)	41997	5YR	08/03/2017	2017-17/211
R68-19	Compliance Procedures	41195	5YR	01/18/2017	2017-4/59
R68-23	Utah Firewood Quarantine	41675	NEW	08/03/2017	2017-12/8

Regulatory Services

R70-101	Bedding, Upholstered Furniture and Quilted Clothing	40918	AMD	01/26/2017	2016-22/12
R70-101	Bedding, Upholstered Furniture and Quilted Clothing	41371	NSC	04/05/2017	Not Printed
R70-201	Compliance Procedures	41160	5YR	01/12/2017	2017-3/82
R70-320	Minimum Standards for Milk for Manufacturing Purposes, Its Production and Processing	41166	5YR	01/12/2017	2017-3/83
R70-350	Ice Cream and Frozen Dairy Food Standards	41159	5YR	01/12/2017	2017-3/83
R70-360	Procedure for Obtaining a License to Test Milk for Payment	41161	5YR	01/12/2017	2017-3/84
R70-520	Standard of Identity and Labeling Requirements for Honey	41861	5YR	06/29/2017	2017-14/54
R70-530	Food Protection	41344	5YR	03/06/2017	2017-7/81
R70-530	Food Protection	41370	NSC	04/05/2017	Not Printed
R70-550	Utah Inland Shellfish Safety Program	41158	5YR	01/12/2017	2017-3/84
R70-560	Inspection and Regulation of Cottage Food Production Operations	41157	5YR	01/12/2017	2017-3/85
R70-960	Weights and Measures Fee Registration	42030	NSC	09/05/2017	Not Printed

ALCOHOLIC BEVERAGE CONTROL

Administration

R81-3-14	Type 5 Package Agencies	40922	AMD	01/03/2017	2016-22/16
R81-4	Retail Licenses	40924	NEW	01/03/2017	2016-22/17
R81-8	Manufacturer Licenses (Distillery, Winery, Brewery)	40923	AMD	01/03/2017	2016-22/19

ATTORNEY GENERAL

Administration

R105-1	Attorney General's Selection of Outside Counsel, Expert Witnesses and Other Litigation Support Services	40950	AMD	01/20/2017	2016-23/19
R105-1	Attorney General's Selection of Outside Counsel, Expert Witnesses and Other Litigation Support Services	41466	5YR	04/10/2017	2017-9/41
R105-1-6	Small Purchases	41295	NSC	03/06/2017	Not Printed



AUDITOR

Administration

R123-3	State Auditor Adjudicative Proceedings	41764	5YR	06/07/2017	2017-13/230
R123-4	Public Petitions for Declaratory Orders	41765	5YR	06/07/2017	2017-13/230
R123-5	Audit Requirements for Audits of Political Subdivisions and Nonprofit Organizations	41766	5YR	06/07/2017	2017-13/231

CAPITOL PRESERVATION BOARD (STATE)

Administration

R131-3	Use of Magnetometers on Capitol Hill	41573	5YR	05/02/2017	2017-11/211
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COMMERCE

Consumer Protection

R152-6	Utah Administrative Procedures Act Rules	40920	AMD	01/09/2017	2016-22/21
R152-34	Postsecondary Proprietary School Act Rules	41610	5YR	05/08/2017	2017-11/212

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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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	41091	R277-425	REP	02/07/2017	2017-1/36
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long-term care ombudsman

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Human Services, Aging and Adult Services	41881	R510-200	5YR	06/30/2017	2017-14/61
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MAGI-based

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massage therapist

Commerce, Occupational and Professional Licensing	41436	R156-47b	5YR	04/04/2017	2017-9/41
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massage therapy

Commerce, Occupational and Professional Licensing	41436	R156-47b	5YR	04/04/2017	2017-9/41
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	41096	R856-5	NEW	03/22/2017	2017-1/88
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	41829	R856-6	R&R	08/15/2017	2017-13/214
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	41516	R994-106	EXD	04/27/2017	2017-10/179
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	41522	R994-303	NEW	06/21/2017	2017-10/152
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	41523	R994-401	NEW	06/21/2017	2017-10/155
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