

UTAH STATE BULLETIN

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Nancy L. Lancaster, Managing Editor

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

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Office of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3003. Additional rulemaking information and electronic versions of all administrative rule publications are available at <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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TABLE OF CONTENTS

SPECIAL NOTICES	1
Administrative Services	
Administrative Rules	
Invalidation of Filing No. 42432 on Rule R895-2 in the February 1, 2018, Utah State Bulletin.....	1
Environmental Quality	
Air Quality	
Sulfur Dioxide Milestone Report.....	1
Health	
Health Care Financing, Coverage and Reimbursement Policy	
Notice for March 2018 Medicaid Rate Changes.....	2
NOTICES OF PROPOSED RULES	3
Health	
Disease Control and Prevention, Environmental Services	
No. 42516 (Repeal and Reenact): R392-300 Recreation Camp Sanitation.....	4
No. 42527 (Amendment): R392-302 Design, Construction and Operation of Public Pools.....	11
No. 42514 (Repeal and Reenact): R392-401 Roadway Rest Stop Sanitation.....	27
No. 42515 (Repeal and Reenact): R392-502 Hotel, Motel and Resort Sanitation.....	31
Health Care Financing, Coverage and Reimbursement Policy	
No. 42490 (Repeal): R414-509 Medicaid Autism Waiver Open Enrollment Process.....	41
Family Health and Preparedness, Emergency Medical Services	
No. 42554 (Amendment): R426-1 General Definitions.....	43
No. 42555 (Amendment): R426-2 Emergency Medical Services Provider Designations for Pre-Hospital Providers, Critical Incident Stress Management and Quality Assurance Reviews.....	46
No. 42556 (Amendment): R426-3 Licensure.....	50
Natural Resources	
Wildlife Resources	
No. 42492 (Amendment): R657-33 Taking Bear.....	55
No. 42493 (Amendment): R657-62 Drawing Application Procedures.....	57
Regents (Board Of)	
University of Utah, Commuter Services	
No. 42512 (New Rule): R810-1 University of Utah Parking Regulations.....	60
No. 42513 (New Rule): R810-8 Vendor Regulations.....	62
Transportation	
Motor Carrier	
No. 42494 (Amendment): R909-1 Safety Regulations for Motor Carriers.....	63
NOTICES OF CHANGES IN PROPOSED RULES	67
Alcoholic Beverage Control	
Administration	
No. 42290: R81-1-11 Multiple-Licensed Facility Storage and Service.....	68
Health	
Disease Control and Prevention, Health Promotion	
No. 42283: R384-210 Co-prescription Guidelines -- Reporting.....	70
Natural Resources	
Administration	
No. 42309: R634-3 Compensatory Mitigation Program.....	71
NOTICES 120-DAY (EMERGENCY) RULES	81
Health	
Health Care Financing	
No. 42517: R410-14 Administrative Hearing Procedures.....	81

TABLE OF CONTENTS

Health Care Financing, Coverage and Reimbursement Policy
 No. 42487: R414-302-6 Residents of Institutions..... 85
 No. 42488: R414-308-3 Application and Signature..... 87
 No. 42489: R414-311 Targeted Adult Medicaid..... 90

Technology Services
 Administration
 No. 42529: R895-12 Telecommunications Services and Requirements..... 92

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION..... 95

Agriculture and Food
 Plant Industry
 No. 42530: R68-5 Grain Inspection..... 95

Environmental Quality
 Water Quality
 No. 42509: R317-9 Administrative Procedures..... 95
 No. 42510: R317-13 Approvals and Permits for a Water Reuse Project..... 96
 No. 42511: R317-14 Approval of Change in Point of Discharge of POTW..... 96

Health
 Disease Control and Prevention, Environmental Services
 No. 42491: R392-700 Indoor Tanning Bed Sanitation..... 97

Family Health and Preparedness, Licensing
 No. 42520: R432-1 General Health Care Facility Rules..... 98
 No. 42521: R432-2 General Licensing Provisions..... 98
 No. 42522: R432-3 General Health Care Facility Rules Inspection and
 Enforcement..... 99
 No. 42523: R432-4 General Construction..... 99
 No. 42524: R432-5 Nursing Facility Construction..... 100
 No. 42525: R432-6 Assisted Living Facility General Construction..... 100
 No. 42518: R432-16 Hospice Inpatient Facility Construction..... 101
 No. 42519: R432-35 Background Screening -- Health Facilities..... 101

Human Services
 Aging and Adult Services
 No. 42485: R510-105 "Out and About" Homebound Transportation Assistance
 Fund Rules..... 102

Natural Resources
 Oil, Gas and Mining; Administration
 No. 42495: R642-200 Applicability..... 102

Oil, Gas and Mining; Coal
 No. 42496: R645-101 Restrictions on State Employees..... 103
 No. 42497: R645-102 Exemption for Coal Extraction Incident to
 Government-Financed Highway or Other Construction..... 103
 No. 42498: R645-104 Protection of Employees..... 104
 No. 42499: R645-401 Inspection and Enforcement: Civil Penalties..... 104

Oil, Gas and Mining; Non-Coal
 No. 42500: R647-1 Minerals Regulatory Program..... 105
 No. 42501: R647-2 Exploration..... 105
 No. 42502: R647-3 Small Mining Operations..... 106
 No. 42503: R647-4 Large Mining Operations..... 106
 No. 42504: R647-5 Administrative Procedures..... 107
 No. 42505: R647-6 Inspection and Enforcement: Division Authority and
 Procedures..... 108
 No. 42506: R647-7 Inspection and Enforcement: Civil Penalties..... 108
 No. 42507: R647-8 Inspection and Enforcement: Individual Civil Penalties..... 109

Oil, Gas and Mining; Oil and Gas
 No. 42508: R649-6 Gas Processing and Waste Crude Oil Treatment..... 109

NOTICES FIVE-YEAR REVIEW EXTENSION..... 111

 Environmental Quality

 Air Quality

 No. 42546: R307-102 General Requirements: Broadly Applicable Requirements..... 111

 No. 42548: R307-115 General Conformity..... 111

 No. 42550: R307-170 Continuous Emission Monitoring Program..... 111

 No. 42553: R307-220 Emission Standards: Plan for Designated Facilities..... 111

 No. 42552: R307-221 Emission Standards: Emission Controls for Existing Municipal Solid Waste Landfills..... 112

 No. 42532: R307-222 Emission Standards: Existing Incinerators for Hospital, Medical, Infectious Waste..... 112

 No. 42533: R307-223 Emission Standards: Existing Small Municipal Waste Combustion Units..... 112

 No. 42534: R307-224 Mercury Emission Standards: Coal-Fired Electric Generating Units..... 112

 No. 42535: R307-250 Western Backstop Sulfur Dioxide Trading Program..... 113

 No. 42536: R307-312 Aggregate Processing Operations for PM2.5 Nonattainment Areas..... 113

 No. 42537: R307-344 Paper, Film, and Foil Coatings..... 113

 No. 42538: R307-345 Fabric and Vinyl Coatings..... 113

 No. 42539: R307-346 Metal Furniture Surface Coatings..... 114

 No. 42541: R307-347 Large Appliance Surface Coatings..... 114

 No. 42543: R307-348 Magnet Wire Coatings..... 114

 No. 42540: R307-349 Flat Wood Panel Coatings..... 114

 No. 42542: R307-350 Miscellaneous Metal Parts and Products Coatings..... 114

 No. 42544: R307-351 Graphic Arts..... 115

 No. 42545: R307-352 Metal Container, Closure, and Coil Coatings..... 115

 No. 42547: R307-354 Automotive Refinishing Coatings..... 115

 No. 42549: R307-355 Control of Emissions from Aerospace Manufacture and Rework Facilities..... 115

 No. 42551: R307-801 Utah Asbestos Rule..... 115

NOTICES OF FIVE YEAR EXPIRATIONS..... 117

 Technology Services

 Administration

 No. 42528: R895-12 Telecommunications Services and Requirements..... 117

NOTICES OF RULE EFFECTIVE DATES..... 119

RULES INDEX

BY AGENCY (CODE NUMBER)

AND

BY KEYWORD (SUBJECT)..... 121

SPECIAL NOTICES

Administrative Services Administrative Rules

Invalidation of Filing No. 42432 on Rule R895-2 in the February 1, 2018, Utah State Bulletin

The amendment filing for Rule R895-12 (Filing No. 42432 published in the February 1, 2018, Utah State Bulletin) had to be invalidated after publication because of the expiration of Rule R895-12 (Filing No. 42528 in this issue, February 15, 2018, of the Bulletin) for failure to complete a five-year notice of review and statement of continuation by the deadline of 01/30/2018.

The rule expired on 01/30/2018, however, the Department of Technology Services filed a 120-day (emergency) rule (Filing No. 42529 in this issue, February 15, 2018, of the Bulletin) on 01/30/2018 to put Rule R895-12 back into place.

Questions concerning this matter can be directed to: Nancy Lancaster, Publications Editor, at 801-538-3218 or email at nllancaster@utah.gov

Environmental Quality Air Quality

Sulfur Dioxide Milestone Report

Utah's State Implementation Plan for Regional Haze (the Plan) adopted by the Air Quality Board on April 6, 2011, requires that Utah cooperate with New Mexico, Wyoming, and Albuquerque-Bernalillo County in producing an annual report to determine if the average emissions of sulfur dioxide (SO₂) from large industrial sources for the most current three-year period are less than the emissions milestone set in the Plan. The average emissions inventory for 2014 - 2016 is calculated by totaling all emissions from participating entities for each year, then averaging the three years of data. This number is then compared to the 2016 milestone set in the Plan. The draft report for calendar year 2016 is now available for public comment at <https://deq.utah.gov/NewsNotices/notices/air/Pubrule.htm>.

The report shows that adjusted total emissions of SO₂ in 2016 from large sources in the participating entities--Utah, New Mexico, Wyoming, and Albuquerque-Bernalillo County--were 98,035 tons; that the average SO₂ emissions for 2014 - 2016 were 90,951 tons; and that the SO₂ milestone for 2016 is 155,940 tons. The report demonstrates that emissions from the participating entities are less than the milestone and have met the requirements of the Plan for 2016. Therefore, implementation of the SO₂ backstop trading program identified in the Plan is not triggered.

The Utah Division of Air Quality will hold a public hearing at 1:00 p.m. on February 28, 2018, in the Four Corners Conference Room, Room No. 4100, at 195 North 1950 West in Salt Lake City, Utah.

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

The comment period closes at 5:00 p.m. on March 16, 2018. Comments postmarked on or before that date will be accepted. Comments may be submitted by electronic mail to jbaker@utah.gov or may be mailed to:

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

Health
Health Care Financing, Coverage and Reimbursement Policy
Notice for March 2018 Medicaid Rate Changes

Effective March 1, 2018, Utah Medicaid will adjust its rates consistent with approved methodologies. Rate adjustments include new codes priced consistent with approved Medicaid methodologies as well as potential adjustments to existing codes. All rate changes are posted to the web and can be viewed at: <http://health.utah.gov/medicaid/stplan/lookup/CoverageLookup.php>.

End of the Special Notices Section

NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between January 17, 2018, 12:00 a.m., and February 01, 2018, 11:59 p.m. are included in this, the February 15, 2018, 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 March 19, 2018. 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 June 15, 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.

The Proposed Rules Begin on the Following Page

**Health, Disease Control and
Prevention, Environmental Services
R392-300
Recreation Camp Sanitation**

NOTICE OF PROPOSED RULE

(Repeal and Reenact)
DAR FILE NO.: 42516
FILED: 01/29/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The repeal and reenact of Rule R392-300 simplify the rule, remove outdated language and redundancies, and provide technical and conforming changes in accordance with the Rulewriting Manual for Utah.

SUMMARY OF THE RULE OR CHANGE: The repeal and reenact of Rule R392-300 provides technical and conforming changes throughout the rule and removes unnecessary and repetitive language. Section R392-300-1 is a new section added to specify the statute under which this rule is authorized, and to explain the purpose of the rule. Section R392-300-2 is a new section added to describe individuals and groups to whom this rule applies, and to specify exclusions to such. Section R392-300-3 added definitions for "Camp, Local health officer, Operator, Plumbing Code, and Primitive; and amended the definitions for Day-use area, Modern camp, Semi-developed, Semi-primitive, Service building, and Wastewater". In Section R392-300-4, the Department of Health (Department) has made nonsubstantive revisions including the rewording and restructuring of this section to simplify the language and to clarify the intent to align more closely with the authorizing statute and the Rulewriting Manual for Utah; and substantive changes include a the addition of a provision, similar to a "grandfather clause", that specifies that a construction change is not required in any portion of a camp that was in compliance before this rule goes into effect. In Sections R392-300-5 and R392-300-6, the Department has made nonsubstantive revisions including the rewording and restructuring of these sections to simplify the language and to clarify the intent to more closely align this rule with the authorizing statute and the Rulewriting Manual for Utah. In Section R392-300-7, no change to plumbing requirements. In Section R392-300-8, changed the plumbing fixture ratio from "fixtures per occupants" to "fixtures per camp sites". Section R392-300-9 is a new section. The currently enacted rule does not specify required plumbing ratios for day-use areas. In Section R392-300-10, the Department has made nonsubstantive revisions including the rewording and restructuring of these sections to simplify the language and to clarify the intent to align more closely with the authorizing statute and the Rulewriting Manual for Utah. In Section R392-300-11, the Department has made nonsubstantive revisions including the rewording

and restructuring of these sections to simplify the language and to clarify the intent to more closely align this rule with the authorizing statute and the Rulewriting Manual for Utah. In Section R392-300-12, the Department has made nonsubstantive revisions including the rewording and restructuring of these sections to simplify the language and to clarify the intent to more closely align this rule with the authorizing statute and the Rulewriting Manual for Utah. In Section R392-300-13, the Department has made nonsubstantive revisions including the rewording and restructuring of these sections to simplify the language and to clarify the intent to more closely align this rule with the authorizing statute and the Rulewriting Manual for Utah. Section R392-300-14 specifies the application of an authority granted a local health officer in Title 26A. Section R392-300-15 specifies the application of an authority granted to a local health officer in Title 26A.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5 and Section 26-15-2 and Subsection 26-1-30(23)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** Repealing and reenacting Rule R392-300 will likely not result in a cost or benefit to the state budget. The Utah Division of Natural Resources operates and maintains 35 state parks with campgrounds available for public use. The reenacted rule does not require a construction change to any portion of a camp that was in compliance with the law in effect at the time the camp was constructed. In addition, the reenacted rule does not include fees such as camp reservation fees and permit fees. Repealing and reenacting Rule R392-300 may result in an inestimable fiscal cost if the state of Utah constructs a recreation camp after the adoption of this rule. The full impact to the state cannot be estimated as the necessary data is unavailable because potential camp location, layout, number of sites, water and wastewater accessibility, and operation and maintenance needs have not yet been considered by the state of Utah.

◆ **LOCAL GOVERNMENTS:** Repealing and reenacting Rule R392-300 will not result in a cost or benefit to local governments.

◆ **SMALL BUSINESSES:** Repealing and reenacting Rule R392-300 will likely not result in a cost or benefit to small business. There are 30 small businesses operating in the state under the NAICS code of 721211 or 721214. The reenacted rule does not require a construction change to any portion of a camp that was in compliance with the law in effect at the time the camp was constructed. Repealing and reenacting Rule R392-300 may result in an inestimable fiscal cost to a small business that constructs a recreation camp after the adoption of this rule. The full impact to such a business cannot be estimated as the necessary data is unavailable because potential camp location, layout, number of sites, water and wastewater accessibility, and operation and maintenance needs have not yet been considered by the business.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Repealing and reenacting Rule R392-300 will likely not result in a fiscal impact to other persons or non-small businesses. There are four non-small businesses identified in Utah operating under the NAICS code of 721211 or 721214. The reenacted rule does not require a construction change to any portion of a camp that was in compliance with the law in effect at the time the camp was constructed. Repealing and reenacting Rule R392-300 may result in an inestimable fiscal cost to a large business that constructs a recreation camp after the adoption of this rule. The full impact to such a business cannot be estimated as the necessary data is unavailable because potential camp location, layout, number of sites, water and wastewater accessibility, and operation and maintenance needs have not yet been considered by the business.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No one specific person will be affected by this rule change. The reenacted rule does not include fees such as camp reservation fees and permit fees.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The repeal and reenact of this rule simplifies the rule, removes outdated language and redundancies, and provides technical and conforming changes in accordance with the Rulewriting Manual for Utah. Substantive changes include the addition of a grandfather provision specifying that a construction change is not required to any portion of a rest area that was in compliance before the change. There is also a change to required plumbing ratios to semi-developed camps and day-use areas. There is no estimable costs to business.

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

HEALTH
 DISEASE CONTROL AND PREVENTION,
 ENVIRONMENTAL SERVICES
 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:

◆ Chris Nelson by phone at 801-538-6739, or by Internet E-mail at chrishnelson@utah.gov or PO Box 142104, Salt Lake City, UT 84114-2104

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/19/2018

THIS RULE MAY BECOME EFFECTIVE ON: 03/26/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:			
	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

There are 4 non-small businesses in the industry in question (NAICS 721211, NAICS 721214) in Utah. These businesses will likely not experience a fiscal impact because the proposed rule does not require a construction change to any portion of a camp that was in compliance with the law in effect at the time the camp was constructed. Repealing and reenacting Rule R392-300 may result in an inestimable fiscal cost to a non-small business that constructs a recreation camp after the adoption of this rule. The full impact to such a business cannot be estimated as the necessary data are unavailable because potential camp location, layout, number of sites, water and wastewater accessibility, and operation and maintenance needs have not yet been considered by the business.

The Utah Division of Natural Resources operates and maintains 35 state parks with campgrounds available for

public use. The proposed rule does not require a construction change to any portion of a camp that was in compliance with the law in effect at the time the camp was constructed. In addition, the proposed rule does not include fees such as camp reservation fees and permit fees. Repealing and reenacting Rule R392-300 may result in an inestimable fiscal cost if the State of Utah constructs a recreation camp after the adoption of this rule. The full impact to the state cannot be estimated as the necessary data are unavailable because potential camp location, layout, number of sites, water and wastewater accessibility, and operation and maintenance needs have not yet been considered by the State of Utah.

The head of Department of Health, Dr. Joseph Miner, has reviewed and approved this fiscal analysis.

R392. Health, Disease Control and Prevention, Environmental Services.

R392-300. Recreation Camp Sanitation.

[R392-300-1. Definitions.

~~Day-Use Area means any parcel or tract of land designated as a recreation park, picnic grounds, or recreational area which may be located within the confines of an organized recreation camp or it may be an area developed by participating person or groups to satisfy their recreational demands. It shall include but is not limited to: Centers for public gathering for the purpose of witnessing or participating in special outdoor events such as automobile racing, off highway vehicle activity, competitive sports, hunting and fishing activities, etc. Occupation of the area is limited specifically to day use and does not include overnight accommodations.~~

~~Director means the Executive Director of the Utah Department of Health.~~

~~Modern Camp means a campground of two or more campsites accessible by any type of vehicular traffic. The camp is used wholly or in part for recreation, training or instruction, social, religious activity or physical education 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 culinary 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 group, family group camps, etc.~~

~~Semi-developed - A campground of two or more campsites 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. The camps include but are not limited to National Forest campgrounds, Bureau of Reclamation campgrounds, Utah State Park campgrounds, and youth camps. Campground operators who provide camping for organized groups for a period of seven (7) or more consecutive days must comply with the requirements in Table I.~~

~~Semi-primitive - A campground usually accessible by walk-in, equestrian, or motorized trail vehicles. Rudimentary facilities (vault toilets or earthen pit privies* and/or fireplaces) are provided. When pit privies are anticipated at a camp, approval for use must be obtained from the Director of the Utah Department of Health or the local health department having jurisdiction. Such facilities or improvements are designed for protection of the site and not for the comfort of the campers in the area.~~

~~Service Building - A building housing toilet, lavatories, bathing facilities, and other such facilities as may be required for use by these regulations.~~

~~Wastewater means discharges from all plumbing facilities such as rest rooms, kitchen, and laundry fixtures either separately or in combination.~~

R392-300-2. General.

~~2.1 It shall be the duty of each person operating a camp in the State of Utah to carry out the provisions of these regulations. Such person should also have the duty of controlling the conduct of camp occupants to this end, and should make at least one daily inspection of the entire camp for these purposes. All camp toilet and washroom facilities shall be inspected as frequently as necessary by the camp operator, to assure that it is operating in a sanitary manner.~~

~~2.2 Severability - If any provision of this code, or its application to any person or circumstance is declared invalid, the application of such provision to other person or circumstances, and the remainder of this code, shall not be affected thereby.~~

~~2.3 All applicable building, zoning, electrical, health, fire codes and all local ordinances shall be complied with.~~

~~2.4 Campsites, including day-use areas, shall be constructed to provide adequate surface drainage, and shall be isolated from any existing or potential health hazard or nuisance.~~

R392-300-3. Water Supply.

~~3.1 Potable water supply systems for use by camp occupants shall meet the requirements of the State of Utah rules relating to public drinking water supplies.~~

~~*Design and construction of all earthen privies must comply with standards set forth by the Utah Department of Environmental Quality.~~

~~3.2 In addition to the requirements of the rules and regulations relating to public drinking water supplies, the design of water system facilities shall be based on these suppliers engineer's estimate of water demands, but shall in no case be less than the following:~~

~~The distribution system serving modern camps with full facilities or semi-developed camps and day-use areas shall maintain a water system pressure in excess of 20 psi at all points in the distribution system during peak hourly flow conditions. Non-community systems in remote areas can be exempted from this requirement, on a case-by-case basis, if flow from the system is always unregulated and free-flowing. Where appropriate, the peak hourly flow will be calculated on the number of fixture units as presented in the Utah Plumbing Code.~~

~~Other exceptions to the above requirements may be permitted on a case-by-case basis, as permitted by the State of Utah public drinking water rules.~~

~~3.2.1 The source and storage requirements as indicated above do not include water demands for outside use or fire protection. However, if the culinary system is intended to provide water for such uses, the water requirements indicated above must be appropriately increased. Specific information on water requirements (e.g. area of land to be irrigated) must be provided for Department of Health review.~~

3.3 Construction of a public drinking water supply system intended to serve occupants of any recreation camp shall not commence until plans prepared by a licensed professional registered engineer (in accordance with Title 58, Chapter 22, Professional Engineers, and Land Surveyors Licensing Act) have been submitted to and approved in writing by the Utah Department of Environmental Quality. Following construction, the system may not be placed in service until a final inspection is made by a representative of the Utah Department of Environmental Quality or local health department having jurisdiction.

3.3.1 All systems must be monitored in accordance with the State of Utah public drinking water rules, and in cooperation with the local health department having jurisdiction.

3.4 Any culinary system or any portion thereof that is drained seasonally must be cleaned, flushed, and disinfected prior to use. Furthermore, a water sample of satisfactory bacteriologic quality, i.e. a sample showing not more than one coliform bacteria per 100 ml sample, must be obtained before the system is placed into service.

3.4.1 Systems operated on a seasonal basis may be required to sample for bacteriologic analysis at an accelerated frequency as determined by the Director of the local health department having jurisdiction.

R392-300-4. Wastewater:

4.1 All wastewater shall be discharged to a public sewer system where accessible and within 300 feet of the recreational camp property line.

4.2 Where connection to a public sewer is not available, wastewater shall be discharged into a wastewater disposal system meeting requirements of the State of Utah Code of Waste Disposal Regulations except as provided in 4.4. Unless water usage rates are available, design shall be based on not less than 30 gallons per day per person for modern camps. Design shall be based on 5 gallons per day per person for semi-developed camps and day-use areas. If these camps have water flush systems, then the design must be based on a minimum of 30 gallons per day per person.

4.3 All plans for the construction or alteration of a wastewater disposal system shall initially be submitted to the local health department having jurisdiction. Where plan approval is required by law to be provided by the State Department of Health, such plans will be forwarded by the local authority along with any appropriate comments. Construction or alteration of the disposal system shall not commence until the plans have been approved in writing by the appropriate health agency.

4.4 In camps providing other than water flush type toilets, waste disposal facilities shall be approved by the Director or local health authorities having jurisdiction.

R392-300-5. Plumbing:

5.1 The minimum plumbing fixtures to be provided are as follows:

TABLE I
Required Plumbing Fixtures For Modern Camps

Plumbing Fixtures	Ratio of Plumbing Fixtures For Number of Camp Occupants(a)		
	Males	Females	Both Sexes
Water Closets	1:40	1:25	
Urinals	1:50		
Lavatories	1:35	1:35	
Showers(b)	1:35	1:35	
Drinking Fountains(c)			1:300
Service Sink or Hose Bibb			1 per service building

Plumbing Fixtures	Ratio of Plumbing Fixtures Per Number of Camp Occupants		
	Males	Females	Both Sexes
Water Closets	1:50	1:25	
Urinals	1:50		
Lavatories			1:50
Drinking Fountains			1:300
Service Sink or Hose Bibb			1 per service building

- (a) Or fraction thereof
- (b) Shower facilities should be provided with hot water
- (c) The use of common drinking cups is prohibited

TABLE II
Required Plumbing Fixtures For Semi-Developed and Semi-Primitive Camps(a)

Plumbing Fixtures	Ratio of Plumbing Fixtures Per Number of Camp Occupants		
	Males	Females	Both Sexes
Water Closets	1:50	1:25	
Urinals	1:50		
Lavatories			1:50
Drinking Fountains			1:300
Service Sink or Hose Bibb			1 per service building

- (a) In semi-developed or semi-primitive camps which provide other than water flush type toilets, Table II will not apply. See Section 4.4.

5.2 Service buildings shall be located not less than 15 feet and not more than 500 feet from any living and camping spaces served.

5.3 Wherever toilet facilities for males and females are located in the same building, and adjacent to each other, they shall be separated by a sound-resistant wall. Direct line of sight to each rest room shall be effectively obstructed.

5.4 Soap and toilet tissue in suitable dispensers and waste receptacles with lids should be provided in each service building. Where lavatories are not provided, other adequate hand-cleansing facilities should be provided.

5.5 Where lavatories are provided, clean individual towels or other adequate hand drying facilities should be provided.

5.6 All plumbing installed in any camp shall comply with provisions of the Utah Plumbing Code and applicable local plumbing codes.

R392-300-6. Operation and Maintenance:

6.1 When tents, permanent or semi-permanent buildings are provided, they shall be of sound construction, shall assure adequate protection against the weather, and shall include essential facilities to permit maintenance in a clean and operable condition, and shall provide adequate storage for personal belongings.

6.2 In any permanent or semi-permanent building, the total window area in any room should be equal to at least 10 percent and in no case less than 5 percent of the floor area. For ventilation, windows shall be openable or mechanical ventilation must be provided.

6.3 Each structure made available for occupancy shall comply with the requirements of the Uniform Building Code, except for tents.

~~6.4 In dormitory type facilities, beds shall be separated by a horizontal distance of at least 5 feet, reducible to 3 feet if beds are alternated head to foot, except in the case of double deck bunks, which shall have a minimum horizontal separation of 6 feet under all circumstances. If suitable permanent partitions are installed between beds, spacing requirements may be modified upon approval of the Director or director of the local health department having jurisdiction.~~

~~6.5 Each bed, bunk, cot or sleeping facility made available for use by occupants shall be maintained in a sanitary condition. Mattresses, mattress covers, quilts, blankets, pillows, pillow slips, sheets, comforters and other bedding shall be made available to each occupant not furnishing his own. Bedding shall be kept clean and in good repair. Pillows shall have pillow slips and sheets shall be large enough to completely cover mattresses. Bedding shall be changed daily or in between occupant use.~~

~~6.6 All buildings, rooms, and equipment, including furnishings and equipment in camping areas, and the grounds surrounding them shall be maintained in a clean and operable condition.~~

~~6.7 Where electric power is available, service buildings shall be provided with outside lighting to indicate the location and entrance doorways of each.~~

~~6.8 Where necessary, all means shall be employed to eliminate or control infestations of insects and rodents within all parts of any camp. This shall include approved screening or other approved control of outside openings in structures intended for occupancy or food service facilities.~~

~~6.9 Each organized recreation camp shall be equipped with at least a standard 24-unit first aid kit which shall be kept filled and ready for use. Such kit(s) will be readily accessible and be conveniently located in the program, food service or office areas. Each recreation camp staff should have an individual who is adequately trained to render first aid. This individual should possess at least a certificate of completion of the Basic First Aid Course as presented by the American National Red Cross or its equivalent.~~

~~R392-300-7. Food Service.~~

~~7.1 When food service is provided for camp occupants, food service employees, food, ice, vending machines, food storage, preparation and serving facilities shall comply with R392-100 or applicable local food service regulations.~~

~~7.2 Local regulations may require food service facilities plan approval prior to the initiation of construction.~~

~~R392-300-8. Solid Wastes.~~

~~8.1 Solid wastes originating in any camp or picnic area shall be stored in a sanitary manner in approved, watertight containers with lids, or the equivalent, approved by the local health department. The containers shall be conveniently located and the contents shall be disposed of in a manner approved by the state or local health department having jurisdiction.~~

~~R392-300-9. Swimming Pool.~~

~~9.1 Any swimming pool, wading or therapy pool made available to camp occupants shall comply with R392-302 and applicable local regulations.]~~

~~R392-300-1. Authority and Purpose.~~

~~(1) This rule is authorized under Sections 26-1-5, 26-1-30(23), and 26-15-2.~~

(2) This rule establishes definitions; sets standards for health and welfare of individuals and for the prevention of the spread of disease in or from a recreational camp.

R392-300-2. Applicability.

This rule applies to any person who owns or operates a camp in Utah, unless specifically exempted. This rule applies to the repair, maintenance, use, operation, and occupancy of camps or campsites, designed, intended for use, or otherwise used for temporary human habitation in Utah. This rule does not apply to primitive or backcountry camping.

R392-300-3. Definitions.

For the purposes of this rule, the following terms, phrases, and words shall have the meanings herein expressed:

(1) "Camp" means any day-use area, primitive camp, modern camp, semi-developed, or semi-primitive campground.

(2) "Day-use area" means an area in which human occupation is limited specifically to day use, and does not include overnight sleeping accommodations. A day-use area may include any parcel or tract of land designated as a recreation park, picnic grounds, or recreational area located within the confines of an organized recreation camp.

(3) "Local health officer" means the health officer of the local health department having jurisdiction, or designated representative.

(4) "Modern camp" means a campground of two or more campsites accessible by any type of vehicular traffic, and having permanent buildings for sleeping, a potable water supply under pressure, and food service facilities. Modern camps may be operated on a seasonal or short-term basis, and may include privately owned campgrounds such as youth camps, boy or girl scout camps, mixed-age group camps, summer camps, athletic camps, family group camps, or camps that are operated and maintained under the guidance, supervision or auspices of religious, public and private educational, and community service organizations.

(5) "Operator" means a person with ownership or overall responsibility for managing or operating a camp in the State of Utah.

(6) "Plumbing Code" means International Plumbing Code as incorporated and amended in Title 15A, State Construction and Fire Codes Act.

(7) "Primitive" or "Back-country" means camping in a completely naturalized wilderness location that is in no way preconditioned for camping, and where no services or amenities are provided to the camper.

(8) "Service building" means a permanent structure located within a camp that contains toilet, hand sink, or bathing facilities for use by recreation camp occupants.

(9) "Semi-developed" means a campground of two or more campsites where potable water services are made available. These campsites are accessible by any type of vehicular traffic and are not furnished with permanent sleeping or culinary buildings. Roads, trails and campsites are defined, basic facilities (toilets or privies, tables, fire pits or tent pads) are provided. These camps include state forest campgrounds, privately owned campgrounds, and youth camps.

(10) "Semi-primitive" means a campground where potable water services are not available. Rudimentary facilities including vault privies or earthen pit privies and fire pits are present.

(11) "Wastewater" means discharges from all plumbing facilities including rest rooms, kitchen, and laundry fixtures either separately or in combination.

R392-300-4. General.

(1) This rule does not require a construction change in any portion of a camp if the camp was in compliance with the law in effect at the time the camp was constructed, except as in R392-300-4(1)(a).

(a) The local health officer may require construction changes if it is determined the camp or portion thereof is dangerous, unsafe, unsanitary, or a nuisance or menace to life, health, or property.

(2) The operator shall carry out the provisions of this rule.

(3) Severability - If any provision of this code, or its application to any person or circumstance is declared invalid, the application of such provision to other person or circumstances, and the remainder of this code, shall not be affected thereby.

(4) The operator shall comply with all applicable building, zoning, electrical, health, fire codes and all local ordinances.

(5) Campsites, including day-use areas, shall be constructed to provide adequate surface drainage, and shall be isolated from any existing or potential public health hazard or nuisance.

R392-300-5. Water Supply.

(1) Potable water supply systems for use by public lodging occupants shall be designed, installed, and operated according to the requirements set forth by:

(a) Plumbing Code;

(b) The Utah Department of Environmental Quality, Division of Drinking Water under Title R309; and

(c) local health department regulations.

(2) The operator shall ensure that each day-use area and modern or semi-developed camp is provided with potable water.

(a) Where individual water connections are not provided to camp sites, common-use water faucets shall be accessible to camp occupants, and located not more than 300 feet from any camp site.

(b) A threaded spigot is prohibited on any water faucet providing potable water to a camp.

(c) The operator shall ensure that the area immediately around a water faucet (i.e. spigot) is designed to promote surface drainage by using a constructed drain system such as a gravel pit, subsurface drywell, French drain, or seepage trench. The operator shall prevent water in this area from flowing into traffic areas and surface waters, or from pooling, standing, or becoming stagnant.

(3) The operator may be required to sample water systems operated on a seasonal basis for bacteriologic analysis, as determined by the local health officer.

(4) When a semi-primitive camp is provided with potable water, the operator shall comply with all requirements of R392-300-5.

R392-300-6. Wastewater Disposal Requirements.

(1) The operator shall make sewer service available to any modern camp or semi-developed camp.

(2) Sewer systems for use by camp occupants shall be designed, installed, and operated according to the requirements set forth by:

(a) Plumbing Code;

(b) The Utah Department of Environmental Quality, Division of Water Quality under Title R317; and

(c) local health department regulations.

(3) All wastewater shall be discharged to a public sanitary sewer system whenever practicable.

(a) Where connection to a public sewer is not practicable, wastewater shall be discharged into an approved wastewater disposal system meeting the requirements of Title R317, Environmental Quality, Water Quality, and local health department regulations.

(b) The operator shall submit all required plans for the construction or alteration of a wastewater disposal system in accordance with Title R317 prior to commencing construction or alteration.

(4) Sanitary vault privies or earthen pit privies shall be located, constructed, and maintained according to the requirements of Rule R317-560 and local health department regulation in such a manner that:

(a) users do not contact waste matter deposited;

(b) access to the privy interior or vault is minimized for flies, insects, rats, and other animals;

(c) surface or ground water cannot enter the vault or pit, either as runoff or as flood water;

(d) the waste material in the privy cannot contaminate a water supply, stream, or body of water; and

(e) odors are minimized both inside and outside the privy structure.

(5) The operator shall take measures to ensure that campers do not defecate or urinate or otherwise dispose of human waste except at designated privies or toilet facilities.

R392-300-7. Required Plumbing - Modern Camps.

(1) The minimum plumbing fixtures to be provided for modern camps shall be based on 50 percent of the total number of occupants being male and 50 percent being female, except where the camp is used exclusively by one gender, and shall be calculated from Table I.

(a) Showers and sinks shall be provided with hot and cold potable water.

TABLE I
Required Minimum Plumbing Fixtures For Modern Camps

Plumbing Fixtures	Ratio of Plumbing Fixtures For Number of Camp Occupants		
	Males	Females	Both Sexes
Toilets	1:40*	1:25*	--
Sinks	1:35*	1:35*	
Showers	1:35*	1:35*	
Drinking Fountains	--	--	1:300*
Service Sink	--	--	1 per service building
Potable Water Faucet	--	--	1 per service building

*Or fraction thereof

(2) Sinks shall be located either in the same room as toilets, or immediately adjacent to the service building.

(3) Urinals may be substituted for up to half of the required number of toilets for males, provided the urinal is installed in addition to a toilet at the same location.

(4) Service buildings shall be located not less than 15 feet and not more than 300 feet from any living and camping spaces served, unless integrated into a permanent building at a modern camp.

_____ (5) Soap and toilet tissue in suitable dispensers and waste receptacles with lids shall be provided in each service building.

_____ (6) Clean individual disposable towels shall be provided at each sink. Alternate hand drying methods approved by the local health officer may be substituted for individual disposable towels.

_____ (7) The operator shall maintain each service building in a clean and sanitary condition.

R392-300-8. Required Plumbing -- Semi-Developed Camps.

_____ (1) For semi-developed camps, the minimum plumbing fixtures to be provided shall be based on the number of sites, according to Table II.

_____ (a) The operator shall calculate the minimum required number of fixtures according to Table II.

TABLE II
Required Minimum Plumbing Fixtures for Semi-Developed Camps

Plumbing Fixtures	Ratio of Plumbing Fixtures Per Number of Camp Sites
Toilets or vault privies	1:15*
Potable Water Faucet	1:15*

*Or fraction thereof

R392-300-9. Required Plumbing -- Day Use Areas.

_____ The minimum plumbing fixtures to be provided for day use areas shall be calculated from Table III.

TABLE III
Required Minimum Plumbing Fixtures for Day Use Areas

Plumbing Fixtures	Ratio of Plumbing Fixtures Per Number of Day Use Sites
Toilets or vault privies	1:15*
Potable Water Faucet	1:15*

*Or fraction thereof

R392-300-10. Operation and Maintenance.

_____ (1) When tents, or permanent or semi-permanent buildings are provided by the operator, they shall:

- _____ (a) be of sound construction;
- _____ (b) assure adequate protection against the weather;
- _____ (c) include essential facilities to permit maintenance in a clean and operable condition;
- _____ (d) include openable windows or mechanical ventilation; and
- _____ (e) provide adequate storage for personal belongings.

_____ (2) In open bay type sleeping areas containing four or more beds, the operator shall separate beds by a horizontal distance of at least five feet, reducible to three feet if beds are alternated head to foot, except in the case of double stacked bunks, which shall have a minimum horizontal separation of six feet under all circumstances. If partitions are utilized to preclude face-to-face exposure between beds, spacing requirements may be modified to a minimum separation distance of three feet between adjacent beds upon approval of the local health officer.

_____ (3)(a) Each provided bed, bunk, or cot shall be maintained in a sanitary condition.

_____ (b) Mattresses, mattress covers, quilts, blankets, pillows, pillowcases, sheets, bedcovers, and other bedding shall be kept clean and in good repair.

_____ (c) A sheet shall be provided for each bed, and shall be large enough to cover the top and all four sides of the mattress.

_____ (d) A pillowcase shall be provided for each supplied pillow.

_____ (e) Supplied bedding shall be replaced with clean linen, including sheets and pillowcases, before new occupant use.

_____ (4) All buildings, rooms, and equipment, including furnishings and equipment in camping areas, and the grounds surrounding them shall be maintained in a clean and operable condition.

_____ (5) Where electric power is available, service buildings shall be provided with outside lighting to indicate the location and entrance doorways of each.

_____ (6) Where necessary, all reasonable means shall be employed to eliminate or control infestations of vermin, vectors, or pests within all parts of any camp. This shall include approved screening or other approved control of outside openings in structures intended for occupancy or food service facilities.

_____ (7) Each modern camp shall be equipped with at least a 24-unit ANSI compliant first aid kit. The operator shall ensure that each first aid kit is:

- _____ (a) properly stocked;
- _____ (b) readily accessible; and
- _____ (c) conveniently located in critical areas.

_____ (8) The operator of a camp with onsite staff shall employ at least one individual who is adequately trained to render first aid. This individual should possess at least a certificate of completion of the Basic First Aid Course as presented by the American National Red Cross or its equivalent.

R392-300-11. Food Service.

_____ When food service is provided for camp occupants, food service, storage, and preparation shall comply with the FDA Model Food Code as incorporated and amended in R392-100 and local health department regulations.

R392-300-12. Solid Wastes.

_____ (1) The operator shall provide adequate containers to prevent the accumulation of solid waste in the camp.

_____ (2) Solid waste generated at a camp or picnic area shall be stored in a leak-proof, non-absorbent container, which shall be kept covered with a tight-fitting lid.

_____ (3) All solid wastes shall be disposed with sufficient frequency and in such a manner as to prevent insect breeding, rodent harborage, or a public health nuisance.

R392-300-13. Swimming Pool.

_____ The operator shall comply with Rule R392-302, Design, Construction, and Operation of Public Pools as well as other local health department regulations for all pools or spas made available to camp occupants or staff.

R392-300-14. Inspections and Investigations.

_____ (1)(a) Upon presenting proper identification, the operator shall permit a local health officer to enter upon the premises of a camp to perform inspections, investigations, reviews, and other actions as necessary to ensure compliance with Rule R392-300.

(b) The local health officer may not enter an occupied tent or other structure designed or intended for temporary human habitation without the express permission of the occupant except when a warrant is issued to a duly authorized public safety officer which authorizes the local health officer to enter, or when the operator and the local health officer determine that there exists an imminent risk to the life, health, or safety of the occupant.

R392-300-15. Closing or Restricting of Camps or Sites.

(1) If a local health officer deems a camp, campsite, or portion thereof to be an imminent risk to the life, health, or safety of the public, the area may be closed or its use may be restricted, as determined by the local health officer.

(2) Within a reasonable time as ordered by the local health officer, the operator shall restrict public access to the impacted area of any camp, campsite, or portion thereof that has been closed or restricted to use by a local health officer.

(3) It shall be unlawful for an operator to allow any person to occupy a camp or campsite that has been deemed unfit for human habitation until written approval of the local health officer is given.

KEY: public health, recreation areas, camp, campground
Date of Enactment or Last Substantive Amendment: [1987]2018
Notice of Continuation: November 8, 2016
Authorizing, and Implemented or Interpreted Law: 26-15-2

**Health, Disease Control and
 Prevention, Environmental Services
 R392-302
 Design, Construction and Operation of
 Public Pools**

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 42527
 FILED: 01/30/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment updates the list of authorizing statutes, fixes typos, and introduces a definition and a new section in response to comments from the Administrative Rules Review Committee.

SUMMARY OF THE RULE OR CHANGE: Nonsubstantive changes update the list of authorizing statute to include Subsection 26-1-30(9) and Section 26-7-1; add the inches equivalent for signage requirements in the new Subsection R392-302-38(2)(b); add a footnote to Table 6 reflecting the current language in Subsection R392-302-27(1)(b)(i); and fixed the numbering in Section R392-302-21. The change also fixes a typo in the new Subsection R392-302-39(3)(c) to require rules lettering to be 0.5 inches tall instead of 1.5 inches, and adds a definition of "Instructional Pool". Substantial revision have been made to the Special Purpose

Pool Section R392-302-31. This has been divided into separate sections (R392-302-32, R392-302-33, R392-302-34, and R392-302-35) for each type of special purpose pool. A new Section R392-302-36 is added for Instructional Pools. Changes have been made throughout the rule to reflect the new section numbers.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5 and Section 26-15-2 and Subsection 26-1-30(23)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no anticipated costs or savings to the state budget resulting from this rule change.
- ◆ **LOCAL GOVERNMENTS:** This rule change will affect new construction of a pool if it meets the requirements to be an instructional pool. This rule change does not require construction or operational changes to existing facilities. A local government building an instructional pool may have an approximate savings of 80% to 90% of the construction costs as compared to meeting the requirements of the current rule. The Department of Health (Department) is unable to estimate this benefit due to the wide range of possible costs involved (size, features, types of disinfectant, and plumbing, etc.). It is unlikely this rule change will have an ongoing cost or savings as the rule changes do not affect the operation of the pool.
- ◆ **SMALL BUSINESSES:** There are an estimated 11 swim school or swim instruction businesses from NAICS 611620, 611710, and 812199. There are an estimated 61 small businesses affected by this rule from NAICS 541330, 561790, 541690, 425120, 238992, 238991, and 236220, but an inestimable number from NAICS 713990, 713940, 531311, and 721110 as these businesses may or may not have swimming pools, and there is no reasonable method of determining such. In FY17 there were 3,063 permitted facilities, but the data is not available to determine which of these are small or non-small businesses. This rule change will affect new construction of a pool if it meets the requirements to be an instructional pool. This rule change does not require construction or operational changes to existing facilities. A small business building an instructional pool may have an approximate savings of 80% to 90% of the construction costs as compared to meeting the requirements of the current rule. The Department is unable to estimate this benefit due to the wide range of possible costs involved (size, features, types of disinfectant, and plumbing, etc.). It is unlikely this rule change will have an ongoing cost or savings as the rule changes do not affect the operation of the pool.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are an estimated 41 non-small businesses from NAICS 713990, 713110, 713940, but an inestimable number of large businesses with pool facilities from NAICS 531311 and 721110. In FY17 there were 3,063 permitted facilities, but the data is not available to determine which of these are small or non-small businesses. This rule change will affect new construction of a pool if it meets the requirements to be an instructional pool. This rule change does not require construction or operational changes to existing facilities. A

non-small business building an instructional pool may have an approximate savings of 80% to 90% of the construction costs as compared to meeting the requirements of the current rule. The Department is unable to estimate this benefit due to the wide range of possible costs involved (size, features, types of disinfectant and plumbing, etc.). It is unlikely this rule change will have an ongoing cost or savings as the rule changes do not affect the operation of the pool.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No one specific person will be affected by this rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed amendment is a response to comments made by the Legislature's Administrative Rules Review Committee in a recent hearing. The Special Purpose Pool section has been substantially revised. It was divided into separate sections for each type of a special purpose pool with the addition of a new section for Instructional Pools. There may be significant savings of 80% - 90% to a small business building an instructional pool but the Department is unable to estimate the benefit due to the wide range of possible costs involved (size, features, types of disinfectant, and plumbing, etc.).

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

HEALTH
DISEASE CONTROL AND PREVENTION,
ENVIRONMENTAL SERVICES
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:
♦ Chris Nelson by phone at 801-538-6739, or by Internet E-mail at chrishnelson@utah.gov or PO Box 142104, Salt Lake City, UT 84114-2104

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/19/2018

THIS RULE MAY BECOME EFFECTIVE ON: 03/26/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:			
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

There are an estimated 41 non-small businesses from NAICS 713990, 713110, 713940, but an inestimable number of large businesses with pool facilities from NAICS 531311 and 721110. In FY17 there were permitted 3063 facilities, but the data is not available to determine which of these are small or non-small businesses.

This rule change will affect new construction of a pool if it meets the requirements to be an instructional pool. This rule change does not require construction or operational changes to existing facilities.

A non-small business building an instructional pool may have a savings of 80% to 90% of the construction costs as compared to meeting the requirements of the current rule. The Department is unable to estimate this benefit due to the wide range of possible costs involved (size, features, types of disinfectant and plumbing, etc.). It is unlikely this rule change will have an ongoing cost or savings as the rule changes do not affect the operation of the pool.

The head of Department of Health, Dr. Joseph Miner, has reviewed and approved this fiscal analysis.

R392. Health, Disease Control and Prevention, Environmental Services.

R392-302. Design, Construction and Operation of Public Pools.

R392-302-1. Authority and Purpose of Rule.

This rule is authorized under Sections 26-1-5, 26-1-30(9) and (23), 26-7-1, and 26-15-2. It establishes minimum standards for the design, construction, operation and maintenance of public pools and provides for the prevention and control of health hazards associated with public pools which are likely to affect public health including risk factors contributing to injury, sickness, death, and disability.

R392-302-2. Definitions.

The following definitions apply in this rule.

- (1) "AED" means automated external defibrillator.
- (2) "Backwash" means the process of cleaning a swimming pool filter by reversing the flow of water through the filter.
- (3) "Bather Load" means the number of persons using a pool at any one time or specified period of time.
- (4) "Cleansing shower" means the cleaning of the entire body surfaces with soap and water to remove any matter, including fecal matter, that may wash off into the pool while swimming.
- (5) "Collection Zone" means the area of an interactive water feature where water from the feature will be collected and drained for treatment.
- (6) "CPR" means Cardiopulmonary Resuscitation.
- (7) "Department" means the Utah Department of Health.
- (8) "Executive Director" means the Executive Director of the Utah Department of Health, or his designated representative.
- (9) "Facility" means any premises, building, pool, equipment, system, and appurtenance which appertains to the operation of a public pool.
- (10) "Float Tank" means a tank containing a skin-temperature solution of water and Epsom salts at a specific gravity high enough to allow the user to float supine while motionless and require a deliberate effort by the user to turn over and that is designed to provide for solitary use and sensory deprivation of the user.
- (11) "Gravity Drain System" means a pool drain system wherein the drains are connected to a surge or collector tank and rather than drawing directly from the drain, the circulation pump draws from the surge or collector tank and the surface of the water contained in the tank is maintained at atmospheric pressure.
- (12) "High Bather Load" means 90% or greater of the designed maximum bather load."
- (13) "Hydrotherapy Pool" means a pool designed primarily for medically prescribed therapeutic use.
- (14) "Illuminance Uniformity" means the ratio between the brightest illuminance falling on a surface compared to the lowest illuminance falling on a surface within an area. The value of illuminance falling on a surface is measured in foot candles.
- (15) "Instructional Pool" means a pool used solely for purposes of providing water safety and survival instruction. Instructional pools do not include private residential pools. Private residential pools used for swim instruction shall not be considered instructional pools as defined in this rule.
- (16) "Interactive Water Feature" means a recirculating water feature designed, installed or used for recreational use, in which there is direct water contact from the feature with the public, and when not in operation, all water drains freely so there is no ponding.

(17) "Lamp Lumens" means the quantity of light, illuminance, produced by a lamp.

(18) "Lifeguard" means an attendant who supervises the safety of bathers.

(19) "Living Unit" means one or more rooms or spaces that are, or can be, occupied by an individual, group of individuals, or a family, temporarily or permanently for residential or overnight lodging purposes. Living units include motel and hotel rooms, condominium units, travel trailers, recreational vehicles, mobile homes, single family homes, and individual units in a multiple unit housing complex.

(20) "Local Health Officer" means the health officer of the local health department having jurisdiction, or his designated representative.

(21) "Onsite Septic System" means an approved onsite waste water system designed, constructed, and operated in accordance with Rule 317-4.

(22) "Pool" means a man-made basin, chamber, receptacle, tank, or tub, above ground or in-ground, which, when filled with water, creates an artificial body of water used for swimming, bathing, diving, recreational and therapeutic uses.

(23) "Pool Deck" means the area contiguous to the outside of the pool curb, diving boards, diving towers and slides.

(24) "Pool Shell" means the rigid encasing structure of a pool that confines the pool water by resisting the hydrostatic pressure of the pool water, resisting the pressure of any exterior soil, and transferring the weight of the pool water (sometimes through other supporting structures) to the soil or the building that surrounds it.

(25) "Private Residential Pool" means a swimming pool, spa pool or wading pool used only by an individual, family, or living unit members and guests, but not serving any type of multiple unit housing complex of four or more living units.

(26) "Public Pool" means a swimming pool, spa pool, wading pool, or special purpose pool facility which is not a private residential pool and may be above ground or in-ground.

(27) "Saturation Index" means a value determined by application of the formula for calculating the saturation index in Table 5, which is based on interrelation of temperature, calcium hardness, total alkalinity and pH which indicates if the pool water is corrosive, scale forming or neutral.

(28) "Spa Pool" means a pool which uses therapy jet circulation, hot water, cold water, bubbles produced by air induction, or any combination of these, to impart a massaging effect upon a bather. Spa pools include, spas, whirlpools, hot tubs, or hot spas.

(29) "Special Purpose Pool" means a pool with design and operational features that provide patrons recreational, instructional, or therapeutic activities which are different from that associated with a pool used primarily for swimming, diving, or spa bathing.

(30) "Splash Pool" means the area of water located at the terminus of a water slide or vehicle slide.

(31) "Swimming Pool" means a pool used primarily for recreational, sporting, or instructional purposes in bathing, swimming, or diving activities.

(32) "Surge Tank" means a tank receiving the gravity flow from an overflow gutter and main drain or drains from which the circulation pump takes water which is returned to the system.

(33) "Turnover" means the circulation of a quantity of water equal to the pool volume through the filter and treatment facilities.

(~~33~~34) "Vehicle Slide" means a recreational pool where bathers ride vehicles, toboggans, sleds, etc., down a slide to descend into a splash pool.

(~~34~~35) "Unblockable Drain" means a drain of any size or shape such that a representation of the torso of a 99 percentile adult male cannot sufficiently block it to the extent that it creates a body suction entrapment hazard.

(~~35~~36) "Wading Pool" means any pool or pool area used or designed to be used by children five years of age or younger for wading or water play activities.

(~~36~~37) "Waste Water" means discharges of pool water resulting from pool drainage or backwash.

(~~37~~38) "Water Slide" means a recreational facility consisting of flumes upon which bathers descend into a splash pool.

R392-302-11. Diving Areas.

(1) Where diving is permitted, the diving area design, equipment placement, and clearances must meet the minimum standards established by the USA Diving Rules and Regulations 2004, Appendix B, which are incorporated by reference.

(2) Where diving from a height of less than 3.28 feet, 1 meter, from normal water level is permitted, the diving bowl shall meet the minimum depths outlined in Section 6, Figure 1 and Table 2 of ANSI/NSPI-1, 2003, which is adopted by reference, for type VI, VII and VIII pools according to the height of the diving board above the normal water level. ANSI/NSPI pool type VI is a maximum of 26 inches, 2/3 meter, above the normal water level; type VII is a maximum of 30 inches, 3/4 meter, above the normal water level; and type VIII is a maximum of 39.37 inches, 1 meter, above the normal water level.

(3) The use of a starting platform is restricted to competitive swimming events or supervised training for competitive swimming events.

(a) If starting platforms are used for competitive swimming or training, the water depth shall be at least four feet.

(b) The operator shall either remove the starting platforms or secure them with a lockable cone-type platform safety cover when not in competitive use.

(4) Areas of a pool where diving is not permitted must have "NO DIVING" or the international no diving icon, or both provided in block letters at least four inches, 10.16 centimeters, in height, as required in R392-302-~~34~~39 (3)(a), in a contrasting color on the deck, located on the horizontal surface of the deck or coping as close to the water's edge as practical.

(a) Where the "NO DIVING" warnings are used, the spacing between each warning may be no greater than 25 feet, 7.62 centimeters.

(b) Where the icon alone is used on the deck as required, the operator shall also post at least one "NO DIVING" sign in plain view within the enclosure. Letters shall be at least four inches, 10.16 centimeters, in height with a stroke width of at least one-half inch.

R392-302-14. Fencing and Barriers.

(1) A fence or other barrier is required and must provide complete perimeter security of the facility, and be at least 6 feet, 1.83 meters, in height. Openings through the fence or barrier, other than entry or exit access when the access is open, may not permit a sphere greater than 4 inches, 10.16 centimeters, to pass through it at any

location. Horizontal members shall be equal to or more than 45 inches, 114.3 centimeters, apart.

(a) If the local health department determines that the safety of children is not compromised, it may exempt indoor pools from the fencing requirements.

(b) The local health department may grant exceptions to the height requirements in consideration of architectural and landscaping features for pools designed for hotels, motels and apartment houses.

(2) A fence or barrier that has an entrance to the facility must be equipped with a self-closing and self-latching gate or door. Except for self-locking mechanisms, self-latching mechanisms must be installed 54 inches, 1.37 meters, above the ground and must be provided with hardware for locking the gate when the facility is not in use. A lock that is separate from the latch and a self locking latch shall be installed with the lock's operable mechanism (key hole, electronic sensor, or combination dial) between 34 inches, 86.4 centimeters, and 48 inches, 1.219 meters, above the ground. All gates for the pool enclosure shall open outward from the pool.

(3) The gate or door shall have no opening greater than 0.5 inches, 1.27 centimeters, within 18 inches, 45.7 centimeters, of the latch release mechanism.

(4) Any pool enclosure which is accessible to the public when one or more of the pools are not being maintained for use, shall protect those closed pools from access by a sign meeting R392-302-~~34~~39 (3)(a) indicating the pool is closed and by using:

(a) a safety cover which restricts access and meets the minimum ASTM standard F1346-91; or

(b) a secondary barrier that is approved by the Department;

or

(c) any method approved by the Department.

R392-302-15. Depth Markings and Safety Ropes.

(1) The depth of the water must be plainly marked at locations of maximum and minimum pool depth, and at the points of separation between the swimming and non-swimming areas of a pool. Pools must also be marked at intermediate 1 foot, 30.48 centimeters, increments of depth, spaced at distances which do not exceed 25 feet, 7.62 meters. Markings must be located above the water line or within 2 inches, 5.8 centimeters, from the coping on the vertical wall of the pool and on the edge of the deck or walk next to the pool with numerals at least 4 inches, 10.16 centimeters, high as required in R392-302-~~34~~39 (3).

(2) A pool with both swimming and diving areas must have a floating safety rope separating the swimming and diving areas. An exception to this requirement is made for special activities, such as swimming contests or training exercises when the full unobstructed length of the pool is used.

(a) The safety rope must be securely fastened to wall anchors. Wall anchors must be of corrosion-resistant materials and must be recessed or have no projections that may be a safety hazard if the safety rope is removed.

(b) The safety rope must be marked with visible floats spaced at intervals of 7 feet, 2.13 meters or less.

(c) The rope must be at least 0.5 inches, 1.27 centimeters, in diameter, and of sufficient strength to support the loads imposed on it during normal bathing activities.

(3) A pool constructed with a change in the slope of the pool floor must have the change in slope designated by a floating safety rope and a line of demarcation on the pool floor.

(a) The floating safety rope designating a change in slope of the pool floor must be attached at the locations on the pool wall that place it directly above and parallel to the line on the bottom of the pool. The floating safety rope must meet the requirements of Subsections R392-302-15(2)(a),(b),(c).

(b) A line of demarcation on the pool floor must be marked with a contrasting dark color.

(c) The line must be at least 2 inches, 5.08 centimeters, in width.

(d) The line must be located 12 inches, 30.48 centimeters, toward the shallow end from the point of change in slope.

(4) The department may exempt a spa pool from the depth marking requirement if the spa pool owner can successfully demonstrate to the department that bather safety is not compromised by the elimination of the markings.

R392-302-18. Outlets.

(1) No feature or circulation pump shall be connected to less than two outlets unless the pump is connected to a gravity drain system or the pump is connected to an unblockable drain. All pool outlets shall meet the following design criteria:

(a) The grates or covers of all submerged outlets in pools shall conform to the standards of ANSI/APSP-16 2011.

(b) The outlets must be constructed so that if one of the outlets is completely obstructed, the remaining outlets and related piping will be capable of handling 100 percent of the maximum design circulation flow.

(c) All pool outlets that are connected to a pump through a single common suction line must connect to the common suction line through pipes of equal diameter. The tee feeding to the common suction line from the outlets must be located approximately midway between outlets.

(d) An outlet system with more than one outlet connected to a pump suction line must not have any valve or other means to cut any individual outlet out of the system.

(e) At least one of the circulation outlets shall be located at the deepest point of the pool and must be piped to permit the pool to be completely and easily emptied.

(f) The center of the outlet covers or grates of multiple main drain outlets shall not be spaced more than 30 feet, 9.14 meters, apart nor spaced closer than 3 feet, 0.914 meters, apart.

(g) Multiple pumps may utilize the same outlets only if the outlets are sized to accommodate 100 percent of the total combined design flow from all pumps and only if the flow characteristics of the system meet the requirements of subsection R392-302-18(2) and (3).

(h) There must be one main drain outlet for each 30 feet, 9.14 meters, of pool width. The centers of the outlet covers or grates of any outermost main drain outlets must be located within 15 feet, 4.57 meters, of a side wall.

(i) Devices or methods used for draining pools shall prevent overcharging the sanitary sewer.

(j) No operator shall allow the use of a pool with outlet grates or covers that are broken, damaged, missing, or not securely fastened.

(2) Notwithstanding Section R392-302-3, all public pools must comply with Subsections R392-302-18(2) and (3). The pool operator shall not install, allow the installation of, or operate a pool with a drain, drain cover, or drain grate in a position or an application

that conflicts with any of the following mandatory markings on the drain cover or grate under the standard required in R392-302-18(1)(a):

(a) whether the drain is for single or multiple drain use;

(b) the maximum flow through the drain cover; and

(c) whether the drain may be installed on a wall or a floor.

(3) The pool operator shall not install, allow the installation of, or operate a pool with a drain cover or drain grate unless it is over or in front of:

(a) the sump that is recommended by the drain cover or grate manufacturer;

(b) a sump specifically designed for that drain by a Registered Design Professional as defined in ANSI/APSP-16 2011; or

(c) a sump that meets the ANSI/APSP-16 2011 standard.

(4) Notwithstanding Section R392-302-3, all public pools must comply with this subsection R392-302-18(4). The pool owner or certified pool operator shall retrofit by December 19, 2009 each pool circulation system on existing pools that do not meet the requirements of subsections R392-302-18(1) through R392-302-18(1)(g) and R392-302-18(2) through (3)(c). The owner or operator shall meet the retrofit requirements of this subsection by any of the following means:

(a) Meet the requirements of R392-302-18(1)(a) and R392-302-18(2) through (3)(c) and install a safety vacuum release system which ceases operation of the pump, reverses the circulation flow, or otherwise provides a vacuum release at a suction outlet when it detects a blockage; that has been tested by an independent third party; and that conforms to ASME standard A112.19.17-2010 or ASTM standard F2387-04(2012);

(i) To ensure proper operation, the certified pool operator shall inspect and test the vacuum release system at least once a week but no less often than established by the manufacturer. The certified pool operator shall test the vacuum release system in a manner specified by the manufacturer. The certified pool operator shall log all inspections, tests and maintenance and retain the records for a minimum of two years for review by the Department and local health department upon request.

(ii) The vacuum release system shall include a notification system that alerts patrons and the pool operator when the system has inactivated the circulation system. The pool operator shall submit to the local health department for approval the design of the notification systems prior to installation. The system shall activate a continuous clearly audible alarm that can be heard in all areas of the pool or a continuous visible alarm that can be seen in all areas of the pool. A sign that meets the requirements of a "2 Inch Safety Sign" in R392-302-[34]39 (1),(2) and (3)(b) shall be posted next to the sound or visible alarm source. The sign shall state, "DO NOT USE THE POOL IF THIS ALARM IS ACTIVATED." and provide the phone number of the pool operator.

(iii) No operator shall allow the use of a pool that has a single drain with a safety vacuum release system if the safety vacuum release system is not functioning properly.

(b) Install an outlet system that includes no fewer than two suction outlets separated by no less than 3 feet, 0.914 meters, on the horizontal plane as measured from the centers of the drain covers or grates or located on two different planes and connected to pipes of equal diameter. The outlet system shall meet the requirements of R392-302-18(1)(a) through R392-302-18(1)(g) and 18(2) through (3)(c);

(c) Meet the requirements of R392-302-18(1)(a) and R392-302-18(2) through (3)(c) and installing (or having an existing) gravity drain system;

(d) Install an unblockable drain that meets the requirements of R392-302-18(1)(a) and R392-302-18(2) through (3)(c); or

(e) Any other system determined by the federal Consumer Products Safety Commission to be equally effective as, or better than, the systems described in 15 USC 8003 (c)(1)(A)(ii)(I), (III), or (IV) at preventing or eliminating the risk of injury or death associated with pool drainage systems.

R392-302-20. Filtration.

(1) The filter system must provide for isolation of individual filters for backwashing or other service.

(2) The filtration system must be designed to allow the pool operator to easily observe the discharge backwash water from the filter in order to determine if the filter cells are clean.

(3) A public pool must use either a rapid sand filter, hi-rate sand filter, precoat media filter, a cartridge filter or other filter types deemed equivalent by the Department. All filters must comply with the standard NSF/ANSI 50-2015.

(4) Gravity and pressure rapid sand filter requirements.

(a) Rapid sand filters must be designed for a filter rate of 3 gallons, 11.36 liters, or less, per minute per square foot, 929 square centimeters, of bed area at time of maximum head loss. The filter bed surface area must be sufficient to meet the design rate of flow required by Section R392-302-16, Table 1, for required turnover.

(b) The filter system must be provided with influent pressure, vacuum, or compound gauges to indicate the condition of the filters. Air-relief valves must be provided at or near the high point of the filter or piping system.

(c) The filter system must be designed with necessary valves and piping to permit:

(i) filtering of all pool water;

(ii) individual backwashing of filters to a sanitary sewer at a minimum rate of 15 gallons, 56.78 liters, per minute per square foot, 929 square centimeters, of filter area;

(iii) isolation of individual filters;

(iv) complete drainage of all parts of the system;

(v) necessary maintenance, operation and inspection in a convenient manner.

(d) Each pressure type filter tank must be provided with an access opening of at least a standard size 11 inch, 27.94 centimeters, by 15 inch, 38.10 centimeters, manhole with a cover.

(5) Hi-rate sand filter requirements.

(a) Hi-rate sand filters must be designed for a filter rate of less than 18 gallons, 68.14 liters, per minute per square foot, 929 square centimeters, of bed area. The filter bed area must be sufficient to meet the design rate of flow required by Section R392-302-16, Table 1, for required turnover. Minimum flow rates must be at least 13 gallons, 49.21 liters, per minute per square foot, 929 square centimeters, of bed area. The minimum flow rate requirement may be reduced to a rate of no less than 10 gallons per minute per square foot of bed area where a multiple filter system is provided, and where the system includes a valve or other means after the filters which is designed to regulate the backwash flow rate and to assure that adequate backwash flow can be achieved through each filter per the filter manufacturer's requirements.

(b) The filter tank and all components must be installed in compliance with the manufacturer's recommendations.

(c) An air-relief valve must be provided at or near the high point of the filter.

(d) The filter system must be provided with an influent pressure gauge to indicate the condition of the filter.

(6) Vacuum or pressure type precoat media filter requirements.

(a) The filtering area must be compatible with the design pump capacity as required by R392-302-16(7). The design rate of filtration may not exceed 2.0 gallons per minute per square foot, 7.57 liters per 929 square centimeters, of effective filtering surface without continuous body feed, nor greater than 2.5 gallons per minute per square foot, 9.46 liters per 929 square centimeters, with continuous body feed.

(b) Where body feed is provided, the feeder device must be accurate to within 10 percent, must be capable of continual feeding within a calibrated range, and must be adjustable from two to six parts per million. The device must feed at the design capacity of the circulation pump.

(c) Where fabric is used, filtering area must be determined on the basis of effective filtering surfaces.

(d) The filter and all component parts must be designed and constructed of materials which will withstand normal continuous use without significant deformation, deterioration, corrosion or wear which could adversely affect filter operations.

(e) If a precoat media filter is supplied with a potable water supply, then the water must be delivered through an air gap.

(f) The filter plant must be provided with influent pressure, vacuum, or compound gauges to indicate the condition of the filter. In vacuum-type filter installations where the circulating pump is rated at two horsepower or higher, an adjustable high vacuum automatic shut-off device must be provided to prevent damage to the pump. Air-relief valves must be provided at or near the high point of the filter system.

(g) A filter must be designed to facilitate cleaning by one or more of the following methods: backwashing, air-bump-assist backwashing, automatic or manual water spray, or agitation.

(h) The filter system must provide for complete and rapid draining of the filter.

(i) Diatomaceous earth filter backwash water must discharge to the sanitary sewer system through a separation tank. The separation tank must have a sign that meets the requirements of a "2 Inch Safety Sign" in R392-302-[34]39 (1), (2) and (3)(b) warning the user not to start up the filter pump without first opening the air relief valve.

(j) Personal protection equipment suitable for preventing inhalation of diatomaceous earth or other filter aids must be provided.

(7) The department may waive NSF/ANSI 50-2015 standards for precoat media filters and approve site-built or custom-built vacuum precoat media filters, if the precoat media filter elements are easily accessible for cleaning by hand hosing after each filtering cycle. Site-built or custom-built vacuum precoat media filters must comply with all design requirements as specified in Subsection R392-302-20(6). Any design which provides the equivalent washing effectiveness as determined by the department may be acceptable. Where the department or the local health department determines that a potential cross-connection exists, a hose bib in the vicinity of the filter to facilitate the washing operation must be equipped with a vacuum

breaker listed by the International Association of Plumbing and Mechanical Officials, IAPMO, the American Society of Sanitary Engineering, A.S.S.E., or other nationally recognized standard.

(8) Vacuum or pressure type cartridge filter requirements.

(a) Sufficient filter area must be provided to meet the design pump capacity as required by Subsection R392-302-16, Table 1.

(b) The designed rate of filtration may not exceed 0.375 gallons, 1.42 liters, per minute per square foot, 929 square centimeters, of effective filter area.

(c) The filter and all component parts must be designed and constructed of materials which will withstand normal continuous use without significant deformation, deterioration, corrosion or wear which could adversely affect filter operations. The filter element must be constructed of polyester fiber only.

(d) The filter must be fitted with influent and effluent pressure gauges, vacuum, or compound gauges to indicate the condition of the filter. In vacuum type filter installations where the circulating pump is rated at two horsepower or higher, an adjustable high vacuum automatic shut-off must be provided to prevent damage to the pump. Air-relief valves must be provided at or near the high point of the filter system.

(e) Cleaning of cartridge type filters must be accomplished in accordance with the manufacturer's recommendations.

R392-302-21. Disinfectant and Chemical Feeders.

(1) A pool must be equipped with disinfectant dosing or generating equipment which conform to the NSF/ANSI 50-2015, standards relating to mechanical chemical feeding equipment, or be deemed equivalent by the department.

(2) All chlorine dosing and generating equipment, including erosion feeders, or in-line electrolytic and brine/bath generators, shall be designed with a capacity to provide the following, depending on the intended use:

(a) Outdoor pools: 4.0 pounds of free available chlorine per day per 10,000 gallons of pool water; or

(b) Indoor pools: 2.5 pounds of free available chlorine per day per 10,000 gallons of pool water.

([2]3) Where oxidation-reduction potential controllers are used, the operator shall perform supervisory water testing, calibration checks, inspection and cleaning of sensor probes and chemical injectors in accordance with the manufacturer's recommendations. If specific manufacturer's recommendations are not made, the operator shall perform inspections, calibration checks, and cleaning of sensor probes at least weekly.

([3]4) Where compressed chlorine gas is used, the following additional features must be provided:

(a) Chlorine and chlorinating equipment must be located in a secure, well-ventilated enclosure separate from other equipment systems or equipment rooms. Such enclosures may not be below ground level. If an enclosure is a room within a building, it must be provided with vents near the floor which terminate at a location out-of-doors. Enclosures must be located to prevent contamination of air inlets to any buildings and areas used by people. Forced air ventilation capable of providing at least one complete air change per minute, must be provided for enclosures.

(b) The operator shall not keep substances which are incompatible with chlorine in the chlorine enclosure.

(c) The operator shall secure chlorine cylinders to prevent them from falling over. The operator shall maintain an approved valve

stem wrench on the chlorine cylinder so the supply can be shut off quickly in case of emergency. The operator shall keep valve protection hoods and cap nuts in place except when the cylinder is connected.

(d) A sign that meets the requirements of a "4 Inch Safety Sign" in R392-302-[34]39 (1), (2) and (3)(a) shall be attached to the entrance door to chlorine gas and equipment rooms that reads, "DANGER CHLORINE GAS" and display the United States Department of Transportation placard and I.D. number for chlorine gas.

(e) The chlorinator must be designed so that leaking chlorine gas will be vented to the out-of-doors.

(f) The chlorinator must be a solution feed type, capable of delivering chlorine at its maximum rate without releasing chlorine gas to the atmosphere. Injector water must be furnished from the pool circulation system with necessary water pressure increases supplied by a booster pump. The booster must be interlocked with both the pool circulation pump and with a flow switch on the return line.

(g) Chlorine feed lines may not carry pressurized chlorine gas.

(h) The operator shall keep an unbreakable bottle of ammonium hydroxide, of approximately 28 percent solution in water, readily available for chlorine leak detection.

(i) A self-contained breathing apparatus approved by NIOSH for entering environments that are immediately dangerous to life or health must be available and must have a minimum capacity of fifteen minutes.

(j) The breathing apparatus must be kept in a closed cabinet located outside of the room in which the chlorinator is maintained, and must be accessible without use of a key or lock combination.

(k) The facility operator shall demonstrate to the local health department through training documentation, that all persons who operate, or handle gas chlorine equipment, including the equipment specified in Subsections R392-203-21(3)(h) and (i) are knowledgeable about safety and proper equipment handling practices to protect themselves, staff members, and the public from accidental exposure to chlorine gas.

(l) The facility operator or his designee shall immediately notify the local health department of any inadvertent escape of chlorine gas.

([4]5) Bactericidal agents, other than chlorine and bromine, and their feeding apparatus may be acceptable if approved by the department. Each bactericidal agent must be registered by the U.S. Environmental Protection Agency for use in swimming pools.

([5]6) Equipment of the positive displacement type and piping used to apply chemicals to the water must be sized, designed, and constructed of materials which can be cleaned and maintained free from clogging at all times. Materials used for such equipment and piping must be resistant to the effects of the chemicals in use.

([6]7) All auxiliary chemical feed pumps must be wired electrically to the main circulation pump so that the operation of these pumps is dependent upon the operation of the main circulation pump. If a chemical feed pump has an independent timer, the main circulation pump and chemical feed pump timer must be interlocked.

R392-302-22. Safety Requirements and Lifesaving Equipment.

(1) Areas of a public pool with water depth greater than six feet or a width greater than forty feet and a depth greater than four feet where a lifeguard is required under Subsection R392-302-30(2) shall provide for a minimum number of elevated lifeguard stations in

accordance with Table 2. Elevated lifeguard stations shall be located to provide a clear unobstructed view of the pool bottom by lifeguards on duty.

(2) A public pool must have at least one unit of lifesaving equipment. One unit of lifesaving equipment must consist of the following: a Coast Guard-approved ring buoy with an attached rope equal in length to the maximum width of the pool plus 10 feet and a life pole or shepherd's crook type pole with blunted ends and a minimum length of 12 feet, 3.66 meters. The facility operator may substitute a rescue tube for a ring buoy where lifeguard service is provided. Additional units must be provided at the rate of one for each 2,000 square feet, 185.8 square meters, of surface area or fraction thereof. The operator of a pool that has lifeguard services shall provide at least one backboard designed with straps and head stabilization capability.

(3) A public pool must be equipped with a first aid kit which includes a minimum of the following items:

- 2 Units eye dressing packet;
- 2 Units triangular bandages;
- 1 CPR shield;
- 1 scissors;
- 1 tweezers;
- 6 pairs disposable medical exam gloves; and

Assorted types and sizes of the following: self adhesive bandages, compresses, roller type bandages and bandage tape.

(a) The operator shall keep the first-aid kit filled, available, and ready for use.

(4) Lifesaving equipment must be mounted in readily accessible, conspicuous places around the pool deck. The operator shall maintain it in good repair and operable condition. The operator and lifeguards shall prevent the removal of lifesaving equipment or use of it for any reason other than its intended purpose.

(5) Where no lifeguard service is provided in accordance with Subsection R392-302-30(2), a warning sign that meets the requirements of a "4 Inch Safety Sign" in R392-302-[34]39 (1), (2) and (3)(a) shall be posted. The sign shall state: WARNING - NO LIFEGUARD ON DUTY. In addition, the sign shall state in text that meets the requirements of "2 Inch Safety Sign" in R392-302-[34]39 (1), (2) and (3)(b) "BATHERS SHOULD NOT SWIM ALONE", and CHILDREN 14 AND UNDER SHALL NOT USE POOL WITHOUT RESPONSIBLE ADULT SUPERVISION.

(6) Where lifeguard service is required, the facility must have a readily accessible area designated and equipped for emergency first aid care.

TABLE 2
Safety Equipment and Signs

	POOLS WITH LIFEGUARD	POOLS WITH NO LIFEGUARD
Elevated Station	1 per 2,000 sq. ft., 185 sq. meters, of pool area or fraction	None
Backboard	1 per facility	None
Room for Emergency Care	1 per facility	None
Ring Buoy with an attached rope	1 per 2,000 sq. ft., 185	1 per 2,000 sq. ft., 185

	equal in length to the maximum width of the pool plus 10 feet, 3.05 meters	sq. meters, of pool area or fraction	sq. meters, of pool area or fraction
Rescue Tube (used as a substitute for ring buoys when lifeguards are present)	1 per 2,000	None	sq. ft., 185 sq. meters, of pool area or fraction
Life Pole or Shepherds Crook	1 per 2,000 sq. ft. 185, sq. meters, of pool area or fraction	1 per 2,000 sq. meters, of pool area or fraction	1 per 2,000 sq. ft. 185, sq. meters, of pool area or fraction
First Aid Kit	1 per facility	1 per facility	1 per facility

R392-302-27. Disinfection and Quality of Water.

(1) Disinfection Process.

(a) A pool must be continuously disinfected by a product which:

(i) Is registered with the United States Environmental Protection Agency as a disinfecting process or disinfectant product for water;

(ii) Imparts a disinfectant residual which may be easily and accurately measured by a field test procedure appropriate to the disinfectant in use;

(iii) Is compatible for use with other chemicals normally used in pool water treatment;

(iv) Does not create harmful or deleterious effects on bathers if used according to manufacturer's specifications; and

(v) Does not create an undue safety hazard if handled, stored and used according to manufacturer's specifications.

(b) The concentration levels of the active disinfectant within the pool water shall be consistent with the label instructions of the disinfectant and with the minimum levels listed in Table 6 for all circumstances, bather loads, and the pH level of the water.

(i) At no time shall the concentration level of free available chlorine reach a level above ten parts per million while the facility is open to bathers.

(2) Products used to treat or condition pool water shall be used according to the product label.

(3) Testing Kits.

(a) An easy to operate pool-side disinfectant testing kit, compatible with the disinfectant in use and accurate to within 0.5 milligrams per liter, must be provided at each pool.

(b) If chlorine is the disinfectant used, it must be tested by the diethyl-p-phenylene diamine method, the leuco crystal violet method, or another test method approved by the Department.

(c) If cyanuric acid or stabilized chlorine is used, a testing kit for cyanuric acid, accurate to within 10.0 milligrams per liter must be provided.

(d) Expired test kit reagents may not be used.

(4) Chemical Quality of Water.

(a) If cyanuric acid is used to stabilize the free residual chlorine, or if one of the chlorinated isocyanurate compounds is used as the disinfecting chemical, the concentration of cyanuric acid in the water must be at least ten milligrams per liter, but may not exceed 100 milligrams per liter.

(b) The difference between the total chlorine and the free chlorine in a pool shall not be greater than 0.5 milligrams per liter. If

the concentration of combined residual chlorine is greater than 0.5 milligrams per liter the operator shall breakpoint chlorinate the pool water to reduce the concentration of combined chlorine.

(c) Total dissolved solids shall not exceed 1,500 milligrams per liter over the startup total dissolved solids of the pool water.

(d) Total alkalinity must be within the range from 100 to 125 milligrams per liter for a plaster lined pool, 80 to 150 milligrams per liter for a spa pool lined with plaster, and 125 to 150 milligrams per liter for a pool lined with other approved construction materials.

(e) A calcium hardness of at least 200 milligrams per liter must be maintained.

(f) The saturation index value of the pool water must be within the range of positive 0.3 and minus 0.3. The saturation index shall be calculated in accordance with Table 5.

(5) Water Clarity and Temperature.

(a) The water must have sufficient clarity at all times that the drain grates or covers in the deepest part of the pool are readily visible. As an alternative test for clarity, a black disk, six inches in diameter, must be readily visible if placed on a white field in the deepest part of the pool.

(b) Pool water temperatures for general use should be within the range of 82 degrees Fahrenheit, 28 degrees Celsius, to 86 degrees Fahrenheit, 30 degrees Celsius.

(c) The minimum water temperature for a pool is 78 degrees Fahrenheit, 26 degrees Celsius.

(d) The local health department may grant exemption to the pool water temperature requirements for a special purpose pool including a cold plunge pool, but may not exempt maximum hot water temperatures for a spa pool.

TABLE 5

CHEMICAL VALUES AND FORMULA FOR CALCULATING SATURATION INDEX

The formula for calculating the saturation index is:

$$SI = pH + TF + CF + AF - TDSF$$

SI means saturation index

TF means temperature factor

CF means calcium factor

mg/l means milligrams per liter

deg F means degrees Fahrenheit

AF means alkalinity factor

TDSF means total dissolved solids factor.

Temperature		Calcium Hardness		Total Alkalinity	
deg. F	TF	mg/l	CF	mg/l	AF
32	0.0	25	1.0	25	1.4
37	0.1	50	1.3	50	1.7
46	0.2	75	1.5	75	1.9
53	0.3	100	1.6	100	2.0
60	0.4	125	1.7	125	2.1
66	0.5	150	1.8	150	2.2
76	0.6	200	1.9	200	2.3
84	0.7	250	2.0	250	2.4
94	0.8	300	2.1	300	2.5
105	0.9	400	2.2	400	2.6
128	1.0	800	2.5	800	2.9

Total Dissolved Solids	TDSF
mg/l	
0 to 999	12.1
1000 to 1999	12.2
2000 to 2999	12.3

3000 to 3999	12.4
4000 to 4999	12.5
5000 to 5999	12.55
6000 to 6999	12.6
7000 to 7999	12.65
each additional 1000, add	.05

If the SATURATION INDEX is 0, the water is chemically in balance.

If the INDEX is a minus value, corrosive tendencies are indicated.

If the INDEX is a positive value, scale-forming tendencies are indicated.

EXAMPLE: Assume the following factors:

pH 7.5; temperature 80 degrees F, 19 degrees C;

calcium hardness 235; total alkalinity 100; and total dissolved solids 99.

pH = 7.5

TF = 0.7

CF = 1.9

AF = 2.0

TDSF = 12.1

TOTAL: 7.5 + 0.7 + 1.9 + 2.0 - 12.1 = 0.0

This water is balanced.

TABLE 6

DISINFECTANT LEVELS AND CHEMICAL PARAMETERS	PURPOSE		
	POOLS	SPAS	SPECIAL PURPOSE
Stabilized Chlorine(2) (milligrams per liter)			
pH 7.2 to 7.6	2.0(1)	3.0(1)	2.0(1)
pH 7.7 to 8.0	3.0(1)	5.0(1)	3.0(1)
Non-Stabilized Chlorine(2) (milligrams per liter)			
pH 7.2 to 7.6	1.0(1)	2.0(1)	2.0(1)
pH 7.7 to 8.0	2.0(1)	3.0(1)	3.0(1)
Bromine (milligrams per liter)	4.0(1)	4.0(1)	4.0(1)
Iodine (milligrams per liter)	1.0(1)	1.0(1)	1.0(1)
Ultraviolet and Hydrogen Peroxide (milligrams per liter hydrogen peroxide)	40.0(1)	40.0(1)	40.0(1)
pH	7.2 to 7.8	7.2 to 7.8	7.2 to 7.8
Total Dissolved Solids (TDS) over start-up TDS (milligrams per liter)	1,500	1,500	1,500
Cyanuric Acid (milligrams per liter)	10 to 100	10 to 100	10 to 100
Maximum Temperature (degrees Fahrenheit)	104	104	104
Calcium Hardness (milligrams per liter as calcium carbonate)	200(1)	200(1)	200(1)
Total Alkalinity (milligrams per liter as calcium carbonate)			
Plaster Pools	100 to 125	80 to 150	100 to 125
Painted or Fiberglass Pools	125 to 150	80 to 150	125 to 150
Saturation Index (see Table 5)	Plus or Minus 0.3	Plus or Minus 0.3	Plus or Minus 0.3
Chloramines (combined chlorine residual, milligrams per liter)	0.5	0.5	0.5

Note (1): Minimum Value

Note (2): Maximum value of free chlorine is ten milligrams per liter as stated in Subsection 27(1)(b)(i).

(6) Pool Water Sampling and Testing.

(a) At the direction of the Local Health Officer, the pool operator or a representative of the local health department shall collect a pool water sample from each public pool at least once per month or at a more frequent interval as determined by the Local health Officer. A seasonal public pool during the off season and any public pool while it is temporarily closed, if the pool is closed for an interval exceeding half of that particular month, are exempt from the requirement for monthly sampling. The operator or local health department representative shall submit the pool water sample to a laboratory approved under R444-14 to perform total coliform and heterotrophic plate count testing.

(b) The operator or local health department shall have the laboratory analyze the sample for total coliform and heterotrophic plate count using methods allowed under R444-14-4.

(c) If the operator submits the sample as required by local health department, the operator shall require the laboratory to report sample results within five working days to the local health department and operator.

(d) A pool water sample fails bacteriological quality standards if it:

(i) Contains more than 200 bacteria per milliliter, as determined by the heterotrophic plate count or

(ii) Shows a positive test for presence of coliform or contains more than 1.0 coliform organisms per 100 milliliters.

(e) Not more than 1 of 5 samples may fail bacteriological quality standards. Failure of any bacteriological water quality sample shall require submission of a second sample within one lab receiving day after the sample report has been received.

R392-302-29. Supervision of Pools.

(1) Public pools must be supervised by an operator that is certified or recertified by a program of training and testing that is approved by the Utah Department of Health. The local health department may determine the appropriate numbers of pools any one certified operator may supervise using criteria based on pool compliance history, local considerations of time and distance, and the individual operator's abilities.

(2) The pool operator must keep written records of all information pertinent to the operation, maintenance and sanitation of each pool facility. Records must be available at the facility and be readily accessible. The pool operator must make records available to the department or the local health department having jurisdiction upon their request. These records must include disinfectant residual in the pool water, pH and temperature of the pool water, pool circulation rate, quantities of chemicals and filter aid used, filter head loss, filter washing schedule, cleaning and disinfecting schedule for pool decks and dressing rooms, occurrences of fecal release into the pool water or onto the pool deck, bather load, and other information required by the local health department. The pool operator must keep the records at the facility, for at least two operating seasons.

(3) The public pool owner, in consultation with the qualified operator designated in accordance with R392-302-29 (1), shall develop an operation, maintenance and sanitation plan for the pool that will assure that the pool water meets the sanitation and quality standards set forth in this rule. The plan shall be in writing and available for inspection by the local health department. At a minimum the plan shall include the frequency of measurements of pool disinfectant residuals, pH and pool water temperature that will be taken. The plan

shall also specify who is responsible to take and record the measurements.

(4) If the public pool water samples required in Section R392-302-27 (5) fail bacteriological quality standards as defined in Section R392-302-27 (5), the local health department shall require the public pool owner and qualified operator to develop an acceptable plan to correct the problem. The local health department may require more frequent water samples, additional training for the qualified operator and also may require that:

(a) the pool operator measure and record the level of disinfectant residuals, pH, and pool water temperature four times a day (if oxidation reduction potential technology is used in accordance with this rule, the local health department may reduce the water testing frequency requirement) or

(b) the pool operator read flow rate gauges and record the pool circulation rate four times a day.

(5) Bather load must be limited if necessary to insure the safety of bathers and pool water quality as required in Section R392-302-27.

(6) A sign that meets the requirements of a "2 Inch Safety Sign" in R392-302-[34]39 (1), (2) and (3)(b) must be posted in the immediate vicinity of the pool stating the location of the nearest telephone and emergency telephone numbers which shall include 911 or other local emergency numbers.

R392-302-30. Supervision of Bathers.

(1) Access to the pool must be prohibited when the facility is not open for use.

(2) Lifeguard service must be provided at a public pool if direct fees are charged or public funds support the operation of the pool. If a public pool is normally exempt from the requirement to provide lifeguard services, but is used for some purpose that would require lifeguard services, then lifeguard services are required during the period of that use. For other pools, lifeguard service must be provided, or signs must be clearly posted indicating that lifeguard service is not provided.

(3) The Department shall approve programs which provide training and certifications to lifeguards. These programs shall meet the standards set in Subsection R392-302-30(4)(a).

(4) A lifeguard must:

(a) Obtain training and certification in:

(i) lifeguarding by the American Red Cross or an equivalent program; and

(ii) professional level skills in CPR, AED use, and other resuscitation skills consistent with the 2010 American Heart Association Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular Care; and

(iii) first aid consistent with the 2010 American Heart Association Guidelines for First Aid.

(b) Be on duty at all times when the pool is open to use by bathers, except as provided in Subsection R392-302-30(2); and

(c) Have full authority to enforce all rules of safety and sanitation.

(5) A lifeguard shall not have any other duties to perform other than the supervision and safety of bathers while he or she is assigned lifeguarding duties.

(6) Where lifeguard service is required, the number of lifeguards must be sufficient to allow for continuous supervision of all bathers, and surveillance over total pool floor areas.

(7) Lifeguards must be relieved in the rotation of lifeguarding responsibilities at least every 30 minutes with a work break of at least 10 minutes every hour.

(8) The facility operator and staff are responsible for the enforcement of the following personal hygiene and behavior rules:

(a) A bather using the facility must take a cleansing shower before entering the pool enclosure. A bather leaving the pool to use the toilet must take a second cleansing shower before returning to the pool enclosure.

(b) The operator and lifeguards shall exclude any person having a communicable disease transmissible by water from using the pool. A person having any exposed sub-epidermal tissue, including open blisters, cuts, or other lesions may not use a public pool. A person who has or has had diarrhea within the last two weeks caused by an unknown source or from any communicable or fecal-borne disease may not enter any public pool.

(c) Any child under three years old, any child not toilet trained, and anyone who lacks control of defecation shall wear a water resistant swim diaper and waterproof swimwear. Swim diapers and waterproof swimwear shall have waist and leg openings fitted such that they are in contact with the waist or leg around the entire circumference.

(d) Running, boisterous play, or rough play, except supervised water sports, are prohibited.

(e) Where no lifeguard service is provided, children 14 and under shall not use a pool without responsible adult supervision. Children under the age of five shall not use a spa or hot tub.

(f) The lifeguards and operator shall ensure that diapers shall be changed only in restrooms not at poolside. The person or persons who change the diaper must wash their hands thoroughly with soap before returning to the pool. The diapered person using a swim diaper and waterproof swimwear discussed in subsection R392-302-30(7)(c) above must undergo a cleansing shower before returning to the pool.

(f) Placards that meet the requirements of "Rule Sign" in R392-302-~~34~~39 (1), (2) and (3)(c) and embody the above rules of personal hygiene and behavior must be conspicuously posted in the pool enclosure and in the dressing rooms and lifeguard rooms (where applicable).

R392-302-31. Special Purpose Pools: Spa Pools.

(1) ~~[Special purpose pools]~~Spa pools must meet all applicable requirements of all Sections of R392-302 in addition to those of this Section as they apply to special design features and uses of ~~[special purpose]~~spa pools.

(a) ~~[Special purpose pool]~~Spa pool projects require consultation with the local health department having jurisdiction~~[in order that consideration can be given to areas where potential problems may exist and before deviations from some of the requirements are approved.~~

~~(b) The local health officer shall require such measures as deemed necessary to assure the health and safety of special purpose pool patrons].~~

~~[(2) Spa Pools.]~~

~~[(a)2] This subsection supercedes R392-302-6(5). A spa pool shell may be a color other than white or light pastel.~~

~~[(b)3] Spa pools shall meet the bather load requirement of R392-302-7(1)(a).~~

~~[(e)4] A spa pool may not exceed a maximum water depth of 4 feet, 1.22 meters. The department may grant exceptions to the maximum depth requirement for a spa pool designed for special purposes, such as instruction, treatment, or therapy.~~

~~[(d)5] This subsection supercedes R392-302-12(1)(f). A spa pool may be equipped with a single entry/exit. A spa pool must be equipped with at least one handrail for each 50 feet, 15.24 meters, of perimeter, or portion thereof, to designate the point of entry and exit. Points of entry and exit must be evenly spaced around the perimeter of the spa pool and afford unobstructed entry and egress.~~

~~[(e)6] This subsection supercedes R392-302-12(3)(c). In a spa pool where the bottom step serves as a bench or seat, the bottom riser may be a maximum of 14 inches, 35.56 centimeters.~~

~~[(f)7] This subsection supercedes R392-302-13(1). A spa pool must have a continuous, unobstructed deck at least 3 feet, 91.44 centimeters, wide around 25 percent or more of the spa.~~

~~[(g)8] This subsection supercedes R392-302-13(5). The department may allow spa decks or steps made of sealed, clear-heart redwood.~~

~~[(h)9] A pool deck may be included as part of the spa deck if the pools are separated by a minimum of 5 feet, 1.52 meters. An exception is allowed to the deck and pool separation requirements if a spa pool and another pool are constructed adjacent to each other and share a common pool sidewall which separates the two pools. The top surface of the common pool side wall may not exceed 18 inches, 45.7 centimeters, in width and shall have markings indicating "No Walking" or an icon that represents the same, provided in block letters at least four inches, 10.16 centimeters, in height, as required by R392-302-~~34~~39 (3)(a), in a contrasting color on the horizontal surface of the common wall. Additionally the deck space around the remainder of the spa shall be a minimum of five feet, 1.52 meters.~~

~~[(i)10] This subsection supercedes R392-302-15. The local health officer may exempt a spa pool from depth marking requirements if the spa pool owner can successfully demonstrate to the local health officer that bather safety is not compromised by the elimination of the markings.~~

~~[(j)11] A spa pool must have a minimum of one turnover every 30 minutes.~~

~~[(k)12] Spa pool air induction systems shall meet the requirements of R392-302-16(12)(a) through (b). Jet or water agitation systems shall meet the requirements of R392-302-16(13).~~

~~[(l)13] Spa pool filtration system inlets shall be wall-type inlets and the number of inlets shall be based on a minimum of one for each 20 feet, 6.10 meters, or fraction thereof, of pool perimeter.~~

~~[(m)14] Spa pool outlets shall meet all of the requirements of subsections R392-302-18(1) through R392-302-18(4)(e); however, the following exceptions apply:~~

~~[(i)a] Multiple spa outlets shall be spaced at least three feet apart from each other as measured from the centers of the drain covers or grates or a third drain shall be provided and the separation distance between individual outlets shall be at the maximum possible spacing.~~

~~[(i)b] The department may exempt an acrylic or fiberglass spa from the requirement to locate outlets at the deepest point in the pool if the outlets are located on side walls within three inches of the pool floor and a wet-vacuum is available on site to remove any water left in the pool after draining.~~

~~[(n)15] A spa pool must have a minimum number of surface skimmers based on one skimmer for each 100 square feet, 9.29 square meters of surface area.~~

([e]16) A spa pool must be equipped with an oxidation reduction potential controller which monitors chemical demands, including pH and disinfectant demands, and regulates the amount of chemicals fed into the pool circulation system. A spa pool constructed and approved prior to September 16, 1996 is exempt from this requirement if it is able to meet bacteriological quality as required in Subsection R392-302-27 (5)(e).

([p]17) A spa pool is exempt from the Section R392-302-22, except for Section R392-302-22(3).

([e]18) The maximum water temperature for a spa pool is 104 degrees Fahrenheit, 40 degrees Celsius.

([f]19) A spa pool shall meet the total alkalinity requirements of R392-302-27 (3)(d).

([s]20) A spa pool must have a sign that meets the requirements of a "Rule Sign" in R392-302-[34]39 (1),(2) and (3)(c) which contains the following information:

([i]a) The word "caution" centered at the top of the sign.

([ii]b) Elderly persons and those suffering from heart disease, diabetes or high blood pressure should consult a physician before using the spa pool.

([iii]c) Persons suffering from a communicable disease transmissible via water may not use the spa pool. Persons using prescription medications should consult a physician before using the spa.

([iv]d) Individuals under the influence of alcohol or other impairing chemical substances should not use the spa pool.

([v]e) Bathers should not use the spa pool alone.

([vi]f) Pregnant women should not use the spa pool without consulting their physicians.

([vii]g) Persons should not spend more than 15 minutes in the spa in any one session.

([viii]h) Children under the age of 14 must be accompanied and supervised by at least one responsible adult over the age of 18 years, when lifeguards are not on duty.

([ix]i) Children under the age of five years are prohibited from bathing in a spa or hot tub.

([x]j) Running or engaging in unsafe activities or horseplay in or around the spa pool is prohibited.

([t]21) Water jets and air induction ports on spa pools must be controlled by an automatic timer which limits the duration of their use to 15 minutes per each cycle of operation. The operator shall mount the timer switch in a location which requires the bather to exit the spa before the timer can be reset for another 15 minute cycle or part thereof.

~~(3) Wading Pools.~~

R392-302-32. Special Purpose Pools: Wading Pools.

(1) Wading pools must meet all applicable requirements of all Sections of R392-302 in addition to those of this Section as they apply to special design features and uses of wading pools.

(a) Wading pool projects require consultation with the local health department having jurisdiction.

([a]2) Wading pools shall be separated from other pools. Wading pools may not share common circulation, filtration, or chemical treatment systems, or walls.

([b]3) A wading pool may not exceed a maximum water depth of 2 feet, 60.96 centimeters.

([e]4) The deck of a wading pool may be included as part of adjacent pool decks.

([d]5) A wading pool must have a minimum of one turnover per hour and have a separate circulation system.

([e]6) A wading pool that utilizes wall inlets shall have a minimum of two equally spaced inlets around its perimeter at a minimum of one in each 20 feet, 6.10 meters, or fraction thereof.

([f]7) A wading pool shall have drainage to waste through a quick opening valve to facilitate emptying the wading pool should accidental bowel discharge or other contamination occur.

~~[(4) Hydrotherapy Pools.]~~

R392-302-33. Special Purpose Pools: Hydrotherapy Pools.

(1) Hydrotherapy pools must meet all applicable requirements of all Sections of R392-302 in addition to those of this Section as they apply to special design features and uses of hydrotherapy pools.

(a) Hydrotherapy pool projects require consultation with the local health department having jurisdiction.

([a]2) A hydrotherapy pool shall at all times comply with R392-302-27 Disinfection and Quality of Water, R392-302-28 Cleaning of Pools and R392-302-29 Supervision of Pools unless it is drained cleaned, and sanitized after each individual use.

([b]3) A hydrotherapy pool is exempt from all other requirements of R392-302, only if use of the hydrotherapy pool is restricted to therapeutic uses and is under the continuous and direct supervision of licensed medical or physiotherapy personnel.

([e]4) Local health departments may enter and examine the use of hydrotherapy pools to respond to complaints, to assure that use of the pool is being properly supervised, to examine records of testing and sampling, and to take samples to assure that water quality and cleanliness are maintained.

([d]5) A local health officer may grant an exception to section R392-302-31(4)(a) if the operator of the hydrotherapy pool can demonstrate that the exception will not compromise pool sanitation or the health or safety of users.

~~[(5) Water Slides.]~~

R392-302-34. Special Purpose Pools: Water Slides.

(1) Water slides must meet all applicable requirements of all Sections of R392-302 in addition to those of this Section as they apply to special design features and uses of water slides.

(a) Water slide projects require consultation with the local health department having jurisdiction.

([a]2) Slide Flumes.

([i]a) The flumes within enclosed slides must be designed to prevent accumulation of hazardous concentrations of toxic chemical fumes.

([ii]b) All curves, turns, and tunnels within the path of a slide flume must be designed so that body contact with the flume or tunnel does not present an injury hazard. The slide flume must be banked to keep the slider's body safely inside the flume.

([iii]c) The flume must be free of hazards including joints and mechanical attachments separations, splinters, holes, cracks, or abrasive characteristics.

([iv]d) Wall thickness of flumes must be thick enough so that the continuous and combined action of hydrostatic, dynamic, and static loads and normal environmental deterioration will not cause structural failures which could result in injury. The facility operator or owner shall insure that repairs or patchwork maintains original designed levels of safety and structural integrity. The facility operator

or owner shall insure that repairs or patchwork is performed in accordance with manufacturer's guidelines.

([v]e) Multiple-flume slides must have parallel exits or be constructed, so that the projected path of their centerlines do not intersect within a distance of less than 8 feet, 2.44 meters, beyond the point of forward momentum of the heaviest bather permitted by the engineered design.

([vi]f) A slide flume exit must provide safe entry into the splash pool. Design features for safe entry include a water backup, and a deceleration distance adequate to reduce the slider's exit velocity to a safe speed. Other methods may be acceptable if safe exiting from the slide flume is demonstrated to the department.

([b]3) Flume Clearance Distances.

([i]a) A distance of at least 4 feet, 1.22 meters, must be provided between the side of a slide flume exit and a splash pool side wall.

([ii]b) The distance between nearest sides of adjacent slide flume exits must be at least 6 feet, 1.83 meters.

([iii]c) A distance between a slide flume exit and the opposite end of the splash pool, excluding steps, must be at least 20 feet, 6.10 meters.

([iv]d) The distance between the side of the vehicle flume exit and the pool side wall must be at least 6 feet, 1.83 meters.

([v]e) The distance between nearest sides of adjacent vehicle slide flume exits must be at least 8 feet, 2.44 meters.

([vi]f) The distance between a vehicle slide flume exit and the opposite end of the splash pool, excluding steps, must be long enough to provide clear, unobstructed travel for at least 8 feet, 2.44 meters, beyond the point of forward momentum of the heaviest bather permitted by the engineered design.

([e]4) Splash Pool Dimensions.

([i]a) The depth of a water slide splash pool at the end of a horizontally oriented slide flume exit must be at least 3 feet, 9.14 centimeters, but may be required to be deeper if the pool design incorporates special features that may increase risks to bathers as determined by the department.

([ii]b) The depth must be maintained in front of the flume for a distance of at least 20 feet, 6.10 meters, from which point the splash pool floor may have a constant slope upward. Slopes may not be designed or constructed steeper than a 1 to 10 ratio.

([iii]c) The operating water depth of a vehicle slide splash pool, at the flume exit, must be a minimum of 3 feet 6 inches, 1.07 meters. This depth must be maintained to the point at which forward travel of the vehicle ends. From the point at which forward travel ends, the floor may have a constant upward slope to the pool exit at a ratio not to exceed 1 to 10.

([iv]d) The department may waive minimum depth and distance requirements for a splash pool and approve a special exit system if the designer can demonstrate to the department that safe exit from the flume into the splash pool can be assured.

([v]e) A travel path with a minimum width of 4 feet, 1.22 meters, must be provided between the splash pool deck and the top of the flume.

([d]5) General Water Slide Requirements.

([i]a) Stairways serving a slide may not retain standing water. Stairways must have non-slip surfaces and shall conform to the requirements of applicable building codes.

([ii]b) Vehicles, including toboggans, sleds, inflatable tubes, and mats must be designed and manufactured of materials which will safeguard the safety of riders.

([iii]c) Water slides shall meet the bather load requirements of R392-302-7(1)(d).

([e]6) Water Slide Circulation Systems.

([i]a) Splash pool overflow reservoirs must have sufficient volume to contain at least two minutes of flow from the splash pool overflow. Splash pool overflow reservoirs must have enough water to insure that the splash pool will maintain a constant water depth.

([ii]b) The circulation and filtration equipment of a special purpose pool must be sized to turn over the entire system's water at least once every hour.

([iii]c) Splash pool overflow reservoirs must circulate water through the water treatment system and return when flume supply service pumps are turned off.

([iv]d) Flume pumps and motors must be sized, as specified by the flume manufacturer, and must meet all NSF/ANSI 50-2015, Section 6. Centrifugal Pumps, standards for pool pumps.

([v]e) Flume supply service pumps must have check valves on all suction lines.

([vi]f) The splash pool and the splash pool overflow reservoir must be designed to prohibit bather entrapment as water flows from the splash pool to the overflow reservoir.

([vii]g) Perimeter overflow gutter systems must meet the requirements of Section R392-302-19, except that gutters are not required directly under slide flumes or along the weirs which separate splash pools and splash pool overflow reservoirs.

([viii]h) Pump reservoir areas must be accessible for cleaning and maintenance.

([f]7) Slide Signs.

([i]a) Signs that meet the requirements in R392-302-[34]39 (1), (2) and (3)(c) and reflecting the slide manufacturer's recommendations must be mounted adjacent to the entrance to a water slide and at other appropriate areas in accordance with R392-302-[34]39 (1). The heading of the signs shall be, "SLIDE INSTRUCTIONS, WARNINGS, AND REQUIREMENTS". The body of the signs shall state at least the following:

([A]i) Instructions including:

([H]A) proper riding position,

([H]B) expected rider conduct,

([H]C) dispatch procedures,

([H]D) exiting procedures, and

([H]E) obeying slide attendants or lifeguards.

([B]ii) Warnings to include:

([H]A) slide characteristics such as speed, and

([H]B) depth of water in splash zone.

([E]iii) Requirements which include that riders being free of medical conditions identified by the manufacturer such as pregnancy, heart conditions, back conditions, or musculoskeletal conditions.

~~[(6) Interactive Water Feature Requirements.]~~

R392-302-35. Special Purpose Pools: Interactive Water Features.

(1) Interactive water features must meet all applicable requirements of all Sections of R392-302 in addition to those of this Section as they apply to special design features and uses of interactive water features.

(a) Interactive water feature projects require consultation with the local health department having jurisdiction.

([a]2) All parts of the interactive water feature shall be designed, constructed, maintained, and operated so there are no slip, fall, or other safety hazards, and shall meet the standards of the State Construction Code Title 15a, State Construction and Fire Codes Act.

([b]3) Interactive water feature nozzles that spray from the ground level shall be flush with the ground, with openings no greater than one-half inch in diameter. Spray devices that extend above ground level shall be clearly visible.

([e]4) Areas adjacent to the water feature collection zones shall be sloped away at a minimum of two percent from the interactive water feature to deck drains or other approved surface water disposal systems. A continuous deck at least 3 feet, 0.91 meters, wide as measured from the edge of the collection zones must extend completely around the interactive water feature.

([d]5) Water discharged from all interactive water feature fountain or spray features shall freely drain by gravity flow through a main drain fitting to a below grade sump or collection system which discharges to a collector tank.

([e]6) All interactive water feature foggers and misters that produce finely atomized mists shall be supplied directly from a potable water source and not from the underground reservoir.

([f]7) The interactive water feature shall have an automated oxidation reduction potential (ORP) and pH controller installed and in operation whenever the feature is open for use. The controller shall be capable of maintaining disinfection and pH levels within the requirements for special purpose pools listed in Table 6. In addition, an approved secondary disinfection system that meets the requirements of in R392-302-[33]38 (4)(c) through (4)(f)(iii) shall be installed and in operation whenever the feature is open for use.

([g]8) A sign that meets the requirement R392-302-[34]39 (1), (2) and (3)(c) stating:

([i]a) The word "CAUTION" centered at the top of the sign.

([i]b) No running on or around the interactive water feature.

([i]c) Children under the age of 12 must have adult supervision.

([i]d) No food, drink, glass or pets are allowed on or around the interactive water feature.

([v]e) For the health of all users restrooms shall be used for the changing of diapers.

([h]9) If the interactive water feature is operated at night, five foot-candles of light shall be provided in the all areas of the water feature. Lighting shall be installed in accordance with manufacturer's specifications and approved for such use by UL or NSF.

([i]10) Hydraulics.

([i]a) The interactive water feature filter system shall be capable of filtering and treating the entire water volume of the water feature within 30 minutes.

([i]b) The interactive water feature filter system shall draft from the collector tank and return filtered and treated water to the tank via a minimum of 4 equally spaced inlet fittings. Inlet spacing shall also meet the requirements of section R392-302-17.

([i]c) The interactive water feature circulation system shall be on a separate loop and not directly interconnected with the interactive water feature pump.

([i]d) The suction intake of the interactive water feature pump in the underground reservoir shall be located adjacent to the

circulation return line and shall be located to maximize uniform circulation of the tank.

([v]e) An automated water level controller shall be provided for the interactive water feature, and the drinking water line that supplies the feature shall meet the requirements of R392-302-4.

([v]f) The water velocity through the feature nozzles of the interactive water features shall meet manufacturer's specifications and shall not exceed 20 feet per second.

([v]g) The minimum size of the interactive water feature sump or collector tank shall be equal to the volume of 3 minutes of the combined flow of all feature pumps and the filter pump. Access lids or doors shall be provided to the sump and collector tank. The lids or doors shall be sized to allow easy maintenance and shall provide security from unauthorized access. Stairs or a ladder shall be provided as needed to ensure safe entry into the tank for cleaning and inspection.

([v]h) The suction intake from the interactive water feature circulation pump shall be located in the lowest portion of the underground reservoir.

([i]i) A means of vacuuming and completely draining the interactive water feature tank shall be provided.

([j]11) An interactive water feature is exempt from:

([i]a) The wall requirement of section R392-302-10;

([i]b) The ladder, recessed step, stair, and handrail requirements of section R392-302-12;

([i]c) The fencing and access barrier requirements of section R392-302-14;

([i]d) The outlet requirements of section R392-302-18 except any submerged outlet that may create an entrapment hazard to users of the feature shall meet the requirements of R392-302-18(1)(a);

([v]e) The overflow gutter and skimming device requirements of section R392-302-19;

([v]f) The safety and lifesaving requirements of section R392-302-22, except that an interactive water feature shall be equipped with a first aid kit as required by subsection R392-302-22(3);

([v]g) The restroom and shower facility requirements of section R392-302-25 as long as toilets, lavatories and changing tables are available within 150 feet;

([v]h) The pool water clarity and temperature requirements of subsection R392-302-27(4);

([i]i) The diving area requirement of R392-302-11 except R392-302-11(4)(a) and (b) may be required by the Local Health Officer if the Local Health Officer determines that a diving risk exists;

([i]j) The depth marking and safety rope requirements of R392-302-15;

([i]k) The underwater lighting requirements of R392-302-23(1),(2), and (3);

([i]l) The supervision of bathers requirements of R392-302-30;

([i]m) The bather load requirements of R392-302-7; and

([i]n) The pool color requirements of R392-302-6(5).

([k]12) All interactive water features shall be constructed with a collection zone that meets the requirements of R392-302-6. Vinyl liners that are not bonded to a collection zone surface are prohibited. A vinyl liner that is bonded to a collection zone shall have at least a 60 millimeter thickness. Sand, clay, or earth collection zones are prohibited.

([i]a) The collection zone material of an interactive water feature must withstand the stresses associated with the normal uses of the interactive water feature and regular maintenance. The collection

zone structure and associated tanks shall withstand, without any damage to the structure, the stresses of complete emptying of the interactive water feature and associated tanks without shoring or additional support.

([H]b) The collection zone of an interactive water feature must be designed and constructed in a manner that provides a smooth, easily cleanable, non-abrasive, and slip resistant surface. The collection zone surfaces must be free of cracks or open joints with the exception of structural expansion joints or openings that allow water to drain to the collector tank. Openings that drain to the collector tank shall not pass a one-half inch sphere. The owner of a non-cementitious interactive water feature shall submit documentation with the plans required in R392-302-8 that the surface material has been tested and passed by an American National Standards Institute (ANSI) accredited testing facility using one of the following standards that is appropriate to the material used:

([A]i) for pools built with prefabricated pool sections or pool members, the International Cast Products Association (ICPA) standard ANSI/ICPA SS-1-2001; or

([B]ii) a standard that has been approved by the Department based on whether the standard is applicable to the surface and whether it determines compliance with the requirements of Section R392-302-6.

R392-302-36. Special Purpose Pools: Instructional Pools.

(1) Instructional pools must meet all applicable requirements of all Sections of R392-302 in addition to those of this Section as they apply to special design features and uses of instructional pools.

(a) Instructional pool projects require consultation with the local health department having jurisdiction.

(2) An instructional pool is exempt from certain requirements of R392-302 as stated in R392-302-36(3) only if use of the instructional pool is restricted to instructional uses as defined in this rule and:

(a) the instructional pool has a surface area no greater than 1,500 sq. ft., 139.35 sq. meters;

(b) the instructional pool has its widest dimension no greater than 50 feet, 15.24 meters, unless floor inlets are installed;

(c) the instructional pool has a maximum depth of four feet, 1.22 meters; and

(d) a 1:1 student to instructor ratio is met for at least 75% of the time the pool is in use; and for the remaining time:

(i) a maximum 5:1 student to instructor ratio is met; or

(ii) a maximum 8:1 student to instructor ratio is met where students are under 24 months old and are accompanied by a responsible adult over the age of 18 years.

(3) Instructional pools are exempt from the following requirements in R392-302:

(a) Section 6;

(b) Section 8 except

(i) The shape of an instructional pool and design and location of appurtenances must be such that the circulation of pool water is not impaired; and

(ii) An instructional pool must have a circulation system certified by a licensed engineer with necessary treatment and filtration equipment as required in this rule.

(c) Section 10

(d) Section 13 if the instructional pool is above-ground except.

(i) If above-ground, an instructional pool shall have a continuous unobstructed deck at least four feet, 1.21 meters, wide around 50 percent or more of the pool;

(ii) Stairways serving a raised deck shall not retain standing water and shall be constructed in accordance with building codes as adopted in Title 15A, State Construction and Fire Codes Act.

(iii) There shall be a continuous unobstructed space at least 4 feet, 1.21 meters, wide around the portions of the above-ground pool with no deck area.

(iv) Wooden decks, walks, or steps are prohibited.

(e) Subsection 16(1) except.

(i) A circulation system, consisting of pumps, piping, filters, water conditioning and disinfection equipment and other related equipment must be provided. The operator shall maintain the normal water line of the pool at the overflow rim of the gutter, if an overflow gutter is used, or at the midpoint of the skimmer opening if skimmers are used whenever the pool is open for bathing;

(ii) The circulation system shall meet a minimum turnover time of three hours; and

(iii) The operator shall run circulation equipment continuously except for periods of routine or other necessary maintenance. Pumps with the ability to decrease flow when the pool has little or no use are allowed as long as the same number of turnovers are achieved in 24 hours that would be required using a three hour turnover rate and the water quality standards of R392-302-27 can be maintained.

(f) Subsection 17(2) except

(i) Inlets shall be placed every 10 feet, 3.05 meters, around the perimeter of the pool.

(g) Subsection 18(1)(e) if the requirement for the minimum number of outlets is met and both a sump pump and a wet-vacuum are available on site to completely drain the pool.

(h) Subsection 19(4) and (5) if the instructional pool is above-ground, except

(i) Instructional pools shall have a minimum number of surface skimmers based on one skimmer for each 400 sq. ft., 37.16 sq. meters, of water surface area or fraction thereof.

(ii) The piping and other components of a skimmer system must be designed for a total capacity of at least 80 percent of the maximum flow rate of the circulation system.

(iii) Skimmers must be designed with a minimum flow rate of 25 gallons, 94.64 liters, per minute and a maximum flow rate of 55 gallons, 208.12 liters, per minute. The local health department may allow a higher maximum flow through a skimmer up to the skimmer's NSF rating if the piping system is designed to accommodate the higher flow rates. Alternatively, skimmers may also be designed with a minimum of 3.125 gallons, 11.83 liters, to 6.875 gallons, 26.02 liters, per lineal inch, 2.54 centimeters, of weir.

(4) Instructional pools shall be equipped with an oxidation reduction potential controller which monitors chemical demands, including pH and disinfectant demands, and regulates the amount of chemicals fed into the pool circulation system.

(5) Seats, benches, stairs, and ladders may be installed as an aftermarket product provided they:

(a) remain in the pool at all times;

(b) are constructed of chemically stable, durable materials to withstand degradation due to being in pool water; and

(c) are constructed or modified to not pose an entrapment hazard.

R392-302-~~32~~37. Advisory Committee.

(1) An advisory committee to the Department regarding regulation of public pools is hereby authorized.

(2) The advisory committee shall be appointed by the Executive Director. Representatives from local health departments, pool engineering, construction or maintenance companies and pool owners may be represented on the committee.

(3) Consistent with R380-1, the Executive Director may seek the advice of the advisory committee regarding interpretation of this rule, the granting of exemptions and related matters.

R392-302-~~33~~38. Cryptosporidiosis Watches and Warnings.

(1) The Executive Director or local health officer may issue cryptosporidiosis watches or cryptosporidiosis warnings as methods of intervention for likely or indicated outbreaks of cryptosporidiosis. The Executive Director or local health officer may issue a cryptosporidiosis watch if there is a heightened likelihood of a cryptosporidiosis outbreak. The Executive Director or local health officer may issue a cryptosporidiosis warning if there have been reports of cryptosporidiosis above the background level reported for the disease. The Executive Director or local health officer shall include the geographic area and pool type covered in the warning and may restrict certain persons from using public pools.

(2) If a cryptosporidiosis watch or a cryptosporidiosis warning has been issued, the operator of any public pool shall post a notice sign meeting at a minimum the ANSI Z535.2-2011 requirements for NOTICE signs with a 10-foot viewing distance and approved by the local health officer. An Adobe Acrobat .pdf version of the sign that meets the requirements of this section shall be made available from the Department or the local health department. The notice sign shall be placed so that all patrons are alerted to the cryptosporidium-targeted requirements prior to deciding whether to use the swimming pool. The sign shall be at least 17 inches, 43 centimeters, wide by 11 inches, 28 centimeters, high.

(a) Centered immediately below the blue panel shall appear the words "CRYPTO DISEASE PREVENTION" in capital letters.

(b) The body of the notice sign shall be in upper case letters at least 0.39 inches, 1.0 centimeters, high and include the following four bulleted statements in black letters:

-All with diarrhea in the past 2 weeks shall not use the pool.

-All users must shower with soap to remove all fecal material prior to pool entry and after using the toilet or a diaper change.

-All less than 3 yrs or who wear diapers must wear a swim diaper and waterproof swimwear. Diapers may only be changed in restrooms or changing stations.

-Keep pool water out of your mouth.

(3) If a cryptosporidium warning has been issued, each operator of a public pool subject to the warning shall, at a minimum, implement the following cryptosporidium counter measures:

(a) maintain the disinfectant concentration within the range between two mg/l (four mg/l for bromine) and the concentration listed on the product's Environmental Protection Agency mandated label as

the maximum reentry concentration, but in no case more than five mg/l (10 mg/l for bromine);

(b) maintain the pH between 7.2 and 7.5; and

(c) maintain the cyanuric acid level that meets the requirement of R392-302-27(3), except the maximum level shall be reduced to 30 mg/l.

(4)(a) If a cryptosporidium warning has been issued, in addition to the requirements listed in R392-302-~~33~~38 (3), the owner or operator of a public pool shall implement any additional cryptosporidium countermeasures listed in subsection below sufficient to achieve at least a 99.9 percent destruction or removal of cryptosporidium oocysts twice weekly, except as provided in R392-302-~~33~~38 (4)(b).

(b) Hyperchlorination using sodium hypochlorite or calcium hypochlorite to achieve a concentration multiplied by time (CT) value of 15,300 mg/l minutes. Table 7 lists examples of chlorine concentrations and time periods that may be used to achieve the required CT value. The operator shall not allow anyone to use the pool if the chlorine concentration exceeds the Environmental Protection Agency maximum reentry concentration listed on the product's label, but in no case if the concentration exceeds five mg/l. The operator of any public pool not required to have a lifeguard by R392-302-30 (2) shall hyperchlorinate at least once weekly.

(c) A full flow ultraviolet treatment system that meets the requirements of standard NSF/ANSI 50-2015 for ultraviolet light process equipment. The owner or operator shall ensure that the system is installed and operated according to the manufacturer's recommendations. The owner or operator shall obtain from the manufacturer of the system documentation of third-party challenge testing that the system can achieve a single pass 99.9 percent inactivation of cryptosporidium or the bacteriophage MS2 at the pool design flow rate and during normal operating conditions. The owner or operator shall maintain and make available for inspection the manufacturer's documentation.

(d) An ozone treatment system that achieves a CT value of 7.4 and a flow-through rate at least four times the volume of the pool every three and a half days. The system shall meet the requirements of standard NSF/ANSI 50-2015 for ozone process equipment. The owner or operator shall ensure that the system is installed and operated according to the manufacturer's recommendations.

(e) A cryptosporidium oocyst-targeted filter system installed and operated according to the manufacturer's recommendations. The filter shall meet the requirements of R392-302-20. The owner or operator shall obtain from the manufacturer of the system documentation of third-party challenge testing that the system can achieve a single pass 99 percent reduction of particles in the range of 4 to 6 microns or cryptosporidium oocysts at the pool design flow rate and normal operating conditions. The owner or operator shall maintain and make available for inspection the manufacturer's documentation.

(f) A system approved by the local health officer. The health officer's approval of a system for use as an alternative shall be based on the system's documented ability to:

(i) achieve cryptosporidium removal or inactivation to a level at least equivalent to the requirements in R392-302-~~33~~38 (4)(a);

(ii) assure safety for swimmers and pool operators; and

(iii) comply with all other applicable rules and federal regulations.

TABLE 7

Chlorine Concentration and Contact Time to Achieve CT = 15,300

Chlorine Concentration	Contact Time
1.0 mg/l	15,300 minutes (255 hours)
10 mg/l	1,530 minutes (25.5 hours)
20 mg/l	765 minutes (12.75 hours)

(5) If the Executive Director or local health officer issues a restriction on the use of public pools by certain persons as part of the cryptosporidium warning the operator shall restrict persons within that segment of the population from using the facility.

(6) If the Executive Director or local health officer determines that a pool is a cryptosporidiosis threat to public health, he may order the pool to close. The owner or operator of the pool may not reopen until the person issuing the order has rescinded it.

R392-302-[34]39. Signs.

(1) Signs required in R392-302 shall be placed to alert and inform patrons in enough time that the patrons may take appropriate actions.

(2) Signs shall be written in a lettering style, stroke width, spacing, and contrast with the background such that the sign is clearly visible.

(3) As required in different subsections of this rule, sign lettering shall meet one or more, if stated, of the following minimum size standards:

(a) "4 Inch Safety Sign" shall be written in all capital letters that are at least four inches, 10.2 centimeters in height.

(b) "2 Inch Safety Sign" shall be written in all capital letters that are at least two inches, 5.1 centimeters, in height.

(c) "Rule Signs" shall be written with any required signal word, warning or caution, as the sign heading in letters at least two inches, 5.1 centimeters, in height and the body or bulleted rules in letters at least [1.5]0.5 inches, [3.8]1.27 centimeters, in height.

(i) If the sign can only be viewed from more than a distance of ten feet, 3.048 meters, the letter height shall be larger in the same proportion as the required viewing distance is to ten feet, 3.048 meters.

(ii) The Local Health Officer may approve smaller letter sizes than those required in R392-302-[34]39(3)(c) if the sign will always be viewed from less than a ten foot, 3.048 meters, distance and if the Local Health Officer agrees that the sign meets the requirements of R392-302-[34]39(1) and (2).

KEY: pools, spas, swimming, water

Date of Enactment or Last Substantive Amendment: [June 1, 2017]2018

Notice of Continuation: November 7, 2016

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-1-30; 26-15-2

**Health, Disease Control and
Prevention, Environmental Services
R392-401
Roadway Rest Stop Sanitation**

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 42514

FILED: 01/29/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The repeal and reenact to Rule R392-401 simplifies the rule, removes outdated language and redundancies, and provides technical and conforming changes in accordance with the Rulewriting Manual for Utah.

SUMMARY OF THE RULE OR CHANGE: The changes to Rule R392-401 provide technical and conforming changes throughout the rule and remove unnecessary and repetitive language. Section R392-401-1 is a new section added to specify the statute under which this rule is authorized, and to explain the purpose of the rule. Section R392-401-2 is a new section added to describe individuals and groups to whom this rule applies, and to specify exclusions to such. In Section R392-401-3, added definitions for "Local health officer", "Nuisance", "Operator", "Plumbing Code", and "Vault Privy", and amended the definition for "Roadway rest area". In Section R392-401-4: 1) the Department has made revisions to simplify the language and to clarify the intent to align more closely with the authorizing statute and the Rulewriting Manual for Utah; and 2) substantive changes include the addition of a provision, similar to a "grandfather clause", which specifies that a construction change is not required in any portion of a rest area that was in compliance before this rule goes into effect. In Sections R392-401-5 and R392-401-6, the Department has made revisions to simplify the language and to clarify the intent to more closely align this rule with the authorizing statute and the Rulewriting Manual for Utah. Removal of Section R392-401-5, Plumbing, from the currently enacted rule. The Department incorporated the Plumbing Code by reference in order to remove the numerous regulatory redundancies. In Section R392-401-7, the Department has made revisions to simplify the language and to clarify the intent to more closely align this rule with the authorizing statute and the Rulewriting Manual for Utah. In Sections R392-401-8 and R392-401-9, the Department has made revisions to simplify the language and to clarify the intent to more closely align this rule with the authorizing statute and the Rulewriting Manual for Utah. Section R392-401-10 specifies the application of an authority granted a local health officer in Title 26A. Section R392-401-11 specifies the application of an authority granted to a local health officer in Title 26A.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5 and Section 26-15-2 and Subsection 26-1-30(23)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** Repealing and reenacting Rule R392-401 will likely not result in a cost or benefit to the state budget. The Utah Department of Transportation currently operates and maintains 24 rest areas, 5 welcome centers,

and 5 rest stops. The reenacted rule does not require any changes to an existing facility, nor does the reenacted rule require a permit or a fee of any type.

◆ LOCAL GOVERNMENTS: Repealing and reenacting Rule R392-401 will likely not result in a cost or benefit to local governments.

◆ SMALL BUSINESSES: Repealing and reenacting Rule R392-401 will likely not result in a cost or savings to small businesses.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Repealing and reenacting Rule R392-401 will likely not result in a fiscal impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No one specific person will be affected by this rule change. The reenacted rule does not include fees such as user fees or permit fees.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Substantive changes include the addition of a grandfather provision specifying that a construction change is not required to any portion of a rest area that was in compliance before the change. It also references the Plumbing Code found in Title 15A and removes any redundancy arising from the incorporation. There will be no fiscal impact from the change.

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

HEALTH
DISEASE CONTROL AND PREVENTION,
ENVIRONMENTAL SERVICES
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:

◆ Chris Nelson by phone at 801-538-6739, or by Internet E-mail at chrishnelson@utah.gov or PO Box 142104, Salt Lake City, UT 84114-2104

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/19/2018

THIS RULE MAY BECOME EFFECTIVE ON: 03/26/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:			
	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

There are no large businesses in the industry in question (roadway rest areas) in Utah. Roadway rest areas are managed by the State of Utah. The Utah Department of Transportation currently operates and maintains 24 rest areas, 5 welcome centers, and 5 rest stops. The proposed rule does not require any changes to an existing facility, nor does the proposed rule require a permit or a fee of any type. Repealing and reenacting Rule R392-401 will likely not result in a cost or benefit to small or large business, local government, or the state budget.

The head of Department of Health, Dr. Joseph Miner, has reviewed and approved this fiscal analysis.

R392. Health, Disease Control and Prevention, Environmental Services.

R392-401. Roadway Rest [Stop]Area Sanitation.

[R392-401-1. Definitions:

~~Director~~ shall mean the Executive Director of the Utah Department of Health.

~~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 as not offering public facilities.

~~Wastewater~~ shall mean discharges from all plumbing facilities such as rest rooms, kitchen, and laundry fixtures either separately or in combination.

R392-401-2. General.

2.1 It shall be the duty of each person operating a roadway rest stop in the State of Utah to carry out the provisions of these regulations.

2.2 Severability - If any provision of this code, or its application to any person or circumstances is declared invalid, the application of such provision to other persons or circumstances, and the remainder of this code, shall not be affected thereby.

2.3 Roadway rest stops shall be designed and constructed to provide adequate surface drainage and shall be isolated from any existing or potential health hazard or nuisance.

2.4 All applicable building, zoning, electrical, health, fire codes and all local ordinances shall be complied with.

R392-401-3. Water Supply.

3.1 Potable water supply systems for use in roadway rest stops shall meet the requirements of the State of Utah rules and regulations relating to public drinking water supplies.

3.2 In addition to the requirements of the rules and regulations relating to public drinking water supplies, the design of water system facilities shall be based on the suppliers engineer's estimates of water demands, but shall in no case be less than the following:

Source Capacity - 7 gallons per vehicle served during peak day (with flushometer valves).

Storage Volume - 3.5 gallons per vehicle served during peak day (with flushometer valves).

Distribution System Capacity shall maintain a water system pressure in excess of 20 psi at all points in the distribution system during peak hourly flow conditions. Non-community systems in remote areas can be exempted from this requirement, on a case-by-case basis, if flow from the system is always unregulated and free-flowing. The peak hourly flow shall be calculated on a per building basis for the number of fixture units as presented in the Utah Plumbing Code.

Other exceptions to the above requirements may be made as permitted by the State of Utah public drinking water rules.

3.2.1 The source and storage requirements as indicated above do not include water demands for outside use or fire protection. However, if the culinary system is intended to provide water for such uses, the water requirements indicated above must be appropriately increased. Specific information on watering requirements (e.g. area of land to be irrigated) must be provided for Department of Health review.

3.3 Construction of a public drinking water supply system intended to serve occupants of any roadway rest stop shall not commence until plans prepared by a licensed professional registered engineer (in accordance with Title 58, Chapter 22, Professional Engineers, and Land Surveyors Licensing Act) have been submitted to and approved in writing by the Utah Department of Environmental Quality. Following construction, the system may not be placed in

service until a final inspection is made by a representative of the Utah Department of Environmental Quality or local health department having jurisdiction.

3.3.1 All systems must be monitored in accordance with the State of Utah public drinking water rules in cooperation with the local health department in that jurisdiction.

3.4 Any culinary system or portion thereof that is drained seasonally must be cleaned, flushed, and disinfected, and a water sample of satisfactory bacteriologic quality, i.e. a sample showing not more than one coliform bacteria per 100 ml sample, must be obtained before being placed into service.

3.5 In any roadway rest stop where it is not feasible to pipe water into the area, an alternate supply may be permitted upon approval of the Director or director of the local health department having jurisdiction.

R392-401-4. Wastewater.

4.1 All wastewater shall be discharged to a public sewer system where accessible and within 300 feet of the roadway rest stop property line.

4.2 Where connection to a public sewer is not available, wastewater shall be discharged into a wastewater disposal system meeting requirements of the Utah rules for waste disposal. Unless water usage rates are available, design shall be based on not less than five (5) gallons per day per vehicle.

4.3 All plans for the construction or alteration of a wastewater disposal system shall initially be submitted to the local health department having jurisdiction. Where plan approval is required by law to be provided by the State Department of Environmental Quality, such plans will be forwarded by the local authority along with any appropriate comments. Construction or alteration of the disposal system shall not commence until the plans have been approved in writing by the appropriate health agency.

R392-401-5. Plumbing.

5.1 Adequate plumbing fixtures shall be made available at all roadway rest stops. Water closets and lavatories shall be provided for each sex. The total number of fixtures required shall be based upon survey results conducted to determine traffic density and estimated rest stop use, assuming that one water closet will serve 9 vehicles per hour. Sanitary drinking fountains shall be provided for use at roadway rest stops except when otherwise determined by the Director or director of the local health department having jurisdiction. Common drinking cups are prohibited. A service sink shall be installed to facilitate cleanup procedures.

5.2 Where water cannot be made available, exceptions to the above requirements may be made upon approval of the Director or local health authorities having jurisdiction. Toilet facilities other than the water flush type may be installed when approved by the Director or local health authorities having jurisdiction.

5.3 Wherever toilet facilities for males and females are located in the same building, and adjacent to each other, they shall be separated by a sound-resistant wall. Direct line of sight to each rest room shall be effectively obstructed.

5.4 Soap and toilet tissue in suitable dispensers and individual towels or other approved hand drying facilities and suitable waste receptacles with lids should be provided in each rest room, except as provided in Section 5.2.

~~5.5 Plumbing fixtures which normally require water for their operation shall be supplied with an adequate potable water supply under pressure.~~

~~5.6 All plumbing installed in roadway rest stops shall comply with the provisions of the Utah Plumbing Code and applicable local plumbing codes.~~

~~R392-401-6. Solid Wastes.~~

~~6.1 All solid wastes originating in any roadway rest stop shall be stored in a sanitary manner in approved, watertight containers with lids, or the equivalent, approved by the local health department. The containers shall be conveniently located, and the contents shall be disposed of in a manner approved by the State or local health department having jurisdiction.~~

~~R392-401-7. Maintenance.~~

~~7.1 All buildings, equipment, facilities and ground surrounding them shall be maintained in a clean and operable condition.~~

~~7.2 All necessary means shall be employed to eliminate or control any infestations of insects and rodents within all parts of the roadway rest stop. This shall include effective screening or other approved control of outside openings in structures intended for public use.]~~

~~R392-401-1. Authority and Purpose.~~

~~(1) This rule is authorized under Sections 26-1-5, 26-1-30(23), and 26-15-2.~~

~~(2) This rule establishes definitions; sets standards for health and welfare of individuals and for the prevention of the spread of disease in or from a roadway rest area.~~

~~R392-401-2. Applicability.~~

~~This rule applies to the maintenance, use, and operation of roadway rest areas designed, intended for use, or otherwise used by the public while traveling on public roadways, unless specifically exempted. This includes any area designated as an Interstate Oasis as defined by the Federal Highway Administration under 23 U.S.C. Sec. 111 and listed in 71 Federal Register 201 (18 October 2006), pp. 61529-61534. This rule does not apply to scenic view or roadside picnic areas or other parking areas if those areas have proper signage indicating that public facilities are not offered.~~

~~R392-401-3. Definitions.~~

~~For the purposes of this rule, the following terms, phrases, and words shall have the meanings herein expressed:~~

~~(1) "Local health officer" means the health officer of the local health department having jurisdiction or designated representative.~~

~~(2) "Nuisance" means a condition or hazard, or the source thereof, which may be deleterious or detrimental to the health, safety, or welfare of the public.~~

~~(3) "Operator" means a person with ownership or overall responsibility for managing or operating a roadway rest area in the State of Utah.~~

~~(4) "Plumbing Code" means International Plumbing Code as incorporated and amended in Title 15A, State Construction and Fire Codes Act.~~

~~(5) "Roadway rest area" or "Rest area" means any building, or buildings, or grounds, parking areas, including toilet, hand washing,~~

water supply and wastewater facilities intended for the accommodation of people using such facilities while traveling on public roadways. This includes rest areas, welcome centers, and rest stops.

(6) "Vault privy" means a toilet facility wherein the waste is deposited without flushing into a permanently-installed, watertight vault or receptacle. Vault wastes is periodically removed and disposed of in accordance with Rule R317-560.

(7) "Wastewater" means discharges from all plumbing facilities including rest rooms, kitchen, and laundry fixtures either separately or in combination.

R392-401-4. General.

(1) This rule does not require a construction change in any portion of a roadway rest area if the rest area was in compliance with the law in effect at the time the roadway rest area was constructed, except as in R392-401-4(1)(a).

(a) Construction changes may be required by the local health officer if it is determined the roadway rest area or portion thereof is dangerous, unsafe, unsanitary, or a nuisance to life, health, or property.

(2) The operator shall carry out the provisions of this rule.

(3) Severability - If any provision of this code, or its application to any person or circumstances is declared invalid, the application of such provision to other persons or circumstances, and the remainder of this code, shall not be affected thereby.

(4) A roadway rest area operator or agent shall select or construct a location for the facility that will provide adequate surface drainage. The operator shall make a reasonable effort to locate the facility away from any existing or potential public health hazard or nuisance.

(5) The operator shall comply with all applicable building, zoning, electrical, health, fire codes and all local ordinances.

R392-401-5. Water Supply Requirements.

(1) When an operator supplies potable water for rest area patron use, the potable water supply system shall be designed, installed, and operated according to the requirements set forth by:

(a) Plumbing Code;

(b) the Utah Department of Environmental Quality, Division of Drinking Water under Title R309; and

(c) local health department regulations.

(2) Any plumbing fixture provided by the operator that normally requires water for its operation shall have an adequate potable water supply under pressure.

(3) The operator may be required to sample water systems operated on a seasonal basis for bacteriologic analysis, as determined by the local health officer.

(4) If a roadway rest area experiences or will experience a disruption of potable water or sewer service for more than four hours, for any reason, the operator shall notify the local health officer within one hour of becoming aware of the service disruption.

R392-401-6. Wastewater Disposal Requirements.

(1) The operator shall ensure that sewer services are made available to roadway rest area patrons.

(2) Sewer systems for use by roadway rest area patrons shall be designed, installed, and operated according to the requirements set forth by:

(a) Plumbing Code;

(b) The Utah Department of Environmental Quality, Division of Water Quality under Title R317-4;

(c) local health department regulations; and

(d) the local sewer district having jurisdiction.

(3) All wastewater shall be discharged to a public sanitary sewer system whenever practicable.

(4) Where connection to a public sanitary sewer is not practicable, wastewater shall be discharged to:

(a) an approved onsite wastewater disposal system; or

(b) a vault privy which shall be located, constructed, and maintained according to the requirements of Rule R317-560 and local health department regulation in such a manner that:

(i) Users do not contact waste matter deposited;

(ii) Access to the vault privy interior or vault is minimized for flies, insects, rats, and other animals;

(iii) Surface or ground water cannot enter the vault, either as runoff or as flood water;

(iv) The waste material in the vault privy cannot contaminate a water supply, stream, or body of water; and

(v) Odors are minimized both inside and outside the vault privy structure.

(5) The operator shall submit all required plans for the construction or alteration of an onsite wastewater disposal system in accordance with Title R317.

R392-401-7. Solid Wastes.

(1) The operator shall provide adequate containers to prevent the accumulation of solid waste in or around the rest area.

(2) Solid waste generated at a roadway rest area shall be stored in a leak-proof, non-absorbent container, which shall be kept covered with a tight-fitting lid.

(3) All solid wastes shall be disposed with sufficient frequency and in such a manner as to prevent insect breeding, rodent harborage, or a public health nuisance.

R392-401-8. Maintenance Requirements.

(1) All buildings, rooms, and equipment and the grounds surrounding them shall be maintained in a clean and operable condition.

(2) Where necessary, all reasonable means shall be employed to eliminate or control infestations of vermin, vectors, or pests within a roadway rest area. This shall include approved screening or other approved control of outside openings in structures.

(3) Where electric power is available, roadway rest areas shall be provided with outside lighting to indicate the location and entrance doorways.

R392-401-9. Operation Requirements.

(1) When an operator provides plumbing fixtures as described in Subsection R392-401-5(2), the operator shall supply in each toilet room:

(a) soap and toilet tissue in suitable dispensers;

(b) individual disposable towels or other approved hand drying facilities; and

(c) a solid, durable, and easily cleanable waste receptacle with lid.

(2) When a vault privy is provided for patron use as described in Subsection R392-401-6(4)(b), and potable water is not

plumbed, connected, or supplied to the toilet room, the operator shall supply in each toilet room:

(a) a solid, durable, and easily cleanable waste receptacle with lid; and

(b) toilet tissue in a suitable dispenser

(3) The operator shall post signage in a conspicuous location to discourage patrons from depositing toilet tissue in a waste receptacle.

R392-401-10. Inspections and Investigations.

Upon presenting proper identification, the operator shall permit the local health officer to enter upon the premises of a roadway rest area to perform inspections, investigations, reviews, and other actions as necessary to ensure compliance with Rule R392-401.

R392-401-11. Closing or Restricting of a Roadway Rest Area.

(1) If a local health officer deems a roadway rest area or portion thereof to be an imminent risk to the life, health, or safety of the public, the roadway rest area may be closed or its use may be restricted, as determined by the local health officer.

(2) The operator shall restrict public access to the impacted area of any roadway rest area closed or restricted to use by a local health officer within a reasonable time as ordered by the local health officer.

(3) It shall be unlawful for an operator to allow the public to utilize any roadway rest area or portion thereof that has been deemed unfit for use until written approval of the local health officer is given.

KEY: public health, recreation areas, rest areas, restrooms

Date of Enactment or Last Substantive Amendment: [1987]2018

Notice of Continuation: November 7, 2016

Authorizing, and Implemented or Interpreted Law: 26-15-2

Health, Disease Control and Prevention, Environmental Services **R392-502** Hotel, Motel and Resort Sanitation

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 42515

FILED: 01/29/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The repeal and reenact of Rule R392-502 simplifies the rule, removes outdated language and redundancies, and provides technical and conforming changes in accordance with the Rulewriting Manual for Utah. The Department of Health (Department) has also proposed additional controls to mitigate the spread of infectious diseases, especially norovirus, in public lodging facilities.

SUMMARY OF THE RULE OR CHANGE: The repeal and reenact of Rule R392-502 provides technical and conforming changes throughout the rule and removes unnecessary and repetitive language. Section R392-502-1 is a new section added to specify the statute under which this rule is authorized, and to explain the purpose of the rule. Section R392-502-2 is a new section added to describe individuals and groups to whom this rule applies, and to specify exclusions to such. Section R392-502-3 added definitions for: "Clean, Dilapidated, Habitable space, Hot water, Linens, Local health officer, Nuisance, Operator, Pest, Plumbing Code, Plumbing fixture, Premises, Public lodging facility, Red tagged, Sanitary, Service animal, Vector, Vermin, and Virucidal disinfectant"; removed definitions for "Hotel, Motel, or Resort, and Hotel, Motel or Resort Units"; and amended the definitions for "Wastewater". In Section R392-502-4, the Department has made nonsubstantive revisions including the rewording and restructuring of this section to simplify the language and to clarify the intent to more closely align this rule with the authorizing statute and the Rulewriting Manual for Utah; substantive changes include the addition of a provision, similar to a "grandfather clause", that specifies that a construction change is not required in any portion of a public lodging facility that was in compliance before this rule goes into effect. In Sections R392-502-5 and R392-502-6, the Department has made revisions to simplify the language and to clarify the intent to more closely align this rule with the authorizing statute and the Rulewriting Manual for Utah. In Section R392-502-7, plumbing requirements in this section have been reworded and restructured to simplify the language and to clarify the intent to more closely align this rule with the authorizing statute and the Rulewriting Manual for Utah. Additional provisions have been proposed for ventilation, heating, electrical and lighting considerations, in consultation with Building Code. Section R392-502-8 is a new section that establishes cleaning and disinfection procedures, as well as the equipment needed to prevent the spread of infectious diseases, particularly norovirus, in a public lodging facility. Section R392-502-9, known as "Operation and Maintenance" in the current rule, has been revised to simplify the language and to clarify the intent to more closely align this rule with the authorizing statute and the Rulewriting Manual for Utah. Section R392-502-10 is a new section that establishes minimum bedding and linen requirements, as well as provisions for collecting, transporting, sorting, and washing linens to prevent the spread of infectious disease in a public lodging facility. In Section R392-502-11, the Department has made revisions to simplify the language and to clarify the intent to more closely align this rule with the authorizing statute and the Rulewriting Manual for Utah. Section R392-502-12 is a new section which makes reference to Rule R392-510, Utah Clean Air Act. In Section R392-502-13, the Department has made revisions to simplify the language and to clarify the intent to align more closely with the authorizing statute and the Rulewriting Manual for Utah. Section R392-502-14 is a new section that establishes sanitation requirements for eating and drinking utensils, appliances, and equipment provided for guest use in rooms. In Section R392-502-15, the Department has made

revisions to simplify the language and to clarify the intent to more closely align this rule with the authorizing statute and the Rulewriting Manual for Utah. Section R392-502-16 specifies the application of an authority granted to a local health officer in Title 26A. Section R392-502-17 specifies the application of an authority granted to a local health officer in Title 26A.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5 and Section 26-15-2 and Subsection 26-1-30(23)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** Repealing and reenacting Rule R392-502 will not result in a cost or benefit to the state budget. The proposed rule does not include requirements for permit or inspection fees.

◆ **LOCAL GOVERNMENTS:** Repealing and reenacting Rule R392-502 will not result in a cost or benefit to the local governments. The proposed rule does not include requirements for permit or inspection fees. Inspection frequency is not specified in rule.

◆ **SMALL BUSINESSES:** Repealing and reenacting Rule R392-502 will likely result in a fiscal impact to small business due to proposed changes in uniform standards for the operation and regulation of public lodging facilities to control the spread of infectious disease, particularly norovirus, as recommended by the Centers for Disease Control (CDC). There are 556 small businesses operating in the state under the NAICS code of 721110. Repealing and reenacting Rule R392-502 may result in a fiscal cost to each business in the approximate amount of \$525 for the first year and \$95 for subsequent years in the form of increased labor costs to wash, rinse, and sanitize the eating and drinking utensils provided in guest rooms. These are averaged, approximated amounts due to the number of variables from business to business (e.g. some businesses already use correct sanitary practices, others only provide wrapped single service utensils in guest rooms, number of guest rooms, number of employees, number of utensils provided, etc.)

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Repealing and reenacting Rule R392-502 will likely result in a fiscal impact to non-small business due to proposed changes in uniform standards for the operation and regulation of public lodging facilities to control the spread of infectious disease, particularly norovirus, as recommended by the Centers for Disease Control (CDC). There are 63 small businesses operating in the state under the NAICS code of 721110. Repealing and reenacting Rule R392-502 may result in a fiscal cost to each business in the approximate amount of \$525 for the first year and \$95 for subsequent years in the form of increased labor costs to wash, rinse, and sanitize the eating and drinking utensils provided in guest rooms. These are averaged, approximated amounts due to the number of variables from business to business (e.g. some businesses already use correct sanitary practices, others only provide wrapped single service utensils in guest rooms, number of

guest rooms, number of employees, number of utensils provided, etc.)

COMPLIANCE COSTS FOR AFFECTED PERSONS: No one specific person will be affected by this rule change.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The repeal and reenact of Rule R392-502 simplifies the rule, removes outdated language and redundancies, and provides technical and conforming changes in accordance with the Rulewriting Manual for Utah. The Department has also proposed additional controls to mitigate the spread of infectious diseases, especially norovirus, in public lodging facilities. The change will likely have a fiscal impact on the 556 small businesses operating in the state in the approximate amount of \$525 for the first year and \$95 for subsequent years in the form of increased labor costs to wash, rinse, and sanitize the eating and drinking utensils provided in guest rooms. It will also have a similar impact on the 63 non-small businesses for the same reasons. The anticipated costs to business is appropriate in order to protect the health and safety of Utah residents and visitors to Utah who utilize public lodging facilities.

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

HEALTH
DISEASE CONTROL AND PREVENTION,
ENVIRONMENTAL SERVICES
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:

♦ Chris Nelson by phone at 801-538-6739, or by Internet E-mail at chrishnelson@utah.gov or PO Box 142104, Salt Lake City, UT 84114-2104

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/19/2018

THIS RULE MAY BECOME EFFECTIVE ON: 03/26/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$291,900	\$52,820	\$52,820

Non-Small Businesses	\$33,075	\$5,985	\$5,985
Other Persons	\$0	\$0	\$0
Total Fiscal Costs:	\$324,975	\$58,805	\$58,805
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for Non-Small Businesses are described below.**

Appendix 2: Regulatory Impact to Non-Small Businesses

There are 63 non-small businesses in the industry in question (NAICS 721110) in Utah. These businesses will likely experience a fiscal impact due to proposed changes in uniform standards for the operation and regulation of public lodging facilities to control the spread of infectious disease, particularly norovirus, as recommended by the Centers for Disease Control (CDC). Repealing and reenacting Rule R392-502 may result in an inestimable fiscal cost to a non-small business in the form of increased labor costs to wash, rinse, and sanitize the eating and drinking utensils provided in guest rooms. The full impact to such a business cannot be estimated as the necessary data are unavailable due to the number of variables from business to business (e.g. some businesses already use correct sanitary practices, others only provide wrapped single service utensils in guest rooms, number of guest rooms, number of employees, number of utensils provided, etc.)

The head of Department of Health, Dr. Joseph Miner, has reviewed and approved this fiscal analysis.

R392. Health, Disease Control and Prevention, Environmental Services.

R392-502. Public Lodging Facility Sanitation. ~~Hotel, Motel and Resort Sanitation:~~

R392-502-1. Definitions.

~~Director~~ shall mean the Executive Director of the Utah Department of Health.

~~Hotel, Motel or Resort~~ shall include tourist court, motor hotel, 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.

~~Hotel, Motel or Resort Units~~ shall mean accommodations to serve two or more people.

~~"Pet"~~ means a domesticated companion animal that is not included in the definition of a service animal or support animal under federal or state law that allows access of the animal to hotel, motel, and resort facilities.

~~"Pet Friendly"~~ means the designation of certain guest rooms or all guest rooms by an owner or operator to allow pets to stay in a guest room with the guest.

~~Wastewater~~ shall mean discharges from all plumbing facilities such as rest rooms, kitchen, and laundry fixtures, either separately or in combination.

R392-502-2. General.

2.1 It shall be the duty of each person operating a hotel, motel or resort in the State of Utah to carry out the provisions of these rules. Such person should also have the duty of controlling the conduct of occupants to this end, and shall make at least one daily inspection of the area for these purposes.

2.2 Severability - If any provision of this code, or its application to any person or circumstance is declared invalid, the application of such provisions to other person or circumstances, and the remainder of this rule, shall not be affected thereby.

2.3 Hotel, motel and resort sites shall be constructed to provide adequate surface drainage and shall be isolated from any existing or potential health hazard or nuisance.

2.4 All applicable local and state building, zoning, electrical, health, fire codes, and all local ordinances shall be complied with.

R392-502-3. Water Supplies.

3.1 Potable water supply systems for use by hotel, motel or resort occupants shall meet the requirements of the State of Utah rules relating to public drinking water supplies.

3.2 In addition to the rules and regulations relating to public drinking water supplies, the design of water system facilities shall be based on the suppliers engineer's estimate of water demands, but shall in no case be less than the following:

Source Capacity - 150 gallons per day per hotel, motel or resort unit.

Storage Volume - 75 gallons per hotel, motel or resort unit.

Distribution System Capacity - Shall maintain a water system pressure in excess of 20 psi at all points in the distribution system during peak hourly flow conditions. Non-community systems in remote areas can be exempted from this requirement, on a case-by-case basis, if flow from the system is always unregulated and free-

flowing. The peak hourly flow should be calculated for the number of fixture units as presented in the Utah Plumbing Code.

Other exceptions to the above requirements may be made as permitted by the State of Utah public drinking water rules.

3.2.1 The source and storage requirements as indicated above do not include water demands for outside use or fire protection. However, if the culinary system is intended to provide water for such purposes, the water requirements indicated above must be appropriately increased. Specific information on watering requirements (e.g., area of land to be irrigated) must be provided for Department of Health review.

3.3 Construction of a public drinking water supply system intended to serve occupants of any hotel, motel or resort shall not commence until plans prepared by a licensed professional registered engineer (in accordance with Title 58, Chapter 22, Professional Engineers, and Land Surveyors Licensing Act) have been submitted to and approved in writing by the Utah Department of Environmental Quality. Following construction, the system may not be placed in service until a final inspection is made by a representative of the Utah Department of Environmental Quality or local health department having jurisdiction.

3.3.1 All systems must be monitored in accordance with the State of Utah public drinking water rules, and in cooperation with the local health department having jurisdiction.

3.4 Any culinary system or portion thereof that is drained seasonally must be cleaned, flushed and disinfected prior to use. Furthermore, a water sample of satisfactory bacteriologic quality, i.e., a sample showing not more than one coliform bacteria per 100 ml. sample, must be obtained before being placed into service.

3.4.1 Systems operated on a seasonal basis may be required to sample for bacteriologic analysis at an accelerated frequency as determined by the Director or director of the local health department having jurisdiction.

R392-502-4. Wastewater Disposal.

4.1 All wastewater shall be discharged to a public sewer system where accessible and within 300 feet of the hotel, motel or resort property line.

4.2 Where connection to a public sewer is not available, wastewater shall be discharged into a wastewater disposal system meeting requirements of the State of Utah rules for waste disposal. Unless water usage rates are available, design shall be based on not less than 125 gallons per day per hotel, motel or resort unit.

4.3 All plans for the construction or alteration of a wastewater disposal system shall initially be submitted to the local health department having jurisdiction. Where plan approval is required by law to be provided by the State Department of Environmental Quality, such plans will be forwarded by the local authority along with any appropriate comments. Construction alteration of the disposal system shall not commence until the plans have been approved in writing by the appropriate health agency.

R392-502-5. Plumbing.

5.1 All plumbing in any hotel, motel or resort shall comply with the provisions of the Utah Plumbing Code, and applicable local plumbing codes.

5.2 When adequate plumbing fixtures are not included in each guest room, such facilities shall be made available to hotel, motel and resort occupants as required in the following Table I:

TABLE I
Required Plumbing Fixtures For Overnight Occupants

Plumbing Fixtures	Ratio of Plumbing Fixtures For Overnight Hotel, Motel and Resort(1) Occupants	
	Males	Females
Water Closets	1:10	1:8
Urinals	1:25	
Lavatories	1:12	1:12
Shower/Bath	1:8	1:8

(1) The number of required plumbing fixtures at resorts may be reduced up to one-half of the above.

5.3 If rest rooms for public use are provided, they shall include adequate plumbing fixtures as required in Table II:

TABLE II
Required Plumbing Fixtures For Public Rest Rooms
In Hotels, Motels and Resorts (a)

Plumbing Fixtures	Number of Persons (b)	Number of Fixtures	
		Males	Females
Water Closets	1-100	1	2
	101-200	2	3
	201-400	3	5
	Over 400, add 1 fixture for each additional 500 men and 1 for each 300 women.		
Urinals (c)	1-200	1	
	201-400	2	
	401-600	3	
	Over 600, add 1 fixture for each 300 persons.		
Lavatories	1-200	1	1
	201-400	2	2
	401-750	3	3
	Over 750, add 1 fixture for each 500 persons.		
Drinking Fountains	1 for each 300 persons		
Other Fixtures	1 service sink		

(a) In remote areas providing other than water flush type toilets, only the requirements for water closets and drinking fountains need apply.

(b) Total number of persons for maximum occupancy for auditoriums, banquet rooms, conference rooms, etc. shall be based on 15 square feet per person.

(c) Where urinals are provided for women, the number shall be the same as those required for men.

5.4 All rest rooms shall be conveniently located. Plumbing fixtures which normally require water for their operation shall be supplied with an adequate potable water supply under pressure and facilities should be provided with hot water as required.

5.5 Wherever toilet facilities for males and females are located in the same building, and adjacent to each other, they shall be separated by sound resistant wall. Direct line of sight to each rest room shall be obstructed.

5.6 Soap and toilet tissue in suitable dispensers and individual towels or other approved hand drying facilities and suitable waste receptacles with lids shall be provided in each rest room.

R392-502-6. Operation and Maintenance.

6.1 Each structure made available for occupancy shall comply with the requirements of the Uniform Building Code.

6.2 Comfort of occupants shall be provided for by adequate heating, lighting, and ventilation. Total window area in any room should be equal to at least 10 percent and in no case less than 5 percent of the floor area. For adequate ventilation, windows shall be openable or mechanical ventilation must be provided. Adequate means shall be employed to minimize odors in all rooms intended for overnight use.

6.3 In dormitory type accommodations, beds shall be separated by a horizontal distance of at least 5 feet, reducible to 3 feet, if beds are alternated head to foot, except in case of double deck bunks, which shall have a minimum horizontal separation of 6 feet under all circumstances. If suitable permanent partitions are installed between beds, spacing requirements may be modified upon approval of the Director or director of the local health department having jurisdiction.

6.4 Floors, walls and ceilings shall be so constructed as to be easily cleanable and they shall be kept clean and in good repair.

6.5 Each bed, bunk, cot or sleeping facility for use by occupants shall afford reasonable comfort and be maintained in a sanitary condition. Mattresses, mattress covers, quilts, blankets, pillows, pillow slips, sheets, comforters, and other bedding shall be kept clean and in good repair. Bedding shall be made available to each occupant not furnishing his own. Pillows shall have pillow slips and sheets shall be large enough to completely cover mattresses. Bedding shall be changed daily or in between occupant use.

6.6 All eating and drinking utensils for use by guests in rooms, shall be either single service, or washed and sanitized in a manner prescribed in R392-100 and protected from subsequent contamination.

6.7 All food, food service employees, ice, vending machines, food storage, and preparation and serving facilities shall comply with R392-100.

6.8 The dispensing of ice from storage bins where the general public has free access is prohibited.

6.9 Where occupants are permitted to cook in a hotel, motel, or resort unit, a space for kitchen facilities shall be provided, and shall be equipped with at least a minimum of a kitchen sink installed in accordance with requirements of the Utah Plumbing Code.

6.10 Guest rooms used for sleeping purposes shall be supplied with a lavatory, hand soap, and clean individual towels for each guest. Clean individual towels shall be supplied daily or in between occupant use.

6.11 All buildings, rooms and equipment and ground surrounding them shall be maintained in a clean and operable condition.

6.12 All necessary means shall be employed to eliminate and control infestations of insects and rodents on the premises of any hotel, motel, or resort unit. This shall include approved screening or other approved control of outside openings in structures intended for occupancy or food service facilities.

6.13 Pets are not permitted in dining areas, or in swimming pool areas. Pets are not permitted in guest rooms that are not designated as pet friendly.

(a) Each operator must make a pet-oriented election for each facility and post at the registration desk one of the following four signs appropriate to the election:

(i) An operator may elect not to allow any pets in the facility. An operator who makes this election shall post a sign at the registration desk that reads: "NO PETS ALLOWED IN THIS FACILITY".

(ii) An operator may elect to allow pets in all guest rooms of the facility. An operator who makes this election shall post a sign at the registration desk that reads: "PETS ALLOWED IN ALL GUEST ROOMS".

(iii) An operator may elect to allow pets in all guest rooms of the facility, except as posted at specific guest rooms. An operator who makes this election shall post a sign at the registration desk that reads: "PETS ALLOWED IN ALL GUEST ROOMS EXCEPT IN ROOMS POSTED WITH 'NO PETS ALLOWED'". An operator who makes this election shall also post a sign at the entrance to the room in a position clearly visible on entry into the room. The sign shall use the words, "NO PETS ALLOWED" in upper case letters at least three-quarters of an inch, 1.9 centimeters, in height

(iv) An operator may elect not to allow pets in any guest room of the facility, except as posted on specific guest rooms. An operator who makes this election shall post a sign at the registration desk that reads: "NO PETS ALLOWED IN GUEST ROOMS EXCEPT IN ROOMS POSTED AS 'PET FRIENDLY'". An operator who makes this election shall also post a sign at the entrance to the room in a position clearly visible on entry into the room. The sign shall use the words, "PET FRIENDLY ROOM" in upper case letters at least three-quarters of an inch, 1.9 centimeters, in height

(b) The operator shall post the facility election sign required by subsection (a) at the registration desk in clear view to each potential guest who presents at the registration desk. This may require more than one sign to be posted at the registration desk. The sign shall be in upper case letters at least 1 inch, 2.54 centimeters, in height.

(c) The signs at the guest rooms in a facility that allows pets in a limited number of guest rooms shall be placed in a position clearly visible upon entry into the room.

(d) All signs must be easily readable and must not be obscured in any way.

(e) The operator shall ensure that accumulations of pet hair, fur, feathers, feces, and soiled bedding are removed from rooms at least once per day or as often as necessary to prevent unsanitary conditions or odors. Where available, the operator shall designate an outdoor area on the premises of public hotel, motel, and resort facilities for pet walking. The operator shall keep the premises, including pet walking areas, free of pet waste. If an area for pet walking is impractical or not available, the operator shall:

(i) require pet owners to keep pets in portable kennels; or

(ii) keep pets diapered; or

(iii) provide pet waste bags for pet owners to use to dispose of pet waste produced while walking their pets while out of doors.

(f) If an operator of a public hotel, motel or resort facility chooses to modify the status of a room from a pet friendly room to a non-pet friendly room, the operator shall perform a full deep cleaning of the room in a manner likely to remove the allergens. The deep

cleaning shall include shampooing of carpets, laundering of bedding, laundering of drapes, washing of all walls, and cleaning of all other objects and surfaces that may harbor allergens.

R392-502-7. Swimming Pools.

7.1 Any swimming pool, wading or therapy pool made available to occupants of any hotel, motel or resort shall comply with R392-302 and all applicable local regulations.

R392-502-8. Solid Waste.

8.1 Solid wastes originating in any hotel, motel or resort shall be stored in a sanitary manner in watertight containers with lids, or the equivalent, approved by the local health department. The containers shall be conveniently located, and the contents shall be disposed of in a manner approved by the state or local health department having jurisdiction.]

R392-502-1. Authority and Purpose.

(1) This rule is authorized under Sections 26-1-5, 26-1-30(23), and 26-15-2.

(2) This rule establishes definitions; sets standards for health and welfare of guests of public lodging and for the prevention of the spread of disease in or through public lodgings.

R392-502-2. Applicability.

This rule applies to any person who owns or operates a public lodging facility in Utah, unless specifically exempted. This rule applies to the repair, maintenance, use, operation, and occupancy of public lodging facilities designed, intended for use, or otherwise used for human habitation in Utah.

R392-502-3. Definitions.

For the purposes of this rule, the following terms, phrases, and words shall have the meanings herein expressed:

(1) "Clean" means the condition of being visibly free from dirt, soil, stain, leftover food particles, or other materials not intended to be a part of the object in question.

(2) "Dilapidated" means a building or structure, or part thereof, which is:

(a) deemed structurally unsafe for habitation by the local building authority; or

(b) deemed unsanitary or constituting a public health hazard by the local health officer.

(3) "Habitable space" means a space within a building or structure intended to be used for living, sleeping, cooking, or eating. Bathrooms, laundry rooms, toilet rooms, closets, halls, storage or utility spaces, accessory buildings, and similar areas are not considered habitable spaces.

(4) "Hot water" means water heated to a temperature of not less than 110 degrees F (43.3 degrees C) at the outlet.

(5) "Linens" means fabric household goods intended for daily guest use, such as bedding, towels, and tablecloths.

(6) "Local Health Department" has the same meaning as provided in Section 26A-1-102(5).

(7) "Local Health Officer" means the director of the jurisdictional local health department as defined in 26A, Chapter 1, or a designated representative.

(8) "Nuisance" means a condition or hazard, or the source thereof, which may be deleterious or detrimental to the health, safety, or welfare of the public.

(9) "Operator" means any person who owns, leases, manages or controls, or who has the duty to manage or control a public lodging facility.

(10) "Pet" means a domesticated companion animal that is not included in the definition of a service animal or support animal under federal or state law that allows access of the animal to a public lodging facility.

(11) "Pet Friendly" means the designation of certain guest rooms or all guest rooms by an owner or operator to allow pets to stay in a guest room with the guest.

(12) "Pest" means a noxious, destructive, or troublesome organism whether plant or animal, when found in and around places of human occupancy, habitation, or use which threatens the health or well-being of the public.

(13) "Plumbing Code" means International Plumbing Code as incorporated and amended in Title 15A, State Construction and Fire Codes Act.

(14) "Plumbing fixture" means a receptacle or device that is connected to the water supply system of the premises; or discharges wastewater, liquid-borne waste materials, or sewage to the drainage system of the premises.

(15) "Premises" means any lot, parcel, or plot of land, including any buildings or structure.

(16) "Public lodging facility" means:

(a) a place that is maintained, advertised, offered, used, or kept to provide temporary lodging for the general public.

(b) Public lodging facility includes hotels, motels, bed and breakfasts, hostels, guest ranches, resorts, cabins, or any other structure designed or intended to provide temporary lodging for guests.

(c) Included in the public lodging facility are the premises upon which the facility is located together with parking lots, recreational facilities on the grounds, and other appurtenances.

(d) For the purposes of this rule, a public lodging facility does not include:

(i) student housing such as a dormitory or boarding house operated by an educational institution;

(ii) transient housing such as employee or migrant worker living quarters regulated under Rule R392-501; or

(iii) a private residence or domicile unless it is advertised, offered, used, or kept as a place of public lodging.

(17) "Public lodging unit" or "Guestroom" means a room, suite, or space occupied by the public located in and operated by a public lodging facility.

(18) "Red tagged" means having a notice affixed to an appliance by a qualified servicing utility indicating that the appliance has been found to contain an imminent safety hazard.

(19) "Sanitary" means the condition of being free from infective, physically hurtful, diseased, poisonous, unwholesome, or otherwise unhealthful substances and being completely free from vermin, vectors, and pests and from the traces of either, and free of harborage for vermin, vectors, or pests.

(20) "Service Animal" has the same meaning as provided in Section 35.104 of the Americans with Disabilities Act Title II Regulations.

(21) "Vector" means any organism, such as insects or rodents, that transmits a pathogen that can adversely affect public health.

(22) "Vermin" means rats, mice, cockroaches, bedbugs, flies, or any other pest or vector as determined by the local health officer to be harmful to the life, health, or welfare of the public.

(23) "Virucidal disinfectant" as defined in this rule means:

(a) a chlorine bleach and water solution with a concentration of 1,000 to 5,000 ppm chlorine (5-25 tablespoons of household bleach (5.25%) per gallon of water); or

(b) a disinfectant product registered as effective against norovirus with the U.S. Environmental Protection Agency, having an EPA Registration number and being listed on the current publication of the Office of Pesticide Programs' List G.

(24) "Wastewater" means sewage, industrial waste, or other liquid or waterborne substances causing or capable of causing pollution of waters of the state.

R392-502-4. General Public Lodging Provisions.

(1) This rule does not require a construction change in any portion of a public lodging facility if the public lodging facility was in compliance with the law in effect at the time the facility was constructed, except as in R392-502-4 (1)(a).

(a) The local health officer may require construction changes if it is determined the public lodging facility or portion thereof is dangerous, unsafe, unsanitary, or a nuisance or risk to life, health, or property.

(2) The operator of a public lodging facility shall:

(a) comply with the provisions of this rule; and

(b) be responsible for the conduct of occupants to ensure compliance with this rule.

(3) Severability - If any provision of this rule, or its application to any person or circumstance is declared invalid, the application of such provisions to other persons or circumstances, and the remainder of this rule, shall not be affected thereby.

(4) A public lodging facility operator or agent shall select or construct a location for the facility that will provide adequate surface drainage. The operator shall make a reasonable effort to locate the facility away from any existing or potential public health hazard or nuisance.

(5) A public lodging facility must have:

(a) a 24-unit ANSI compliant First Aid kit in a readily accessible location, properly stocked, and checked monthly; and

(b) an adequate supply of virucidal disinfectant for disinfecting a room or its contents after a known incident of vomiting or diarrhea.

R392-502-5. Water Supply.

(1) Potable water supply systems for use by public lodging occupants shall be designed, installed, and operated according to the requirements set forth by:

(a) Plumbing Code;

(b) The Utah Department of Environmental Quality, Division of Drinking Water under Title R309; and

(c) local health department regulations.

(2) The operator shall ensure that the public lodging facility and each public lodging unit bathroom is provided with potable water.

(3) If a public lodging facility experiences or will experience a disruption of potable water or sewer service for more than four hours for any reason, the operator shall notify the local health officer within one hour of becoming aware of the service disruption.

R392-502-6. Wastewater Disposal Requirements.

(1) The operator shall ensure that sewer services are made available to the public lodging facility occupants.

(2) Sewer systems for use by public lodging occupants shall be designed, installed, and operated according to the requirements set forth by:

- (a) Plumbing Code;
- (b) The Utah Department of Environmental Quality, Division of Water Quality under Title R317; and
- (c) local health department regulations.

(3) All wastewater shall be discharged to a public sanitary sewer system whenever practicable.

(4)(a) Where connection to a public sanitary sewer is not practicable, wastewater shall be discharged to an approved onsite wastewater disposal system.

(b) The operator shall submit all required plans for the construction or alteration of an onsite wastewater disposal system in accordance with Title R317.

R392-502-7. Ventilation, Heating, Electrical, Lighting, and Plumbing Requirements.

(1) Every bathroom shall have:

(a) at least one window facing directly outdoors that can be easily opened, or;

(b) a mechanical device that ventilates to the outside.

(2) For guestroom heating, every public lodging unit shall have:

(a) properly maintained and safely operating heating equipment and appurtenances, or;

(b) a common heating system that is correctly installed and maintained in a safe and working condition.

(3)(a) An operator, agent, or other person shall only install, operate, or use a heating device, or water heating unit producing heat by combustion that is:

(i) vented to the outside of the structure in a manner approved by the local building official or fire inspector; and

(ii) supplied with sufficient air to continuously and adequately support fuel combustion.

(b) The operator is prohibited from using a heating device, or water heating unit producing heat by combustion that has been deemed unsafe (i.e. "red tagged") by the servicing utility or building official.

(c) All heating devices shall be constructed, installed, and operated in accordance with applicable building, boiler, and utility codes.

(4) Every public lodging unit and all common areas shall be supplied with electrical service. All outlets, wirings, circuit panels, and fixtures shall be correctly installed and maintained in good and safe working condition in accordance with the electrical code incorporated and amended in Title 15A, State Construction and Fire Codes Act.

(5) Every common entryway, hall, and stairway in a public lodging facility shall be lighted at all times to provide in all parts at least ten foot-candles (108 lux) of light at floor or tread level. This requirement does not preclude the use of on-demand lighting.

(6) The operator shall ensure that every plumbing fixture, waste pipe, water pipe, and appurtenance is properly constructed, installed, and maintained in accordance with Plumbing Code.

(7) The operator shall provide a continuous supply of cold and hot water at every sink, bathtub, and shower, where installed, for each:

- (a) public restroom; and
- (b) public lodging unit.

(8) If plumbing fixtures are not included in a guestroom, the operator shall make communal facilities available to public lodging occupants as required in table I:

TABLE I
Required Plumbing Fixtures for Common Facilities

Plumbing Fixtures	Ratio of Plumbing Fixtures For Public Lodging Facility Occupants
Toilets	1:10
Sinks	1:10
Shower/Bath	1:8
Drinking Fountain	1:100
Service Sink	1

(9) The facility shall be equipped with a service sink, also known as a mop receptor or utility sink, which shall be used for cleaning mops and disposing of mop water. The operator shall refrain from using other plumbing fixtures for these purposes.

R392-502-8. Cleaning and Hygiene Requirements.

(1) The operator shall maintain all buildings, rooms, equipment, and surrounding grounds in a clean and safe condition. Rubbish, litter and other items not used in the operation of the establishment shall not be permitted to accumulate on the premises.

(2) Interior surfaces shall be clean and in good repair.

(a) The operator shall clean to sight and touch all common-use items between guest use including the television remote, telephone, door knobs, and alarm clock.

(3) The operator shall ensure that bathroom plumbing fixtures and bathroom surfaces are maintained in a clean and sanitary condition.

(4) When cleaning a toilet in a public or communal bathroom, or in a guest room, the operator shall:

(a) use a separate wiping cloth that is clearly distinguishable between wiping cloths used to clean other surfaces; or

(b) use disposable wiping cloths.

(5) When cleaning vomit or diarrhea from any surface or location in the interior of a public lodging facility, the operator shall:

(a) wipe surfaces and immediately dispose of or launder all potentially infectious materials. Kitty litter (vermiculite), baking soda, or other absorbent material may be used on carpets and upholstery to absorb liquid;

(b) clean surfaces with soap and hot water;

(c) rinse thoroughly with plain water;

(d) wipe dry with paper towels;

(e) disinfect with virucidal disinfectant; and

(f) leave surfaces wet and allow for air drying according to the manufacturer's recommendations.

(6)(a) The operator shall keep public and communal bathrooms supplied with individual-use personal hygiene products including soap, hand drying materials or equipment, and toilet tissue.

(b) The use of common cloth towels is prohibited in public and communal bathrooms.

(c) Each public or communal bathroom shall have:

(i) at least one solid, easily cleanable, covered waste receptacle; or

(ii) at least one solid, easily cleanable, uncovered waste receptacle and a sanitary napkin receptacle. This requirement does not apply to guest rooms or public lodging unit restrooms.

(7) The operator shall supply each public lodging unit bathroom or shower room with soap, toilet paper, and clean towels daily upon request and between occupant use.

(8) Where a public lodging facility provides fitness equipment for guest use, the operator shall make sanitizer available for guest use along with instructions for proper handling and use.

R392-502-9. Structural and Operational Requirements.

(1) Every foundation, chimney, floor, exterior and interior wall, ceiling, and roof of all public lodging units shall be weather and water-tight, vermin-proof, and in good repair. All stairs and railings shall be correctly installed and maintained in good repair.

(a) Every public lodging unit bathroom and kitchen wall and ceiling surface shall be constructed and maintained reasonably impervious to water.

(i) Floor surfaces within two feet of the toilet shall be smooth and easily cleanable.

(ii) Floor/wall junctures in bathrooms and kitchens shall have coving to prevent the leakage of water into the wall through the juncture during toilet or shower overflows, regular mopping, or spills. Such coving shall be sealed to the floor.

(2) The operator shall take effective measures to keep vermin out of the public lodging facility and to prevent their breeding or presence on the premises. All exterior openings, windows, skylights, and outer doors shall be protected against the entrance of flies and other flying insects by self-closing doors, closed windows, 16-mesh or finer screening, controlled air currents, or other effective means.

(3) There shall be no fly or mosquito breeding places, vermin harborages, or undrained areas on the premises.

(4) In open bay type sleeping areas containing four or more beds, the operator shall separate beds by a horizontal distance of at least five feet, reducible to three feet, if beds are alternated head to foot, except in case of double stacked bunks, which shall have a minimum horizontal separation of six feet under all circumstances. If partitions are utilized to preclude face-to-face exposure between beds, spacing requirements may be modified to a minimum separation distance of three feet between adjacent beds upon approval of the local health officer.

R392-502-10. Guestroom Bedding and Laundry Service.

(1)(a) Each bed, bunk, or cot shall be maintained in a sanitary condition.

(b) Mattresses, mattress covers, quilts, blankets, pillows, pillowcases, sheets, bedcovers, and other bedding shall be kept clean and in good repair.

(c) Two sheets shall be provided for each bed, and shall be large enough to cover the top and all four sides of the mattress. The upper sheet shall be folded over the top end of the bedcover for at least six inches.

(d) A pillowcase shall be provided for each pillow.

(e) Bedding shall be replaced with clean linen, including sheets and pillowcases, at least weekly and before each new occupant use.

(2)(a) The operator shall maintain and store all supplied linen in a clean and sanitary manner at a location free from the likelihood of contamination by vermin, wastewater, filth, or toxic chemicals.

(b) Clean linen shall not come in contact with soiled linen at any time.

(3) Laundry carts and baskets shall be constructed with smooth, durable, non-porous, and easily cleanable materials, and shall be maintained in good condition. Washable laundry bags and cart liners are permitted.

(4) If laundry is processed at the public lodging facility, the operator shall use the following laundry processing and cleaning procedures:

(a) When any used linen is soiled with blood, vomit, or fecal material, the operator shall:

(i) keep the soiled linen separate and shall not presort the contaminated laundry with other linens in the guest room or laundry processing room;

(ii) transport contaminated laundry separately to the laundry processing room;

(iii) place contaminated laundry directly into the washing machine. Removing solid fecal materials and pre-rinsing linen that is heavily contaminated with fecal material is permitted, but pre-rinsing linen that is contaminated with blood or vomit is not permitted.

(b) Any visible residue shall be removed from laundry carts and baskets;

(c) Carts and baskets used to transport used linens shall be cleaned each day of use with a disinfectant cleaner;

(d) Separate containers (carts, baskets, hampers, laundry bags, etc.) shall be used for transporting clean and soiled linens.

(e) Non-disposable laundry bags and cart liners shall be laundered frequently.

(f) Laundry machines and work tables shall be cleaned each day of use with a disinfectant cleaner;

(g) Laundry floors shall be damp mopped each day of use with a disinfectant cleaner.

R392-502-11. Pets in a Public Lodging Facility.

(1) Only service animals assisting persons with disabilities are permitted in dining areas, or in swimming pool or spa areas. Pets, emotional support animals, comfort animals, and therapy animals are not permitted in these areas.

(2) The operator may elect to allow animals in public lodging units when the following conditions are met:

(a) The operator shall prevent allergens, odors, noise, filth, and other nuisances from migrating to other units and from disturbing other guests.

(b) A pet friendly public lodging unit may not share heating, ventilation, or air-conditioning with another public lodging unit or any common area.

(c) The operator shall ensure that animal hair, fur, feathers, feces, and soiled bedding is removed at least once per day or as often as necessary to prevent unsanitary conditions or odors.

(d) The operator shall post a sign at the entrance of an individual public lodging unit where pets are allowed in order to designate the unit as "pet friendly". The clearly legible sign shall be placed in a position where it may be easily viewed upon entry into the room.

(3) If an operator chooses to modify the status of a public lodging unit from a pet friendly unit to a unit where pets are not allowed, the operator shall perform a full deep cleaning of the unit in a manner likely to remove allergens, which shall include, at a minimum, the shampooing of carpets, laundering of bedding and window coverings, washing of all walls, and cleaning of all other objects and surfaces that may harbor allergens.

(4) A public lodging facility operator may provide a kennel facility for the use of guests who travel with pets.

(a) A kennel facility shall be maintained in a clean, safe, and sanitary condition, and free from nuisance.

(b) A kennel facility may not share heating, ventilation, or air-conditioning with public lodging units or common areas.

R392-502-12. Utah Indoor Clean Air Act.

All public lodging facilities shall comply with Rule R392-510, Utah Indoor Clean Air Act.

R392-502-13. Swimming Pools.

The operator shall comply with Rule R392-302, Design, Construction, and Operation of Public Pools for all pools or spas made available to public lodging facility guests or employees.

R392-502-14. Food and Beverage Service.

(1) All food services, including the dispensing of ice, shall comply with the requirements of Rule R392-100. The operator shall ensure that all ice machines intended for guest use are designed for automatic dispensing.

(a) This rule does not require that an operator provide a 3-compartment sink, or commercial-grade dishwasher or refrigerator in any guest room.

(2) All eating and drinking utensils and food service equipment for use by guests in rooms shall be:

(a) single service; or

(b) washed, rinsed, sanitized, and stored daily upon request and before each new occupant use in a manner prescribed in Rule R392-100 and protected from subsequent contamination.

(3) All appliances provided in public lodging units, including but not limited to coffee makers, microwaves, and refrigerators shall be cleaned between occupant use or more frequently as needed to be maintained clean by:

(a) using a clean, sanitary cloth; and

(b) not using any cleaning equipment, tool, or implement that was previously used in a toilet room or other unsanitary surface.

(4) A refrigerator, when provided in a guestroom, shall be capable of holding food at or below 41 degrees F.

(5) When a kitchenette is provided in the guestroom, the operator shall sanitize counter surfaces between guest use.

R392-502-15. Solid Waste.

(1) Solid waste generated at a public lodging facility shall be stored in a leak-proof, non-absorbent container, which shall be kept covered with a tight-fitting lid.

(2) All solid wastes shall be disposed with sufficient frequency and in such a manner as to prevent insect breeding or a public health nuisance.

R392-502-16. Inspections and Investigations.

(1)(a) Upon presenting proper identification, the operator shall permit the local health officer to enter the premises of a public lodging facility to perform inspections, investigations, reviews, and other actions as necessary to ensure compliance with Rule R392-502.

(b) The local health officer may not enter an occupied public lodging unit without the express verbal or written permission of the occupant except when a warrant is issued to a duly authorized public safety officer which authorizes the local health officer to enter, or when the operator and the local health officer determine that there exists an imminent risk to the life, health, or safety of the occupant.

R392-502-17. Closing of Public Lodging Units.

(1) When a facility or guestroom is so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin infested that it creates or may create a hazard to the health of the occupants or of the public, the public lodging facility or guestroom may be deemed unfit for human habitation, as determined by a local health officer.

(2) If a local health officer deems a public lodging facility or guestroom unfit for human occupancy due to vermin infestation, pest control services shall be completed under the direction of a licensed Utah pesticide applicator, and pesticide application practices shall be in compliance with R68-7, Utah Pesticide Control Rule.

(a) When bedbugs are discovered or significant evidence indicates their presence in an individual unit or multiple units, effective and safe treatment as well as closure of the affected units and any adjacent units may be required, as determined by a local health officer.

(3) A public lodging facility or guestroom that is deemed unfit for human habitation may be closed to occupancy or use until deemed fit for occupancy or use by the local health officer.

(4) Any public lodging facility or guestroom deemed unfit for human habitation and closed to occupancy shall be vacated within a reasonable time as ordered by the local health officer.

(5) It shall be unlawful for an operator to allow any person to occupy any public lodging facility or guestroom that has been deemed unfit for human habitation until written approval of the local health officer is given.

KEY: public health, hotels, motels, resorts

Date of Enactment or Last Substantive Amendment: ~~July 22, 2008~~2018

Notice of Continuation: April 2, 2012

Authorizing, and Implemented or Interpreted Law: 26-15-2

Health, Health Care Financing,
Coverage and Reimbursement Policy

R414-509

Medicaid Autism Waiver Open
Enrollment Process

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 42490

FILED: 01/19/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Health (Department) is repealing this rule because the open enrollment process for the Autism Waiver no longer applies.

SUMMARY OF THE RULE OR CHANGE: This rule is repealed in its entirety. The Autism Waiver is open only until children age out of current services and because the Department will not admit additional members, it no longer needs a rule associated with open enrollment.

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 repeal only updates Medicaid policy in regards to the end of open enrollment.
- ◆ LOCAL GOVERNMENTS: There is no impact on local governments because they do not fund waiver services under the Medicaid program.
- ◆ SMALL BUSINESSES: There is no impact on small businesses because this repeal only updates Medicaid policy in regards to the end of open enrollment.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no impact on Medicaid providers and to Medicaid members because this repeal only updates Medicaid policy in regards to the end of open enrollment.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs to a single Medicaid provider or to a Medicaid member because this repeal only updates Medicaid policy in regards to the end of open enrollment.

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 rule repeal 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 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 03/19/2018

THIS RULE MAY BECOME EFFECTIVE ON: 03/26/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:			
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

None of the 13 autism service providers will see a fiscal impact because this rule repeal only reflects current policy, which does not admit additional members through open enrollment as children age out of current services. The Legislature previously allocated funds for this limited enrollment process.

The Executive Director of the Department of Health, Joseph K. Miner, M.D., has reviewed and approved this fiscal analysis.

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

[R414-509. Medicaid Autism Waiver Open Enrollment Process.

R414-509-1. Introduction and Authority.

(1) This rule defines the open enrollment process to enroll individuals in the Medicaid Autism Waiver program.

(2) This rule is authorized by Section 26-18-407. Waiver services are optional and provided in accordance with 42 CFR-440.225.

R414-509-2. Definitions.

(1) "Attrition" means the act of a waiver recipient leaving the waiver for any reason. Examples include the recipient moving out-of-state or the recipient turning seven years of age.

(2) "Geographical Region" means a county or counties that are identified as belonging to one of the twelve Utah local health department districts.

(3) "Department" means the Department of Health.

(4) "Open enrollment" means the period during which the Department accepts waiver applications.

(5) "Opening" means the availability for an individual to participate in the Medicaid Autism Waiver program.

(6) "Waiver Operating Agency" means the Department of Human Services, which contracts with the Department of Health to implement defined waiver operations.

R414-509-3. Open Enrollment Eligibility Requirements.

To participate in the open enrollment process, the individual must meet the following eligibility requirements:

(1) The individual must have a diagnosis of an autism spectrum disorder from a licensed clinician. Diagnosis must be rendered by a clinician who is authorized under the scope of his licensure;

(2) On the final day of the open enrollment period, the individual must:

(a) Be at least two years of age;

(b) Be not older than six years and six months of age; and

(3) Meet the financial eligibility requirement defined in the Medicaid Autism Waiver program.

R414-509-4. Open Enrollment Periods.

The Department will determine when open enrollment periods are held and for what duration based on the availability of funds for the Medicaid Autism Waiver program.

R414-509-5. Open Enrollment Procedures.

(1) The Department accepts the following means of application during open enrollment periods:

(a) Online application, with a time and date stamp confirming that the application was received within the open enrollment period;

(b) Facsimile, with a time and date stamp confirming that the application was received within the open enrollment period; and

(c) Mail, with the postmark on applications dated no sooner than the first day of the open enrollment period and no later than the last day of the open enrollment period.

(2) The number of individuals who may enroll in the waiver program during an open enrollment period is based on the availability of funds.

(3) The Department enrolls all individuals who meet the requirements of Section R414-509-3 if the number of applications does not exceed the number of available openings when the open enrollment period ends.

(4) If the number of applications exceeds the number of available waiver openings, then the Department shall:

(a) Compile all applications that it receives during the open enrollment period;

(b) Assign each application a random number;

(c) Create lists of randomly numbered applications by assigned geographical region;

(d) Assure that rural and underserved regions of the state are represented. The Department assigns waiver openings by geographical regions as follows:

(i) The Department allocates openings to each geographical region based on the percentage of population who reside within the geographical region. The Department obtains population information from the most recent United States Census Report;

(e) The Department begins at the top of the randomized list and matches the number of available geographical openings with the same number of applications;

(i) If a selected applicant does not meet the eligibility criteria described in Section R414-509-3, the Department selects the next application on the randomized list;

(f) The Department enrolls the selected individual into waiver services.

(5) If there are not enough applications to fill all openings within a geographical region, the Department distributes the remaining waiver openings to other geographical regions.

R414-509-6. Procedures for Filling Openings Created by Attrition.

Attrition is ongoing in the Medicaid Autism Waiver program because the waiver serves a child only through the end of the month in which the child turns seven years of age.

(1) To fill waiver openings due to attrition outside of open enrollment periods, the Department develops an applicant pool.

(a) The Department determines the number of applicants available in the applicant pool for each geographical region by using the process described in Subsection R414-509-5(4)(d)(i) to determine the number of waiver openings and factoring that number by four;

(b) The Department requires the Waiver Operating Agency to inform the Department of all waiver openings within ten business days;

(c) The Department identifies the geographical region where each opening occurs;

~~_____ (d) The Department identifies the next randomly numbered application available within that geographical region;~~

~~_____ (e) The Department matches the randomly numbered application to the applicant name, and based on the applicant's age, evaluates whether the applicant continues to be eligible for the waiver.~~

~~_____ (i) To be eligible for waiver enrollment on the date of identification, the applicant may not exceed six years and six months of age;~~

~~_____ (ii) If the applicant is not eligible for waiver enrollment based on Subsection R414-509-6(1)(e)(i), the Department identifies the next randomly numbered application available within the geographical region until the Department can identify an eligible applicant.~~

~~_____ (2) If there are not enough applications to fill all openings within a geographical region, the Department distributes the remaining waiver openings to other geographical regions.~~

~~_____ (3) When the Department determines an open enrollment period is going to occur, it may suspend filling openings that arise through attrition.~~

KEY: Medicaid

~~**Date of Enactment or Last Substantive Amendment: June 28, 2013**~~

~~**Notice of Continuation: October 2, 2017**~~

~~**Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3]**~~

**Health, Family Health and Preparedness, Emergency Medical Services
R426-1
General Definitions**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 42554
FILED: 01/31/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to update language to be consistent with Title 26, Chapter 8a, and to clarify definition for inter-facility transfers.

SUMMARY OF THE RULE OR CHANGE: The definition changes are needed to reflect changes in Title 26, Chapter 8a, as well as amended changes occurring in the language of Title R426.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 8a

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: This proposed rule change is not expected to have any fiscal impact on state government

revenues or expenditures, because it is for the change of terminology in the administrative rules for Title R426. This update also makes changes to make terminology consistent terminology with those found in Title 26, Chapter 8a.

♦ LOCAL GOVERNMENTS: This proposed rule change is not expected to have any fiscal impact on local government revenues or expenditures, because it is for the change of terminology in the administrative rules for Title R426. This update also makes changes to make terminology consistent terminology with those found in Title 26, Chapter 8a.

♦ SMALL BUSINESSES: This proposed rule change is not expected to have any fiscal impact on small businesses revenues or expenditures, because it is for the change of terminology in the administrative rules for Title R426. This update also makes changes to make terminology consistent terminology with those found in Title 26, Chapter 8a.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This proposed rule change is not expected to have any fiscal impact on businesses not defined as small businesses, individuals, or other entities because it is for the change of terminology in the administrative rules for Title R426. This update also makes changes to make terminology consistent terminology with those found in Title 26, Chapter 8a.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This proposed rule amendment is not expected to have any fiscal impacts on affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses with this proposed amendment language.

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

HEALTH
FAMILY HEALTH AND PREPAREDNESS,
EMERGENCY MEDICAL SERVICES
3760 S HIGHLAND DR
SALT LAKE CITY, UT 84106
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Guy Dansie by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at gdansie@utah.gov or PO Box 142004, Salt Lake City, UT 84114-2004

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/19/2018

THIS RULE MAY BECOME EFFECTIVE ON: 03/26/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

	FY 2018	FY 2019	FY 2020
Fiscal Costs			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses
 The amendments are to change terms used in definitions to reflect recent language amendments in Title 26, Chapter 8a.

The amendment to the definition of "inter-facility transport" was a clarification to reflect intent of licensing as contained in Rule R426-3.

No fiscal impacts due to language changes proposed for this rule amendment.

R426. Health, Family Health and Preparedness, Emergency Medical Services.

R426-1. General Definitions.

R426-1-100. Authority and Purpose.

This rule establishes uniform definitions for all R426 rules. It also provides administration standards applicable to all R426 rules.

R426-1-200. General Definitions.

The definitions in Title 26, Chapter 8a are adopted and incorporated by reference into this rule, in addition:

(1) "Advanced Emergency Medical Technician" or "AEMT" means an individual who has completed an AEMT training program, approved by the Department, who is ~~certified~~ licensed by the Department as qualified to render services enumerated in this rule.

(2) "Affiliated Provider" means a ~~certified~~ licensed EMS individual's secondary employer or employers.

(3) "Air Ambulance" means a specially equipped and permitted aircraft, especially a helicopter or fixed wing airplane, for transporting patients.

(4) "Air Ambulance Personnel" mean the pilot and patient care personnel who are involved in an air medical transport.

(5) "Air Ambulance Service" means any publicly or privately owned organization that is licensed or applies for licensure under R426-3 and provides transportation and care of patients by air ambulance.

(6) "Air Ambulance Service Medical Director" means a physician knowledgeable of potential medical complications which may arise because of air medical transport, and is responsible for overseeing and assuring that the appropriate air ambulance, medical personnel, and equipment are provided for patients transported by the air ambulance service.

(7) "Categorization" means the process of identifying and developing a stratified profile of Utah hospital trauma critical care capabilities in relation to the standards defined under R426-5-7.

(8) "Certify," "Certification," and "Certified" mean the official Department recognition that an individual has completed a specific level of training and has the minimum skills required to provide emergency medical care at the level for which he is certified.

~~(9) "Certified EMS Individual" means a person certified by the Bureau of Emergency Medical Services and Preparedness to perform an EMS function.~~

~~(10)~~ (9) "Competitive Grant" means a grant awarded through the Emergency Medical Services Grants Program on a competitive basis for a share of available funds.

~~(11)~~ (10) "Complaint, Compliance, and Enforcement Unit or CCEU" means the investigative unit of the Department.

~~(12)~~ (11) "Continuing Medical Education" means a Department-approved training relating specifically to the appropriate level of certification designed to maintain or enhance an individual's emergency medical skills.

~~(13)~~ (12) "County or Multi-County EMS Council or Committee" means a group of persons recognized as the legitimate entity within the county to formulate policy regarding the provision of EMS.

~~(14)~~ (13) "Course Coordinator" means an individual who has completed a Department course coordinator course and is certified by the Department as capable to conduct Department-authorized EMS courses.

~~(15)~~ (14) "Department" means the Utah Department of Health.

~~(16)~~ (15) "Emergency Medical Dispatcher" or "EMD" means an individual who has completed a Department approved EMD training program, and is ~~certified~~ licensed by the Department as qualified to render services enumerated in this rule.

~~(17)~~ (16) "Emergency Medical Service Dispatch Center" means a call center designated by the Department for the routine acceptance of calls for emergency assistance, staffed by trained operators who utilize a selective medical dispatch system to dispatch licensed ambulance and paramedic services.

([18]17) "Emergency Medical Responder" or "EMR" means an individual who has completed a Department approved EMR training program, and is [certified]licensed by the Department as qualified to render services enumerated in this rule.

([19]18) "Emergency Medical Technician" or "EMT" means an individual who has completed a Department approved EMT training program and is [certified]licensed by the Department as qualified to render services enumerated in this rule.

([20]19) "Emergency Medical Technician Intermediate Advanced" means an individual who has completed a Department approved EMT- IA training program and is [certified]licensed by the Department as qualified to render services enumerated in this rule.

([21]20) "Emergency vehicle operator" means an individual on the roster of an EMS provider who may, in the normal course of the individual's duties, drive an ambulance or an emergency medical response vehicle.

([22]21) "EMS" means Emergency Medical Services.

([23]22) "Emergency Medical Incident" means any instance in which an Emergency Medical Services Provider is requested to provide or potentially provide emergency medical services.

([24]23) "EMS Instructor" means an individual who has completed a Department EMS instructor course and is certified by the Department as capable to teach EMS personnel.

([25]24) "EMS stand-by event" means the on-site licensed ambulance, paramedic service, or designated quick response unit at a scheduled event or activity provided by the local 911 exclusive license provider or their designee~~[as referred to in R426-3-400(6)].~~

([26]25) "Exclusive License" means the sole right to perform the licensed act in a defined geographic service area, and that prohibits the Department of Health from performing the licensed act, and from granting the right to anyone else.

([27]26) "Grants Review Subcommittee" means a subcommittee appointed by the EMS Committee to review, evaluate, prioritize and make grant funding recommendations to the EMS Committee.

([28]27) "Ground Ambulance" means a vehicle which is properly equipped, maintained, permitted and used to transport a patient to a patient destination such as a patient receiving facility or resource hospital.

([29]28) "Inclusive Trauma System" means the coordinated component of the State emergency medical services (EMS) system composed of all general acute hospitals licensed under Title 26, Chapter 21, trauma centers, and pre-hospital providers which have established communication linkages and triage protocols to provide for the effective management, transport and care of all injured patients from initial injury to complete rehabilitation.

([30]29) "Inter-facility Transfer" means an ambulance transfer of a patient, who does not have an emergency medical condition as defined in UCA 26-8a-102(6)(a), and the ambulance transfer of the patient ~~originates at~~~~[is arranged by a transferring physician for the particular patient, from]~~ a hospital, nursing facility, patient receiving facility, mental health facility, or other licensed medical facility.

([31]30) "Individual" means a human being.

([32]31) "Level of Care" means the capabilities and commitment to the care of the trauma patient available within a specified facility.

([33]32) "Level of [Certification]License" means the official Department recognized step in the [certification]licensure process in which an individual has attained as an EMS provider.

(33) "Licensed EMS Individual" means a person licensed by the Bureau of Emergency Medical Services and Preparedness to perform an EMS function.

(34) "Meritorious Complaint" means a complaint against ~~[an]~~a licensed ambulance provider, designated agency, or [certified]licensed provider(s) that is made by a patient, a member of the immediate family of a patient, or health care provider, that the Department determines is substantially supported by the facts or ~~[an]~~a licensed ambulance provider, designated agency, or [certified]licensed provider(s):

(a) has repeatedly failed to provide service at the level or in the exclusive geographic service area required licensee;

(b) has repeatedly failed to follow operational standards established by the EMS Committee;

(c) has committed an act in the performance of a professional duty that endangered the public or constituted gross negligence; or

(d) has otherwise repeatedly engaged in conduct that is adverse to the public health, safety, morals or welfare, or would adversely affect the public trust in the emergency medical service system.

(35) "Matching Funds" means that portion of funds, in cash, contributed by the grantee to total project expenditures.

(36) "On-line Medical Control" which refers to physician medical direction of pre-hospital personnel during a medical emergency; and

(37) "Off-line Medical Control" which refers to physician oversight of local EMS services and personnel to assure their medical accountability.

([36]38) "Medical Director" means a physician certified by the Department to provide off-line medical control.

([37]39) "Mid-level Provider" means a licensed nurse practitioner or a licensed physician assistant.

([38]40) "Net Income" means the sum of net service revenue, plus other regulated operating revenue and subsidies of any type, less operating expenses, interest expense, and income.

([39]41) "Paramedic" means an individual who has completed a Department approved Paramedic training program and is [certified] licensed by the Department as qualified to render services enumerated in this rule.

([40]42) "Paramedic Ground Ambulance" means the provision of advanced life support patient care and transport by licensed paramedic personnel in a licensed ambulance.

([41]43) "Paramedic Rescue Service" means the provision of advanced life support patient care by licensed paramedic personnel without the ability to transport patients.

([42]44) "Paramedic Unit" means a vehicle which is properly equipped, maintained and used to transport licensed paramedics to the scene of emergencies to perform paramedic services without the ability to transport patients to a designated hospital or designated patient receiving facility.

([43]45) "Paramedic Tactical Service" means the retrieval and field treatment of injured peace officers or victims of traumatic confrontations by licensed paramedics who are trained in combat medical response.

([44]46) "Paramedic Tactical Unit" means a vehicle which is properly equipped, maintained, and used to transport licensed paramedics to the scene of traumatic confrontations to provide paramedic tactical services.

([45]47) "Patient Care Report" means a record of the response by each responding Emergency Medical Services Provider unit to each patient during an EMS Incident.

([46]48) "Patient Receiving Facility" means a Department designated medical clinic or designated resource hospital that is approved to receive patients transported by ~~an~~ a licensed ambulance provider.

([47]49) "Per Capita grants" mean block grants determined by prorating available funds on a per capita basis as delineated in 26-8a-207, as part of the Emergency Medical Services Grants Program.

([48]50) "Permit" means the document issued by the Department that authorizes a vehicle to be used in providing emergency medical services.

([49]51) "Person" means an individual, firm, partnership, association, corporation, company, or group of individuals acting together for a common purpose, agency, or organization of any kind public or private.

([50]52) "Physician" means a medical doctor licensed to practice medicine in Utah.

([51]53) "Pilot" means any individual licensed under Federal Aviation Regulations, Part 135.

([52]54) "Pre-hospital Care" means medical care given to an ill or injured patient by a designated or licensed EMS provider outside of a hospital setting.

([53]55) "Primary Affiliated Provider" or "PAP" means a ~~certified~~ licensed EMS individual's primary or main employer or provider.

([54]56) "Primary emergency medical services" means an organization that is the only licensed or designated service in a geographical area.

([55]57) "Provider" means a Department licensed or designated entity that provides emergency medical services.

([56]58) "Provisional ~~Certification~~ License" means temporary terms and conditions placed on a ~~certified~~ licensed EMS individual's ~~certification~~ license until completion of an investigation or a final adjudication or conclusion of the pending matter.

([57]59) "Quick Response Unit" or "QRU" means an entity that provides emergency medical services to supplement local licensed ambulance ~~services~~ providers or provide unique services.

([58]60) "Quick Response Vehicle" or "QRV" means a vehicle which is properly equipped, maintained, permitted and used to perform assistive services at a scene. A QRV may transport or deliver a patient to ~~an~~ a licensed ambulance provider access point. The QRV may include an automobile, an all-terrain vehicle or a watercraft.

([59]61) "Resource Hospital" means a facility designated by the EMS Committee to provide on-line medical control for the provision of pre-hospital emergency care.

([60]62) "Restricted ~~Certification~~ License" means a ~~certified~~ licensed EMS individual may not function in their EMS capacity for an interim period of time.

([61]63) "Scene" means the location of initial contact with the patient.

([62]64) "Selective Medical Dispatch System" means a ~~d~~ Department-approved reference system used by a designated local

dispatch agency to dispatch aid to medical emergencies which includes:

- (a) systemized caller interrogation questions;
- (b) systemized pre-arrival instructions; and
- (c) protocols matching the dispatcher's evaluation of injury or illness severity with vehicle response mode and configuration.

([63]65) "Specialized Life Support Air Ambulance Service" means a level of care which requires equipment or specialty patient care by one or more medical personnel in addition to the regularly scheduled air medical team.

([64]66) "Training Officer" means an individual who has completed a department Training Officer Course and is certified by the Department to be responsible for an EMS provider organization's continuing medical education, ~~recertification~~ license renewal records, and testing.]

~~(65) "Transition Period" means prescribed range of dates that includes a begin and end date in which EMS providers will change their level of certificate from existing levels of certification to the Department adopted National Traffic and Highway Safety Administration's (NTHSA) National EMS Scope of Practice Model. This model names levels of certification as EMR, EMT, AEMT and Paramedic.]~~

KEY: emergency medical services

Date of Enactment or Last Substantive Amendment: [September 24,]2018

Authorizing, and Implemented or Interpreted Law: 26-8a

Health, Family Health and Preparedness, Emergency Medical Services **R426-2** Emergency Medical Services Provider Designations for Pre-Hospital Providers, Critical Incident Stress Management and Quality Assurance Reviews

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 42555

FILED: 01/31/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to update language to be consistent with Title 26, Chapter 8a, and to amend medical dispatch designation requirements.

SUMMARY OF THE RULE OR CHANGE: Terms and requirements to the emergency medical dispatch center

designations are changed to reflect changes in Title 26, Chapter 8.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 8a

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: This proposed rule change is not expected to have any fiscal impact on state government revenues or expenditures because it is for the changing of terminology, training requirements for medical dispatch centers, and requiring medical dispatch to send ambulances based on license type. State expenditures and staff time are not affected.

◆ LOCAL GOVERNMENTS: This proposed rule change does not appear to create costs for local governments who fund designated medical dispatch centers, since all designated medical dispatch centers currently use vendor-based systems and associated training. A cost savings will be realized by designated medical dispatch centers due to removing the requirement for a certified training officer. A possible fiscal impact will be to local governments who have performed inter-facility transports via the 911 call system when their license does not allow inter-facility services. This only affects some local governments and a private ambulance provider who were approved with an existing over-lap service area as described in Subsection 26-8a-416(6). Fiscal impacts are estimated up to \$1,200,000 annual billable inter-facility ambulance patient transports.

◆ SMALL BUSINESSES: This proposed rule change is not expected to have any fiscal impact on small businesses revenues or expenditures, because no small businesses are included in the entities affected by this amendment.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This amendment clarifies proper dispatch of ambulance providers based on license type. It may create fiscal impacts for local governments who have performed inter-facility transports via the 911 call system when their license does not allow inter-facility services. This only affects some local governments and a private ambulance provider who were approved with an existing over-lap service area as described in Subsection 26-8a-416(6). Fiscal impacts are estimated up to \$1,200,000 annual billable inter-facility ambulance patient transports.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This proposed rule amendment is not expected to have any fiscal impact on affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Fiscal impacts are estimated up to \$1,200,000 annual billable inter-facility ambulance patient transports.

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

HEALTH
FAMILY HEALTH AND PREPAREDNESS,

EMERGENCY MEDICAL SERVICES
3760 S HIGHLAND DR
SALT LAKE CITY, UT 84106
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Guy Dansie by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at gdansie@utah.gov or PO Box 142004, Salt Lake City, UT 84114-2004

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/19/2018

THIS RULE MAY BECOME EFFECTIVE ON: 03/26/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

	FY 2018	FY 2019	FY 2020
Fiscal Costs			
State Government	\$0	\$0	\$0
Local Government	\$1,200,000	\$1,200,000	\$1,200,000
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Costs:	\$1,200,000	\$1,200,000	\$1,200,000
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$4,625	\$4,625	\$4,625
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$1,200,000	\$1,200,000	\$1,200,000
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$1,204,625	\$1,204,625	\$1,204,625
Net Fiscal Benefits:	\$4,625	\$4,625	\$4,625

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

The costs and benefits are based on the assumption that affected local governments are currently transporting

inter-facility types of patients in three service areas, and will no longer be allowed to do so. Fiscal data is based on revenues differences from the past calendar year compared to the previous calendar year by the non-small business ambulance provider.

A cost to local governments for vendor provided medical dispatch training was not included since all current designated medical dispatch centers currently use vendor-based dispatch systems with associated training for licensed emergency medical dispatchers.

Benefits to local governments include a potential savings of \$4,625 (\$125 per designated medical dispatch centers) by removing the training officer requirement.

R426. Health, Family Health and Preparedness, Emergency Medical Services.

R426-2. Emergency Medical Services Provider Designations for Pre-Hospital Providers, Critical Incident Stress Management and Quality Assurance Reviews.

R426-2-100. Authority and Purpose.

(1) This rule establishes types of providers that require a designation, the application process for a obtaining a designation and minimum designation requirements. The rule also establishes criteria for critical incident stress management and the process for quality assurance reviews.

R426-2-200. Pre-hospital Provider Designation Types.

The following type of provider shall obtain a designation from the Department:

- (1) Quick Response Unit.
- (2) Emergency Medical Service Dispatch Center.

R426-2-300. Quick Response Unit Minimum Designation Requirements.

A quick response unit shall meet the following minimum designation requirements:

- (1) Have vehicle(s), equipment, and supplies that meet the current requirements of the Department for licensed and designated providers as found on the Bureau of EMS and Preparedness' web-site to carry out its responsibilities under its designation;
- (2) Have location(s) for stationing its vehicle(s), equipment and supplies;
- (3) Have a current dispatch agreement with a designated Emergency Medical Service Dispatch Center;
- (4) Have a Department-certified training officer;
- (5) Have a current plan of operations, which shall include:
 - (a) the names, EMS ID Number, and [~~certification~~]license level of all personnel;
 - (b) operational procedures; and
 - (c) a description of how the designee proposes to interface with other EMS agencies;
- (6) Have a current agreement with a Department-certified off-line medical director who will perform the following:
 - (a) develop and implement patient care standards which include written standing orders and triage, treatment, pre-hospital protocols, and/or pre-arrival instructions to be given by designated emergency medical dispatch centers;
 - (b) ensure the qualification of field EMS personnel involved in patient care and dispatch through the provision of ongoing

continuing medical education programs and appropriate review and evaluation;

(c) develop and implement an effective quality improvement program, including medical audit, review, and critique of patient care;

(d) annually review triage, treatment, and transport protocols and update them as necessary;

(e) suspend from patient care, pending Department review, a field EMS personnel or dispatcher who does not comply with local medical triage, treatment and transport protocols, pre-arrival instruction protocols, or who violates any of the EMS rules, or who the medical director determines is providing emergency medical service in a careless or unsafe manner. The medical director [~~must~~]shall notify the Department within one business day of the suspension; and

(f) attend meetings of the local EMS Council, if one exists, to participate in the coordination and operations of local EMS providers.

(7) Have current treatment protocols approved by the agencies off-line medical director for the designated service level;

(8) Provide the Department with a copy of its certificate of insurance;

(9) Provide the Department with a letter of support from the licensed provider(s) in the geographical service area; and

(10) Not be disqualified for any of the following reasons:

(a) violation of Subsection 26-8a-504; or

(b) a history of disciplinary action relating to an EMS license, permit, designation or certification in this or any other state.

R426-2-400. Emergency Medical Service Dispatch Center Minimum Designation Requirements.

An emergency medical service dispatch center shall meet the following minimum designation requirements:

(1) Have in effect a selective medical dispatch system approved by the [~~off-line medical director~~]Department which includes:

(a) systemized caller interrogation questions;

(b) systemized pre-arrival instructions; [~~and~~]

(c) a systemized method which produces consistent results to assist a dispatcher in categorizing incoming calls so that dispatcher can notify the proper licensed provider for the level of care, whether an emergency response or an inter-facility patient transfer is needed, as defined in R426-1-200(29); and

_____~~(e)~~d) protocols matching the dispatcher's evaluation of injury or illness severity with vehicle response mode and configuration[;].

(2) Provide pre-hospital arrival instructions by a [~~certified~~]licensed Emergency Medical Dispatcher.

(3) Have a current updated plan of operations, which shall include:

- (a) plan of operations to be used in a disaster or emergency;
- (b) communication systems, and
- (c) aid agreements with other designated medical service dispatch centers.

(4) Have a current agreement with a Department-certified off-line medical director.

(5) Have an ongoing medical call review quality assurance program; and

(6) Have a [~~certified~~]licensed emergency medical dispatcher roster, which shall include:

(a) [~~certified~~]licensed staff names, Department [~~certification~~]license numbers and expiration dates; and

(b) [~~national~~]dispatch system training certification number and expiration dates.

R426-2-500. Designation Applications.

Any provider applying for designation shall submit to the Department: applications fees, complete application on Department approved forms, and documentation verifying that the provider meets the minimum requirements for the designation, as listed in this rule. The Department may determine other information is necessary for processing, and will provide a list of those requirements to the applicant. Additional items specific to the designation type are required as outlined below. A provider applying for re-designation shall submit an application as described above 90 days prior to the expiration of its designation.

R426-2-600. Quick Response Unit Designation Applications.

A Quick Response Unit shall provide:

(1) Name of the organization and its principles.

(2) Name of the person or organization financially responsible for the service and documentation from that entity accepting responsibility.

(3) If the applicant is privately owned, they shall submit certified copies of the document creating the entity.

(4) A description of the geographical area of service.

(5) A demonstrated need for the service.

R426-2-700. Emergency Medical Service Dispatch Center Designation Applications.

An Emergency Medical Service Dispatch Center shall provide:

(1) Name of the organization and its principles.

(2) Name of the person or organization financially responsible for the service provided by the designee and documentation from that entity accepting responsibility.

(3) If the applicant is privately owned, they shall submit certified copies of the document creating the entity.

(4) A description of the geographical area of service.

(5) A demonstrated need for the service.

R426-2-800. Criteria for Denial or Revocation of Designation.

(1) The Department may deny an application for a designation for any of the following reasons:

(a) failure to meet requirements as specified in the rules governing the service;

(b) failure to meet vehicle, equipment, or staffing requirements;

(c) failure to meet requirements for renewal or upgrade;

(d) conduct during the performance of duties relating to its responsibilities as an EMS provider that is contrary to accepted standards of conduct for EMS personnel described in Sections 26-8a-502 and 26-8a-504;

(e) failure to meet agreements covering training standards or testing standards;

(f) a history of disciplinary action relating to a license, permit, designation, or certification in this or any other state;

(g) a history of criminal activity by the [~~licensee~~]licensed or designated provider or its principals while licensed or designated as an

EMS provider or while operating as an EMS service with permitted vehicles;

(h) falsifying or misrepresenting any information required for licensure or designation or by the application for either;

(i) failure to pay the required designation or permitting fees or failure to pay outstanding balances owed to the Department;

(j) failure to submit records and other data to the Department as required by statute or rule;

(k) misuse of grant funds received under Section 26-8a-207; and

(l) violation of OSHA or other federal standards that it is required to meet in the provision of the EMS service.

(2) An applicant who has been denied a designation may request a Department review by filing a written request for reconsideration within thirty calendar days of the issuance of the Department's denial.

R426-2-900. Application Review and Award.

(1) If the Department finds that an application for designation is complete and that the applicant meets all requirements, it may approve the designation.

(2) Issuance of a designation by the Department is contingent upon the applicant's demonstration of compliance with all applicable rules and a successful Department quality assurance review.

(3) A designation may be issued for up to a four-year period. The Department may alter the length of the designation to standardize renewal cycles.

R426-2-1000. Change in Designated Service Level.

(1) A quick response unit may apply to provide a higher designated level of service by:

(a) submitting the applicable fees; and

(b) submitting an application on Department-approved forms to the Department.

(2) As part of the application, the applicant shall provide:

(a) a copy of the new treatment protocols for the higher level of service approved by the off-line medical director;

(b) an updated plan of operations demonstrating the applicant's ability to provide the higher level of service;

(c) a written assessment of the performance of the applicant's field performance by the applicant's off-line medical director; and

(d) provide the Department with a letter of support from the licensed provider(s) in the geographical service area.

(3) If the Department finds that the applicant has demonstrated the ability to provide the upgraded service, it shall issue a new designation reflecting the higher level of service.

R426-2-1100. Critical Incident Stress Management.

(1) The Department may establish a critical incident stress management (CISM) team to meet its public health responsibilities under Utah Code Section 26-8a-206.

(2) The CISM team may conduct stress debriefings, defusings, demobilizations, education, and other critical incident stress interventions upon request for persons who have been exposed to one or more stressful incidents in the course of providing emergency services.

(3) Individuals who serve on the CISM team [~~must~~]shall complete initial and ongoing training.

(4) While serving as a CISM team member, the individual is acting on behalf of the Department. All records collected by the CISM team are Department records. CISM team members shall maintain all information in strict confidence as provided in Utah Code Title 26, Chapter 3.

(5) The Department may reimburse a CISM team member for travel expenses incurred in performing his or her duties in accordance with state finance reimbursement policy.

R426-2-1200. Quality Assurance Reviews.

(1) The Department may conduct quality assurance reviews of licensed and designated organizations and training programs on an annual basis or more frequently as necessary to enforce this rule;

(2) The Department shall conduct a quality assurance review prior to issuing a new license or designation.

(3) The Department may conduct quality assurance reviews on all personnel, vehicles, facilities, communications, equipment, documents, records, methods, procedures, materials and all other attributes or characteristics of the organization, which may include audits, surveys, and other activities as necessary for the enforcement of the Emergency Medical Services System Act and the rules promulgated pursuant to it.

(a) The Department shall record its findings and provide the organization with a copy.

(b) The organization ~~must~~ shall correct all deficiencies within 30 days of receipt of the Department's findings.

(c) The organization shall immediately notify the Department on a Department-approved form when the deficiencies have been corrected.

KEY: emergency medical services

Date of Enactment or Last Substantive Amendment: ~~[August 21, 2015]~~2018

Authorizing, and Implemented or Interpreted Law: 26-8a

**Health, Family Health and
Preparedness, Emergency Medical
Services
R426-3
Licensure**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42556

FILED: 01/31/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to update language to be consistent with Title 26, Chapter 8a, require ambulance providers in recognized over-lapped service areas to have an agreement for responding to licensed patient care facilities, and to amend mutual aid and licensing requirements for ambulance providers.

SUMMARY OF THE RULE OR CHANGE: This amendment updates language to be consistent with Title 26, Chapter 8a, by changing the term "licensed" to include individuals. It requires licensed ambulance providers in service areas that have an overlap with another licensed ambulance provider to make an agreement for responding to licensed patient facilities. It also amends mutual aid and licensing requirements for licensed ambulance providers.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 8a

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** These proposed rule changes are not expected to have any fiscal impact on state government revenues or expenditures because it is for the changing of terminology, and documentation for licensed ambulance providers. State expenditures and staff time are not affected.

◆ **LOCAL GOVERNMENTS:** These proposed rule changes will create a fiscal impact for local governments who are required to develop agreements with other licensed ambulance providers in service areas where there is an overlap. The impacts include a decline or increase in billable patient transports based on the terms of the agreement. This amendment only affects local governments and a private ambulance providers where service areas have an overlap with other licensed ambulance providers, as described in Subsection 26-8a-416(6). Fiscal impacts are estimated at \$1,200,000 annual billable inter-facility ambulance patient transports. A fiscal benefit will result to all licensed ambulance service providers by removing the requirement for a written mutual aid agreement with adjoining geographical service areas as a condition of licensing or license renewal.

◆ **SMALL BUSINESSES:** These proposed rule changes are not expected to have any fiscal impact on small businesses revenues or expenditures, because no small businesses are included in the entities affected by this amendment.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amendment will create a fiscal impact for local governments who have performed inter-facility transports via the 911 call system when their license does not allow inter-facility services. This only affects local governments and private ambulance providers that have an existing overlap service area as described in Subsection 26-8a-416(6). Fiscal impacts are estimated up to \$1,200,000 annual billable inter-facility ambulance patient transports. A fiscal benefit will result to all licensed ambulance service providers by removing the requirement for a written mutual aid agreement with adjoining geographical service areas as a condition of licensing or license renewal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This amendments will create fiscal impact for local governments who have performed inter-facility transports via the 911 call system when their license does not allow inter-facility services. This only affects local governments and private ambulance providers that have an existing overlap service area as described in Subsection 26-8a-416(6). Fiscal

impacts are estimated up to \$1,200,000 annual billable inter-facility ambulance patient transports. A fiscal benefit will result to all licensed ambulance service providers by removing the requirement for a written mutual aid agreement with adjoining geographical service areas as a condition of licensing or license renewal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Fiscal impacts are estimated up to \$1,200,000 annual billable inter-facility ambulance patient transports. A fiscal benefit will result to all licensed ambulance service providers by removing the requirement for a written mutual aid agreement with adjoining geographical service areas as a condition of licensing or license renewal.

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

HEALTH
 FAMILY HEALTH AND PREPAREDNESS,
 EMERGENCY MEDICAL SERVICES
 3760 S HIGHLAND DR
 SALT LAKE CITY, UT 84106
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Guy Dansie by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at gdansie@utah.gov or PO Box 142004, Salt Lake City, UT 84114-2004

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/19/2018

THIS RULE MAY BECOME EFFECTIVE ON: 03/26/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Local Government	\$44,000	\$44,000	\$44,000
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$1,202,000	\$1,200,000	\$1,20,000
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$1,246,000	\$1,244,000	\$1,244,000
Net Fiscal Benefits:	\$18,000	\$44,000	\$44,000

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

The costs and benefits are based on the assumption that local governments are currently transporting inter-facility types of patients in affected service areas, and will no longer be allowed to do so. Fiscal data is based on revenues differences from the past calendar year compared to the previous calendar year by the non-small business ambulance provider.

A cost to local governments and a non-small business exists for developing new agreements where licensed geographical services have over-lapping service areas. It is based on affected providers' staff time estimate of \$2,000 per agreement X 14 licensed providers with overlapped areas for a total of \$28,000. Agreements are assumed to be in effect for at least the licensure period of 4 years, therefore it was only added in the first year.

A benefit to local governments and non-small business is based on a reduction of all ambulance providers' staff time estimated at \$2,000 per mutual aid agreement that will no longer be required for adjoining service areas. There are 92 licensed providers with approximately 25% of them renewing license agreements each year, for a total estimated benefit of \$46,000 per year.

Appendix 1: Regulatory Impact Summary Table*

	FY 2018	FY 2019	FY 2020
Fiscal Costs			
State Government	\$0	\$0	\$0
Local Government	\$1,226,000	\$1,200,000	\$1,200,000
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$2,000	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Costs:	\$1,228,000	\$1,200,000	\$1,200,000
Fiscal Benefits			
State Government	\$0	\$0	\$0

R426. Health, Family Health and Preparedness, Emergency Medical Services.

R426-3. Licensure.

R426-3-100. Authority and Purpose.

(1) This Rule is established under Chapter 8, Title 26a, Chapter 8a. It establishes standards for the licensure of an air ambulance, ground ambulance, and paramedic services.

(2) The purpose of this rule is to set forth air and ground ambulance policies, rules, and standards adopted by the Utah Emergency Medical Services Committee, which promotes and protects the health and safety of the people of this state.

(3) The definitions in Title 26, Chapter 8a are adopted and incorporated by reference into this rule.

R426-3-200. Requirement for Licensure.

(1) A person who provides or represents that it provides air ambulance, ground ambulance, paramedic ground ambulance, or paramedic services shall first be licensed by the Department.

R426-3-300. Licensure Types.

(1) The Department may issue exclusive ground ambulance transport licenses for the following types of service at the given levels:

- (a) emergency medical technician (EMT);
- (b) advanced emergency medical technician (AEMT); and
- (c) paramedic.

(2) Current emergency medical technician intermediate advanced (EMT-IA) licenses will remain in effect, no new EMT-IA ground ambulance licenses will be issued.

(3) The Department may issue exclusive ground ambulance inter-facility transport licenses for the following types of service at the given levels:

- (a) emergency medical technician (EMT);
- (b) advanced emergency medical technician (AEMT); and
- (c) paramedic.

(4) The Department may issue exclusive paramedic, non-transport licenses.

(5) The Department may issue a paramedic tactical license that is a designation of function not geographical location.

R426-3-310. Air Ambulance Licensure Types.

(1) The Department may issue an Air Ambulance provider a license in accordance with services accredited by a Department approved accreditation vendor.

R426-3-400. Scope of Operations.

(1) A ground ambulance or paramedic licensed provider as described in R426-3-300 may only provide service to its specific licensed geographic service area and is responsible to provide all services to its entire specific geographic service area except as provided by R426-3-900 Aid Agreements. It will provide emergency medical services for its category of licensure that corresponds to the [certification]licensed levels in R426-5 Emergency Medical Services Training, Licensure and Certification Standards.

(2) A ground ambulance provider or paramedic service provider as described in R426-3-300 shall provide services 24 hours a day, every day of the year.

(3) Air ambulance services shall provide services 24 hours a day, every day of the year as allowed by weather conditions.

(4) A ground ambulance provider or paramedic service provider as described in R426-3-300 shall provide all standby services for any special event that requires ground ambulance or paramedic services within its geographic service area. The licensed provider may arrange for those services through R426-3-900 aid agreements. Designated quick response units may also support licensed ground ambulance or paramedic services at special events. If a licensed provider refuses to provide service, or is non-responsive in a timely manner to a request for a special event, the event organizer may use a licensed or designated provider of their choice.

R426-3-500. Minimum Licensure Requirements Air Ambulance, Ground Ambulance, and Paramedic Services.

A licensed provider conforming to R426-3-200 shall meet the following minimum requirements:

(1) sufficient air or ground ambulances, emergency response vehicle(s), equipment, and supplies that meet the requirements of this rule and as may be necessary to carry out its responsibilities under its license or proposed license without relying upon aid agreements with other licensed provider;

(2) locations or staging areas for stationing its vehicles;

(3) a current written dispatch agreement with a designated emergency medical dispatch center;

(4) ground ambulances ~~shall~~ may have current written aid agreements with other ground ambulance licensed providers to give assistance in times of unusual demand;

(5) a Department certified EMS training officer that is responsible for continuing education;

(6) a current plan of operations.

(7) a description of how the licensed provider or applicant proposes to interface with other licensed and designated EMS [agencies]providers.

(8) demonstrate fiscal viability;

(9) medical personnel roster which includes level of [certification]licensure to ensure there is sufficient trained and [certified]licensed staff who meet the requirements of R426-4-200 Staffing, and operational procedures.

(10) all permitted vehicles shall be equipped to allow field EMS personnel to be able to:

(a) communicate with hospital emergency departments, dispatch centers, EMS providers, and law enforcement services; and

(b) communicate on radio frequencies assigned to the Department for EMS use by the Federal Communications Commission.

(11) a current written agreement with a Department-certified off-line medical director or a medical director certified in the state where the service is based pursuant to R426-3-700.

(12) provide the Department with a copy of its certificate of insurance or if seeking application, provide proof of the ability to obtain insurance to respond to damages due to operation of a vehicle or air ambulance in the manner and following minimum amounts:

(a) liability insurance in the amount of \$1,000,000 for each individual claim; and

(b) liability insurance in the amount of \$1,000,000 for property damage from any one occurrence;

(c) the licensed provider as described in R426-3-300 shall obtain the insurance from an insurance company authorized to write liability coverage in Utah or through a self-insurance program and shall:

(i) provide the Department with a copy of its certificate of insurance demonstrating compliance with this section; and

(ii) direct the insurance carrier or self-insurance program to notify the Department of all changes in insurance coverage within 60 days.

(13) not be disqualified for any of the following reasons:

(a) violation of Subsection 26-8a-504; or

(b) disciplinary action relating to an EMS license, permit, designation, or certification in this or any other state that adversely affect its service under its license; and

(14) A paramedic tactical service as described in R426-3-300 shall be a public safety agency or have a letter of recommendation from a county or city law enforcement agency within the paramedic tactical service's geographic service area.

(15) In areas that are served by more than one transport provider, both providers shall have an agreement addressing first response and transport responsibilities for all types of facilities listed in R426-1-200(29) in effect by June 30, 2018 and shall provide copies to the Department and all impacted PSAP's and dispatch centers. The Department may act as mediator if needed to reach agreement.

R426-3-600. Cost, Quality, and Access Goals for Ground Ambulance Providers.

(1) A local government shall establish emergency medical service goals pursuant to Title 26-8a-408(7).

(2) Goals shall be renewed every four years in concurrence with the licensure process for the EMS licensed ground ambulance provider. All local governments in a licensed service area are required to participate.

(3) Goals may be amended, if necessary, due to:

- (a) unforeseen changes in service delivery,
- (b) community impacts, or

(c) significant unforeseen impact in the geographical service area.

(4) Goals shall be written, approved by local governments, and submitted to the Department with licensure and re-licensure application by the EMS licensed ground ambulance provider for the geographical service area.

(5) Local governments may choose to recognize EMS providers who have achieved accreditation by a Department approved accreditation organization as meeting the cost, quality, and access goals.

(6) Cost goals shall indicate the expected financial cost to the local government(s) and patients for the level of service provided.

(7) Quality goals shall indicate the expected level of service plus any additional foreseen improvements or advancements in service expectations.

(8) Access goals shall indicate the local government's expectation for access to the EMS system by any individual within the local government's geographic area.

R426-3-700. Ground Ambulance or Paramedic Service Application.

(1) An applicant desiring to obtain a new license for ground ambulance, or paramedic services shall submit the applicable fees and application on Department-approved forms to the Department. As part of the application, the applicant shall submit documentation that it meets the requirements listed in R426-3-500 along with the following:

(a) a detailed description and detailed map of the exclusive geographical areas that will be served;

(b) if the requested geographical service area is for less than all ground ambulance or paramedic services, the applicant shall include a written description and detailed map showing how the areas not included will receive ground ambulance or paramedic services;

(c) if an applicant is responding to a public bid as described in 26-8a-405.2 the applicant shall include detailed maps and descriptions for all geographical areas served in accordance with 26-8a-405.2(2);

(d) documentation showing that the applicant meets all local zoning and business licensing standards within the exclusive geographical service area that it will serve;

(e) a written description of how the applicant will communicate with dispatch centers, law enforcement agencies, on-line medical control, and patient transport destinations;

(f) patient care protocols, medications, and equipment approved by the provider's medical director based on licensure level according to Department policies; and

(g) applicant's plans for operations during times of unusual demand.

(2) An applicant desiring to renew an existing license shall submit documentation that it meets the requirements listed in R426-3-500, along with the following:

(a) a written assessment of field performance from the applicant's off-line medical director; and

(b) other information that the Department determines necessary for the processing of the application and the oversight of the licensed entity.

(3) An applicant desiring to obtain a new license or renew an existing license shall submit written cost, quality, and access goals as described in R426-3-600, if available.

(4) A ground ambulance or paramedic service holding a license under 26-8a-404, including any political subdivision that is part of a special district may respond to a request for proposal if it complies with 26-8a-405(2).

(5) Upon receipt of an appropriately completed application, ground ambulance or paramedic service license and submission of license fees, the Department shall collect supporting documentation and review each application.

(6) If, upon Department review, the application for a new license is complete and meets all the requirements, the Department shall issue a notice of approved application as required by 26-8a-405 and 406.

(7) Award of a new license or a renewal license is contingent upon the applicant's demonstration of compliance with all applicable statute and rules and a successful Department quality assurance review.

(8) After review and before issuing a license to a new service, the Department shall directly inspect the ground vehicle(s), equipment, and required documentation.

(9) A license may be issued for up to a four-year period unless revoked or suspended by the Department. The Department may alter the length of the license to standardize renewal cycles.

R426-3-710. Air Ambulance Application.

An applicant desiring to obtain a new license or to renew its license for air ambulance services shall submit the applicable fees and application on Department-approved forms to the Department. As part of the application, the applicant shall submit documentation that it meets the requirements listed in R426-3-500 and the following:

(1) certified articles of incorporation, if incorporated;

(2) a statement summarizing the training and experience of the applicant in the air transportation and care of patients;

(3) a copy of current Federal Aviation Administration (FAA) Air Carrier Operating Certificate authorizing FAR, Part 135, operations;

(4) a copy of the current certificates of insurance demonstrating coverage for medical malpractice;

(5) a description and location of each dedicated and back-up air ambulance(s) procured for use in the air ambulance service, including the make, model, and year of manufacture, FAA-N number, insignia, name or monogram, or other distinguishing characteristics;

(6) successful completion of a Department approved accreditation process and such accreditation decision shall exclude Federal Aviation Agency or Aviation Deregulation Act regulated activities;

(7) for new air ambulance services licensed under R426-3-200, the applicant shall submit an application for accreditation by a

Department approved accreditation process within one year of receiving a license under this rule; and

(8) licensed air ambulance services shall achieve accreditation and maintain accreditation.

(9) Any new air ambulance providers applying for a license who have been licensed and operating in any other state for at least one year shall provide the Department with a copy of a successful accreditation decision, or an application sent to a Department approved accreditation vendors prior to receiving an air ambulance license.

(10) Upon receipt of an appropriately completed application for air ambulance provider license and submission of license fees, the Department shall collect supporting documentation and review each application.

(11) After review and before issuing a license to a new service, the Department shall directly inspect the air vehicle(s), equipment, and required documentation.

(12) Department approved accreditation vendors shall allow a Department representative to accompany accreditation surveyors on site surveys or during any accreditation inspections at the request of the Department.

(13) If, upon Department review, the application for a new license is complete and meets all the requirements, the Department shall issue a notice of approved application as required by 26-8a-405 and 406.

(14) Award of a new license or a renewal license is contingent upon the applicant's demonstration of compliance with all applicable statute and rules and a successful Department quality assurance review.

(15) Any events impacting patient safety including death, permanent harm, or severe temporary harm, or requiring intervention to sustain life shall be reported to the Department and the associated Department approved accreditation vendor(s) by the licensed air ambulance provider within 30 days of the event.

(16) A license may be issued for up to a four-year period unless revoked or suspended by the Department. The Department may alter the length of the license to standardize renewal cycles.

R426-3-800. Medical Control.

(1) All licensed providers shall enter into a written agreement with a physician to serve as its off-line medical director to supervise the medical care or instructions provided by the field EMS personnel and dispatchers. The physician shall be familiar with:

(a) the design and operation of the local pre-hospital EMS system; and

(b) local dispatch and communication systems and procedures.

(2) The off-line medical director shall:

(a) develop and implement patient care standards which include written standing orders and triage, treatment, and transport protocols;

(b) ensure the qualification of field EMS personnel involved in patient care through the provision of ongoing continuing medical education programs and appropriate review and evaluation;

(c) develop and implement an effective quality improvement program, including medical audit, review, and critique of patient care;

(d) annually review triage, treatment, and transport protocols and update them as necessary;

(e) suspend from patient care, pending Department review, a field EMS personnel who does not comply with local medical triage, treatment and transport protocols, or who violates any of the EMS rules, or who the medical director determines is providing emergency medical service in a careless or unsafe manner. The medical director shall notify the Department within one business day of the suspension;

(f) attend meetings of the local EMS Council, if one exists, to participate in the coordination and operations of local EMS providers; and

(g) licensed providers shall notify the Department if an off-line medical director is replaced, within thirty days.

(3) It is the responsibility of the air ambulance medical director to:

(a) authorize written protocols for the use by air medical attendants and review policies and procedures of the Air ambulance service; and

(b) develop and review treatment protocols, assess field performance, and critique at least 10% of the Air ambulance service runs.

R426-3-900. Ground Ambulance or Paramedic Service Provider Aid Agreements.

~~[(1) All licensed ground ambulance providers shall maintain aid agreement(s) with other ground ambulance provider(s) to call upon them for assistance during times of unusual demand, inter-facility transports, or stand-by events.](1) All licensed ground ambulance providers are expected to render mutual aid support for adjoined geographical service areas. Mutual aid support means that they may be called upon to provide assistance during times of unusual demand. Exceptions for this expectation should be submitted as part of a license application.~~

(2) Other types of [A]aid agreements shall be in writing, signed by both parties, and detail the:

(a) purpose of the agreement;

(b) type of assistance required;

(c) circumstances under which the assistance would be given; and

(d) duration of the agreement.

(3) The parties shall provide a copy of ~~the~~any aid agreement(s) except for mutual aid support as described in R426-3-900(1) to the Department and to the designated emergency medical dispatch center(s) that dispatch the licensed ground ambulance providers.

(4) When mutual aid support is given as described in R426-3-900(1), the licensed ground ambulance provider rendering support will be responsible for the following, unless otherwise stated in writing, and approved by the Department prior to the event:

(a) billing or other financial reimbursements;

(b) liability for EMS operations related to staff and patient care, and;

(c) patient care protocols for licensure level.

R426-3-1100. Application Review and Award for Ground Ambulance Providers Selected by Public Bid.

(1) Upon receipt of an appropriately completed application, for ground ambulance or paramedic service license and submission of license fees, the Department shall collect supporting documentation and review each application.

(2) If, upon Department review, the application is complete and meets all the requirements, the Department shall:

(a) for a new license application, issue a notice of approved application as required by 26-8a-405 and 406;

(b) issue a renewal license to an applicant in accordance with 26-8a-413(1) and (2) or 26-8a-405.1(3), whichever is applicable.

(c) issue a four-year renewal license to a license selected by a political subdivision if the political subdivision certified to the Department that the licensed provider has met all of the specifications of the original bid and requirements of 26-8a-413(1) through 26-8a-313(3); or

(d) issue a second four-year renewal license to a licensed provider selected by a political subdivision if:

(i) the political subdivision certified to the Department that the licensed provider has met all of the specifications of the original bid and requirements of 26-8a(1) through (3); and

(ii) if the Department or the political subdivision has not received, prior to the expiration date, written notice from an approved applicant desiring to submit a bid for ambulance or paramedic services.

(3) Upon the request of the political subdivision and the agreement of all interested parties and the Department that the public interest would be served, the renewal license may be issued for a period of less than four years or a new request for the proposal process may be commenced at any time.

R426-3-1200. Criteria for Denial or Revocation of Licensure.

(1) The Department may deny an application for a license, a renewal of a license, or revoke, suspend or restrict a license without reviewing whether a license shall be granted or renewed to meet public convenience and necessity for any of the following reasons:

(a) failure to meet substantial requirements as specified in the rules governing the service;

(b) failure to meet vehicle, equipment, staffing, or insurance requirements;

(c) failure to meet agreements covering training standards or testing standards;

(d) substantial violation of Subsection 26-8a-504(1);

(e) a history of disciplinary action relating to a license, permit, designation, or certification in this or any other state;

(f) a history of serious or substantial public complaints;

(g) a history of criminal activity by the licensee or its principals while licensed or designated as an EMS provider or while operating as an EMS service with permitted vehicles;

(h) falsification or misrepresentation of any information in the application or related documents;

(i) failure to pay the required licensing or permitting fees or other fees or failure to pay outstanding balances owed to the Department;

(j) failure to submit records and other data to the Department as required by R426-7;

(k) a history of inappropriate billing practices, such as:

(i) charging a rate that exceeds the maximum rate allowed by rule;

(ii) charging for items or services for which a charge is not allowed by statute or rule; or

(iii) Medicare or Medicaid fraud.

(l) misuse of grant funds received under Section 26-8a-207;

or

(m) violation of OSHA or other federal standards that it is required to meet in the provision of the EMS service.

(2) An applicant or licensed provider that has been denied, revoked, suspended or issued a restricted license may appeal by filing a written appeal within thirty calendar days of the receipt of the issuance of the Department's denial.

R426-3-1300. Change of Owner.

(1) A license and the vehicle permits cannot be transferred to another party.

(2) As outlined in 26-8a-415, a new owner shall submit within 10 (ten) calendar days prior to acquisition of property, applications and fees for a new license and vehicle permits.

KEY: emergency medical services, licensure

Date of Enactment or Last Substantive Amendment: ~~July 15, 2016~~ **2018**

Authorizing, and Implemented or Interpreted Law: 26-8a

Natural Resources, Wildlife Resources R657-33 Taking Bear

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42492

FILED: 01/23/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) rule pursuant to taking bear.

SUMMARY OF THE RULE OR CHANGE: The proposed revisions to this rule: 1) lower the minimum bow pull from 40 pounds at the draw to 30 pounds; 2) remove the 300 grains weight requirement for arrows; 3) remove "prima facie evidence" and replaces it with "probable cause"; and 4) makes technical corrections as needed.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-14-18 and Section 23-14-19

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This amendment lowers requirements on archery tackle and makes technical corrections to language and rule citations. DWR has determined that these amendments do not create a cost or savings impact to the state budget, since the changes will not increase workload and can be carried out with the existing budget.

◆ LOCAL GOVERNMENTS: Since this amendment lowers a requirement on archery tackle and makes language clarifications, this filing does not create any direct cost or savings impact to any local governments. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

◆ SMALL BUSINESSES: Since this amendment lowers requirements for hunters wishing to use archery tackle to hunt bears and clarifies language and rule citations, DWR feels this amendment will not generate a cost or savings impact on small businesses.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Since this amendment lowers requirements for hunters wishing to use archery tackle to hunt bears and clarifies language and rule citations, DWR feels this amendment will not generate a cost or savings impact on other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR has determined that these amendments do not create additional costs for sportsmen wishing to harvest bear using archery tackle in 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 these rule amendments will not result in a fiscal impact to businesses.

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/19/2018

THIS RULE MAY BECOME EFFECTIVE ON: 03/26/2018

AUTHORIZED BY: Mike Fowlks, Deputy Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0

Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

"This proposed rule change to R657-33 Taking Bear is not expected to have any fiscal impacts on large businesses revenues or expenditures, because there are no services required from them in order to implement the rule changes.

The head of department of Natural Resources, Michael Styler, has reviewed and approved this fiscal analysis.

R657. Natural Resources, Wildlife Resources.

R657-33. Taking Bear.

R657-33-1. Purpose and Authority.

(1) Under authority of Sections 23-14-18 and 23-14-19, of the Utah Code, the Wildlife Board has established this rule for taking and pursuing bear.

(2) Specific dates, areas, number of permits, limits and other administrative details which may change annually are published in the guidebook of the Wildlife Board for taking and pursuing bear.

R657-33-6. Firearms and Archery Equipment.

(1) For limited entry and harvest objective hunts identified as an "any legal weapon hunt" in the Wildlife Board's guidebook for taking bear, a person may use the following to take bear:

(a) any firearm not capable of being fired fully automatic, except a firearm using a rimfire cartridge;

(b) archery equipment meeting the following requirements:

(i) the minimum bow pull is [40]30 pounds at the draw or the peak, whichever comes first; [and]

(ii) arrowheads used have two or more sharp cutting edges that cannot pass through a 7/8 inch ring;

(iii) expanding arrowheads cannot pass through a 7/8 inch ring when expanded; and

(iv) arrows must be a minimum of 20 inches in length from the tip of the arrowhead to the tip of the nock [~~and must weigh at least 300 grains~~]; and

(c) a crossbow meeting the following requirements:

- (i) a minimum draw weight of 125 pounds;
- ~~(ii) a minimum draw length of 14 inches from the front of the bow to the nocking point;~~
- ~~(iii) a stock that is at least 18 inches long;~~
- ~~(iv) a positive mechanical safety mechanism; and~~
- (v) an arrow or bolt that is at least 16 inches long with:
 - (A) a fixed broadhead that is at least 7/8 inch wide at the widest point; or
 - (B) an expandable, mechanical broadhead that is at least 7/8 inch wide at the widest point when the broadhead is in the open position.

(3) Arrows and bolts carried in or on a vehicle where a person is riding must be in an arrow quiver or a closed case.

(4)(a) A person who has obtained a limited entry bear archery permit may not use, possess, or be in control of a firearm, crossbow, or draw-lock while in the field during an archery bear hunt.

(i)b "Field" for purposes of this subsection, means a location where the permitted species of wildlife is likely to be found. ~~"Field", but~~ does not include a hunter's established campsite or the interior of a fully enclosed automobile or truck.

(b)c The provisions of Subsection (a) do not apply to:

(i) a person ~~[licensed to hunt upland game or waterfowl provided the person complies with Rules R657-6 and R657-9 and the Upland Game Guidebook and Waterfowl guidebook, respectively, and possesses only legal weapons authorized to take]~~lawfully hunting upland game or waterfowl;

(ii) a person licensed to hunt big game species during hunts that coincide with the archery bear hunt;

(iii) livestock owners protecting their livestock; or

(iv) a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code, provided the person is not utilizing the concealed firearm to hunt or take protected wildlife.

R657-33-10. Spotighting.

(1) Except as provided in Section 23-13-17:

(a) a person may not use or cast the rays of any spotlight, headlight or other artificial light to locate protected wildlife while having in possession a firearm or other weapon or device that could be used to take or injure protected wildlife; and

(b) the use of a spotlight or other artificial light in a field, woodland or forest where protected wildlife are generally found is ~~[prima facie evidence]~~probable cause of attempting to locate protected wildlife.

(2) The provisions of this section do not apply to:

(a) the use of the headlights of a motor vehicle or other artificial light in a usual manner where there is no attempt or intent to locate protected wildlife; or

(b) a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code, provided the person is not utilizing the concealed weapon to hunt or take wildlife.

R657-33-32. Harvest Objective Unit Reporting.

(1) Any person taking a bear with a harvest objective permit must report to the division, within 48 hours, where the bear

was taken and have a permanent tag affixed pursuant to Section R657-33-17.

(2) Failure to accurately report the correct harvest objective unit where the bear was killed is unlawful.

(3) Any conviction for failure to accurately report, or aiding or assisting in the failure to accurately report as required in Subsection (1) shall be considered ~~[prima facie]~~probable cause evidence of a knowing, intentional or reckless violation for purposes of permit suspension.

R657-33-35. Bonus Points.

Bonus points are accrued and used pursuant to R657-62-8 and ~~R657-62-19.~~

KEY: wildlife, bear, game laws

Date of Enactment or Last Substantive Amendment: ~~[March 9, 2016]~~2018

Notice of Continuation: November 28, 2017

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19; 23-13-2

**Natural Resources, Wildlife Resources
R657-62
Drawing Application Procedures**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 42493

FILED: 01/23/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Wildlife Board meetings conducted for taking public input and reviewing the Division of Wildlife Resources' (DWR) drawing application process.

SUMMARY OF THE RULE OR CHANGE: This rule is being amended to: 1) add restricted bear pursuit permits to the list of species allowed to accumulate bonus points; and 2) set the draw order and eligibility requirements for obtaining restricted bear pursuit permits.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-14-18 and Section 23-14-19

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** These amendments add a species to the list of species managed through the public draw, it does not create a cost or savings to DWR. Therefore, DWR has determined that these amendments will not create any cost or savings impact to the state budget or the DWR's budget, since the changes will not increase workload and can be carried out with existing budget.

◆ LOCAL GOVERNMENTS: Since these amendments only add species to the list of managed species through the public draw that do not have available permits for the species, it does not create any direct cost or savings impact on local governments since they are not directly affected by the rule. Nor are local governments indirectly impacted because the rule does not create a situation requiring services from local governments.

◆ SMALL BUSINESSES: Since these amendments only add species to the list of managed species through the public draw that do not have available permits for the species, it does not create any direct cost or savings impact on small businesses since they are not directly affected by the rule. Nor are small businesses indirectly impacted because the rule does not create a situation requiring services from them.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: These amendments will add restricted bear pursuit permits to the list of species allowed to accumulate bonus points. The restricted bear pursuit permit has been available for multiple years and will not be increasing in price or in permit numbers. A two-year waiting period will now be given to those sportsmen who are successful in obtaining a restricted bear pursuit permit through the DWR draw. Currently, DWR receives on average 475 applications for the available pursuit permits, it is not expected for this number to increase or decrease drastically with the addition of accumulating bonus points. DWR has determined that these amendments will not generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR has determined that these amendments will not create a cost or savings impact to individuals who participate in bear hunting in 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 these amendments will not result in a fiscal impact to businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 NATURAL RESOURCES
 WILDLIFE RESOURCES
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/19/2018

THIS RULE MAY BECOME EFFECTIVE ON: 03/26/2018

AUTHORIZED BY: Mike Fowlks, Deputy Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

"This proposed rule change to R657-62 Drawing Application Procedures is not expected to have any fiscal impacts on large businesses revenues or expenditures, because there are no services required from them in order to implement the rule changes.

The head of department of Natural Resources, Michael Styler, has reviewed and approved this fiscal analysis.

R657. Natural Resources, Wildlife Resources.

R657-62. Drawing Application Procedures.

R657-62-1. Purpose and Authority.

(1) Under authority of Sections 23-14-18 and 23-14-19, the Wildlife Board has established this rule for drawing applications and procedures.

(2) Specific season dates, bag and possession limits, areas open, number of permits and other administrative details that may change annually are published in the respective guidebooks of the Wildlife Board.

R657-62-8. Bonus Points.

(1) Bonus points are used to improve odds for drawing permits.

(2)(a) A bonus point is awarded for:

(i) each valid unsuccessful application when applying for limited-entry permits; or

(ii) each valid application when applying for bonus points.

(b) Bonus points are awarded by species for;

(i) limited-entry deer including cooperative wildlife management unit buck deer and management buck deer;

(ii) limited-entry elk including cooperative wildlife management unit bull elk and management bull elk;

(iii) limited-entry pronghorn including cooperative wildlife management unit buck pronghorn;

(iv) once-in-a-lifetime species including cooperative wildlife management units;

(v) limited entry bear;

(vi) restricted bear pursuit;

(vii) antlerless moose;

(~~viii~~) ewe Rocky Mountain bighorn sheep;

(~~viii~~) ewe desert bighorn sheep;

(~~ix~~) cougar; and

(~~x~~) turkey.

(3)(a) A person may not apply in the drawing for both a permit and a bonus point for the same species.

(b) A person may not apply for a bonus point if that person is ineligible to apply for a permit for the respective species.

(c) Group applications will not be accepted when applying for bonus points.

(d) A person may apply for bonus points only during the applicable drawing application for each species.

(4)(a) Fifty percent of the permits for each hunt unit will be reserved for applicants with the greatest number of bonus points.

(b) Based on the applicant's first choice, the reserved permits will be designated by a random drawing number to eligible applicants with the greatest number of bonus points for each species.

(c) If reserved permits remain, the reserved permits will be designated by a random number to eligible applicants with the next greatest number of bonus points for each species.

(d) The procedure in Subsection (c) will continue until all reserved permits are issued or no applications for that species remain.

(e) Any reserved permits remaining and any applicants who are not selected for reserved permits will be returned to the applicable drawing.

(5)(a) Each applicant receives a random drawing number for:

(i) each species applied for; and

(ii) each bonus point for that species.

(6) Bonus points are forfeited if a person obtains a permit through the drawing for that bonus point species including any permit obtained after the drawing.

(7) Bonus points are not forfeited if:

(a) a person is successful in obtaining a conservation permit, expo permit, sportsman permit, or harvest objective bear permit;

(b) a person obtains a landowner or a cooperative wildlife management unit permit from a landowner; or

(c) a person obtains a poaching-reported reward permit.

(8) Bonus points are not transferable.

(9) Bonus points are averaged and rounded down when two or more applicants apply together on a group application.

(10)(a) Bonus points are tracked using social security numbers or division-issued customer identification numbers.

(b) The division shall retain electronic copies of applications from 1996 to the current drawings for the purpose of researching bonus point records.

(c) Any requests for researching an applicant's bonus point records must be submitted within the time frames provided in Subsection (b).

(d) Any bonus points on the division's records shall not be researched beyond the time frames provided in Subsection (b).

(e) The division may void or otherwise eliminate any bonus point obtained by fraud, deceit, misrepresentation, or in violation of law.

R657-62-19. Black Bear.

(1) Permit and Pursuit Applications.

(a) For the purposes of this section, "restricted bear pursuit permit" means a permit issued in a division drawing that authorizes an individual to pursue bear using trained dogs, consistent with the restrictions found in Utah Admin. Code R657-33.

(b) A person must possess or obtain a valid hunting or combination license in order to apply for or obtain a limited entry bear permit or restricted bear pursuit permit.

(~~b~~) A person may not apply for or obtain more than one bear permit and restricted bear pursuit permit distributed pursuant to this rule within the same calendar year.

(~~d~~) A person may simultaneously possess both a limited entry bear permit and a restricted pursuit permit.

(e) Limited entry bear permits and restricted pursuit permits are valid only for the hunt unit and for the specified season designated on the permit.

(~~f~~) Applicants may select up to three hunt unit choices when applying for limited entry bear or restricted bear pursuit permits. Hunt unit choices must be listed in order of preference.

(ii) Applicants must specify in the application a specific season for their limited entry or restricted bear pursuit permit.

(~~g~~) Any person intending to use bait during their bear hunt must obtain a certificate of registration as provided in Sections R657-33-13 and 14.

(~~h~~) Applicants must meet all age requirements, proof of hunter education requirements and youth restrictions as provided in Sections 23-19-22.5, 23-19-11 and 23-20-20.

(2) Group applications are not accepted.

(3) Waiting periods.

(a) Any person who obtains a limited entry bear permit through the division drawing, may not apply for a permit thereafter for a period of two years.

(b) Any person who obtains a limited entry restricted bear pursuit permit through the division drawing, may not apply for a permit thereafter for a period of two years.

(4) A person must complete a mandatory orientation course prior to applying for any bear permit offered through a division drawing or obtaining bear permits as described in R657-33-3(5).

KEY: wildlife, permits

Date of Enactment or Last Substantive Amendment: [~~March 13, 2017~~2018]

Notice of Continuation: April 14, 2014

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19

**Regents (Board of), University of Utah,
Commuter Services**

R810-1

University of Utah Parking Regulations

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 42512

FILED: 01/25/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to reenact an expired rule. This rule defines regulations regarding vehicles, owners/operators, parking areas, and parking restrictions on the University of Utah campus.

SUMMARY OF THE RULE OR CHANGE: This filing reenacts an expired rule that defines regulations regarding vehicles, owners/operators, parking areas, and parking restrictions on the University of Utah campus.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53B-3-103 and Section 53B-3-107

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget as this rule filing just reenacts the expired rule.

♦ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local governments as this rule filing just reenacts the expired rule.

♦ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses as this rule filing just reenacts the expired rule.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to other persons as this rule filing just reenacts the expired rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no anticipated cost or savings for affected persons as this rule filing just reenacts the expired rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on any businesses because this rule defines parking and users on campus.

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

REGENTS (BOARD OF)
UNIVERSITY OF UTAH,
COMMUTER SERVICES
ROOM 101
1910 E SOUTH CAMPUS DR
SALT LAKE CITY, UT 84112-9350
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Scott Smith by phone at 801-585-7002, by FAX at 801-585-7007, or by Internet E-mail at scott.smith@legal.utah.edu

♦ Solomon Brumbaugh by phone at 801-587-9394, by FAX at 801-587-9667, or by Internet E-mail at solomon.brumbaugh@utah.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/19/2018

THIS RULE MAY BECOME EFFECTIVE ON: 03/26/2018

AUTHORIZED BY: Alma Allred, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0

Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses
 The University of Utah is home to over 47,000 students, staff, and faculty. These groups, as well as the innumerable visitors and contractors on campus, utilize the limited resource for parking on campus. The parking is regulated and enforced by the University with parking rates approved by the Board of Regents. These regulations are authorized by Utah Code Sections 53B-3-103 and 53B-3-107.

There is no estimable change to fiscal costs or benefits. This rule outlines the definitions of parking areas and users.

The head of the Commuter Services Department of the University of Utah, Alma Allred, has reviewed and approved this fiscal analysis.

R810. Regents (Board of), University of Utah, Commuter Services.

R810-1. University of Utah Parking Regulations.

R810-1-1. Authority.

The University's parking system is authorized by Utah Code, Title 53B, Chapter 3, Sections 103 and 107.

R810-1-2. Motor Vehicle Parking On Campus.

A motor vehicle is defined under Utah State Code, Unannotated 41-1a-102(66).

A vehicle is defined under Utah State Code, Unannotated 41-1a-102(65).

Anyone parking a vehicle on campus must purchase a parking permit from Commuter Services and register the vehicle(s) license plate(s) to the permit purchased, or park the vehicle in a metered or pay area and pay the appropriate fee. Payment for the use of campus meters or pay areas is required whether or not the vehicle is associated to a valid University of Utah parking permit. If a physical permit is distributed, it must be displayed and clearly visible from the front windshield.

R810-1-3. Parking Areas.

Parking is permitted only in designated areas and only in accordance with all posted signs. Vehicles must be parked properly within marked stalls. Tickets are issued to vehicles parked contrary to posted signs.

R810-1-4. Restrictions.

Parking is prohibited 24 hours daily at red curbs, no parking areas, bus zones, crosswalks, driveways, and in front of fire hydrants and dumpsters.

R810-1-5. Vehicle Operator Responsibilities.

Parking area designations are subject to change, and it is the motorist's responsibility to be cognizant of such changes. The responsibility for finding an authorized parking space rests with the motor vehicle operator.

A vehicle must be parked in a valid parking stall so that the vehicle's license plate is clearly visible from the roadway from which the vehicle pulled into the stall. It is the motorist's responsibility to assure that the vehicle's license plate is visible and clear of debris.

R810-1-6. Parking for Drivers with Disabilities.

Parking for drivers with disabilities is reserved for students, faculty, staff and visitors who must purchase and display a parking permit or park in a metered area or pay lot and pay the appropriate fee.

R810-1-8. University Vehicle Parking.

University owned vans, trucks, and SUV's involved in maintenance must park in maintenance stalls when available. University owned sedans may not park in maintenance stalls. All University owned vehicles may park in U or E permitted stalls but are prohibited from parking in No Parking, Tow Away, Disabled or Reserved areas, or metered loading zones. University owned vehicles parking at non loading zone meters are limited to the maximum time listed on the meter. Pay by phone limitation is two hours; visitor pay lot limitation is one hour and "A" permit stall limitation is for loading and unloading only. Drivers of improperly parked University vehicles will be responsible for tickets received.

R810-1-9. Motorcycle Parking.

Drivers of motorcycles, motorbikes, scooters and mopeds must purchase a parking permit from Commuter Services and register the license plate(s) number(s) to the permit purchased.

R810-1-11. University Student Apartments Parking.

University Student Apartment parking lots are restricted to apartment residents, housing employees, resident's guests, apartment applicants and visitors.

Parking is permitted only in designated areas in accordance with all posted signs.

Residents and employees must purchase a housing parking permit and register all vehicle (including motorcycle, scooter, and moped) license plates to the permit.

R810-1-12. Extended Parking Privileges.

Vehicles occupying the same lot or stall for 48 hours or longer may be removed at the owner's expense if the vehicle interferes with regular University functions or maintenance. Vehicles parked in the residence halls are exempted from the 48 hour limitations.

R810-1-13. Abandoned Vehicles.

Vehicles that have not been moved for a period of seven days will be considered as abandoned and may be removed from University property at the owner's expense.

R810-1-14. Living In A Motor Vehicle On Campus.

Campers, trailers, motor homes or other vehicles may not be used for sleeping or living purposes on campus unless parked in areas designated by Commuter Services as RV parking.

R810-1-15. University Responsibility For Vehicle Damage.

The University is not responsible for the care and protection of or damage to any vehicle or its contents when operated or parked on University property. The purchase of a parking permit shall constitute an acknowledgement and acceptance of this condition as the privilege to use the University's parking facilities.

R810-1-16. Special Parking.

Commuter Services may change the designated use of lots or roadways at any time. During events, Commuter Services may charge additional fees for the use of University parking lots.

KEY: parking facilities

Date of Enactment or Last Substantive Amendment: 2018

Authorizing, and Implemented or Interpreted Law: 53B-3-103; 53B-3-107

Regents (Board of), University of Utah,
Commuter Services
R810-8
Vendor Regulations

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 42513

FILED: 01/25/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to reenact the expired rule. This rule defines regulations regarding vehicles, owners/operators, parking areas, and parking restrictions on the University of Utah campus.

SUMMARY OF THE RULE OR CHANGE: This filing reenacts the expired rule that defines regulations regarding vehicles, owners/operators, parking areas, and parking restrictions on the University of Utah campus.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53B-3-103 and Section 53B-3-107

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget as this rule filing just reenacts the expired rule.

♦ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local governments as this rule filing just reenacts the expired rule.

♦ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses as this rule filing just reenacts the expired rule.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to other persons as this rule filing just reenacts the expired rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as this rule filing just reenacts the expired rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact on any businesses this rule defines vendors use of parking on campus.

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

REGENTS (BOARD OF)
UNIVERSITY OF UTAH,
COMMUTER SERVICES
ROOM 101
1910 E SOUTH CAMPUS DR
SALT LAKE CITY, UT 84112-9350
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Scott Smith by phone at 801-585-7002, by FAX at 801-585-7007, or by Internet E-mail at scott.smith@legal.utah.edu

♦ Solomon Brumbaugh by phone at 801-587-9394, by FAX at 801-587-9667, or by Internet E-mail at solomon.brumbaugh@utah.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/19/2018

THIS RULE MAY BECOME EFFECTIVE ON: 03/26/2018

AUTHORIZED BY: Alma Allred, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0

Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses
 The University of Utah is home to over 47,000 students, staff, and faculty. These groups, as well as the innumerable visitors and contractors on campus, utilize the limited resource for parking on campus. The parking is regulated and enforced by the University with parking rates approved by the Board of Regents. These regulations are authorized by Utah Code Sections 53B-3-103 and 53B-3-107.

There is no estimable change to fiscal costs or benefits. This rule outlines the definitions of parking for vendors on campus.

The head of the Commuter Services Department of the University of Utah, Alma Allred, has reviewed and approved this fiscal analysis.

R810. Regents (Board of), University of Utah, Commuter Services.

R810-8. Vendor Regulations.

R810-8-1. Parking Options for Vendors and Sales Representatives.

Vendors and sales representatives may:

- A. Purchase a vendor permit from Commuter Services.
- B. Purchase a day pass.
- C. Park at a meter or pay area and pay the appropriate fee.
 - 1. Vendors are required to obey University parking regulations.
 - 2. Departments being served by vendors may not exempt vendors from parking regulations.
 - 3. Vendor permits are limited to business use only and may not be used to attend classes or for all-day parking.
 - 4. University of Utah employees may not use departmental vendor permits in lieu of a University of Utah parking permit. A

University employee's vehicle displaying a departmental vendor permit must also have a parking permit from Commuter Services.

KEY: parking facilities

Date of Enactment or Last Substantive Amendment: 2018

Authorizing, and Implemented or Interpreted Law: 53B-3-103; 53B-3-107

**Transportation, Motor Carrier
 R909-1
 Safety Regulations for Motor Carriers**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42494

FILED: 01/23/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Before the Department of Transportation (Department) may enforce the North American Standard Out-of-Service Criteria, Level VI Inspection Procedures, and Out-of-Service Criteria for Commercial Highway Vehicles Transporting Transuranics and Highway Route Controlled Quantities of Radioactive Materials as defined in 49 CFR part 173.403, as federal law requires, it must adopt 49 CFR Part 385.4. Adoption of this section of the Code of Federal Regulations (CFR) is the primary purpose of this amendment. This amendment also makes several technical and grammatical corrections.

SUMMARY OF THE RULE OR CHANGE: This amendment adopts 49 CFR Part 385.4 by reference, and makes several technical and grammatical corrections.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 49 CFR Part 350 and 49 CFR Part 384 and 49 CFR Part 385.4 and 49 CFR Part 387-399 and 49 CFR Part 40 and Section 72-9-101 and Section 72-9-103 and Section 72-9-104 and Section 72-9-301 and Section 72-9-303 and Section 72-9-701 and Section 72-9-703

MATERIALS INCORPORATED BY REFERENCE:

- ◆ Adds 49 CFR Part 385.4, published by U.S. Government Printing Office, 10/01/2014

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** No cost or savings are anticipated with this rule change. This rule change does not create any new requirements or change present practices, so the state's budget will not be impacted by this amendment.
- ◆ **LOCAL GOVERNMENTS:** No cost or savings are anticipated with this rule change. This rule change does not create any new requirements or change present practices for local governments, so local governments will not be impacted by this amendment.

♦ **SMALL BUSINESSES:** The Department anticipates that motor carriers that are small businesses will be affected by this rule change. The Electronic Logging Devices (ELD) and Hours of Service Supporting Documents, 80 FR 78292-01, states: In the Supplemental Notice of Proposed Rulemaking (SNPRM), the Federal Motor Carrier Safety Administration (FMCSA) took a very conservative approach to the cost of an ELD. It analyzed the Mobile Computing Platform 50, a higher-end Functional Movement System (FMS), and included installation, hardware costs, and monthly fees. However, by relying on performance standards and prescribing minimal requirements, FMCSA allowed for the use of a basic ELD that would satisfy the rule. The SNPRM estimated an average cost of \$495 per Commercial Motor Vehicle (CMV) on an annualized basis where the range is from \$165 to \$832. In the SNPRM, FMCSA analyzed a range of devices, the most expensive one being \$1,675 and the least expensive provided for free as part of a monthly service agreement.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No cost or savings are anticipated with this rule change. No new requirements are created by this rule change that will impact the budgets of persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The ELDs and Hours of Service Supporting Documents, 80 FR 78292-01 states: In the Supplemental Notice of Proposed Rulemaking (SNPRM), the Federal Motor Carrier Safety Administration (FMCSA) took a very conservative approach to the cost of an ELD. It analyzed the Mobile Computing Platform 50, a higher-end FMS, and included installation, hardware costs, and monthly fees. However, by relying on performance standards and prescribing minimal requirements, FMCSA allowed for the use of a basic ELD that would satisfy the rule. The SNPRM estimated an average cost of \$495 per Commercial Motor Vehicle (CMV) on an annualized basis where the range is from \$165 to \$832. In the SNPRM, FMCSA analyzed a range of devices, the most expensive one being \$1,675 and the least expensive provided for free as part of a monthly service agreement. The Department of Workforce Services lists 75 motor carriers with offices in Utah that employ 50 or more persons, and 1,613 motor carriers within the NCAIS categories 4841, 4842, and 4885, with offices in Utah that employ fewer than 50 persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will have a fiscal impact on businesses. However, the fiscal cost should be less than the fiscal benefit that will result for the industry due to this amendment to the federal regulation, which this change to Rule R909-1 incorporates by reference. In its Summary of Annualized Costs and Benefits included in SNPRM, the FMCSA estimates the total annualized cost to the motor carrier industry nationwide at \$1,836,000,000. However, the SNPRM estimates the total annualized benefit to the industry

will be \$3,010,000,000. The difference is an annualized net benefit to the industry of \$1,174,000,000.

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

TRANSPORTATION
MOTOR CARRIER
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY, UT 84119-5998
or at the 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
- ♦ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at jimpalmer@utah.gov
- ♦ Linda Hull by phone at 801-965-4253, or by Internet E-mail at lhull@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/19/2018

THIS RULE MAY BECOME EFFECTIVE ON: 03/26/2018

AUTHORIZED BY: Carlos Braceras, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$495 per vehicle	\$0	\$0
Non-Small Businesses	\$495 per vehicle	\$0	\$0
Other Person	\$0	\$0	\$0
Estimated Total Fiscal Costs for industry in Utah:	\$174,420,000	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits to the state, including the industry:	\$285,950,000	\$291,669,000	\$297,502,380
Net Fiscal Benefits:	\$111,530,000	\$291,669,000**	\$297,502,380**

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

**Figures are increased by 2% to account for estimated inflation.

The change in federal regulations that is the catalyst for this rule change requires firms in the motor carrier industry to install ELDs in each truck, and this is a fiscal cost for the firms. However, once the firms install the ELDs, the only costs that will continue in subsequent years will be for maintenance, which are impossible to quantify with accuracy. Once the ELDs are installed, society, including the industry and state and local governments will gain benefits due in part to increased safety. The industry will also experience fiscal benefits due to increased efficiency. The benefits will continue.

Appendix 2: Regulatory Impact to Non-Small Businesses
Federal law requires the state of Utah to enforce the North American Standard Out-of-Service Criteria, Level VI Inspection Procedures, and Out-of-Service Criteria for Commercial Highway Vehicles Transporting Transuranics and Highway Route Controlled Quantities of Radioactive Materials as defined in 49 CFR part 173.403. Continued enforcement of these regulations requires the Department to adopt 49 CFR Part 385.4. Adoption of this section of the Code of Federal Regulations (CFR) is the primary purpose of this amendment. This amendment also makes several technical and grammatical corrections.

The Electronic Logging Devices ELDs and Hours of Service Supporting Documents, 80 FR 78292-01 states: In the Supplemental Notice of Proposed Rulemaking (SNPRM), the Federal Motor Carrier Safety Administration (FMCSA) took a very conservative approach to the cost of an ELD. It analyzed the Mobile Computing Platform 50, a higher-end FMS, and included installation, hardware costs, and monthly fees. However, by relying on performance standards and prescribing minimal requirements, FMCSA allowed for use of a basic ELD that would satisfy the rule. The SNPRM estimated an average cost of \$495 per Commercial Motor Vehicle (CMV) on an annualized basis where the range is from \$165 to \$832. In the SNPRM, FMCSA analyzed a range of devices, the most expensive one being \$1,675 and the least expensive provided for free as part of a monthly service agreement. The Department of Workforce Services lists 75 motor carriers with offices in Utah that employ 50 or more persons, and 1,613 motor carriers with offices in Utah that employ fewer than 50 persons in NAICS categories 4841, 4842, and 4885.

This rule change will have a fiscal impact on all businesses in the industry. However, the fiscal cost should be less than the fiscal benefit that will result for the industry and the state due to this amendment to the federal regulation, which this change to Rule R909-1 adopts by reference. In its Summary of Annualized Costs and Benefits included in SNPRM, the FMCSA estimates the total annualized cost to the motor carrier industry nationwide at \$1,836,000,000. However, the SNPRM estimates the total annualized benefit to the state and the industry will be \$3,010,000,000. The difference is an annualized net benefit to the industry of \$1,174,000,000.

The U.S Census Bureau estimates that 0.95% of the U.S. population resides in Utah. If Utah accounts for 0.95% of the motor carrier industry, the estimated annualized cost to the industry in Utah is \$174,420,000, and the estimated annualized cost to the industry in Utah is \$285,950,000. Therefore, this rule change will result in a net benefit to the state of Utah, including the motor carrier industry, of \$111,530,000.

It is unlikely that state and local governments will experience any negative fiscal impacts due to this rule change. The state is already regulating this industry and its logging requirements, and local governments do not regulate this industry. If there are any fiscal impacts to state and local governments, they are too remote and notional to measure. However, the state, local governments, and the industry will participate in the benefits.

Carlos E. Braceras, Executive Director of the Department of Transportation, has reviewed and approved this fiscal analysis.

R909. Transportation, Motor Carrier.
R909-1. Safety Regulations for Motor Carriers.
R909-1-1. Authority and Purpose.

This Rule is enacted under the authority of Section 72-9-103 to enable the department to enforce the Federal Motor Carrier Safety Regulations as contained in Title 49, Code of Federal Regulations related to the operation of a motor carrier within the state, as required by Section 72-9-301.

R909-1-2. Adoption of Federal Regulations.

(1) Safety Regulations for Motor Carriers, 49 CFR Parts 350 through 384, Part 385.4, Parts 387 through 399, and Part 40, (October 1, 2014), as amended by the Federal Register through [~~April 23, 2015~~] December 16, 2015, are incorporated by reference, except for 49 CFR Parts 391.11(b)(1) and 391.49 as [~~it applies~~] they apply to intrastate drivers only. These requirements apply to all motor carrier(s) as defined in 49 CFR Part 390.5, excluding commercial motor vehicles which are designed or used to transport more than 8 and less than 15 passengers (including the driver) for compensation and Utah Code Section 72-9-102(2) engaged in intrastate commerce.

(2) Intrastate trucking operations in which the carriers operate double trailer combinations only are not required to comply with 49 CFR Part 380.203(a)(2).

(3) Exceptions to Part 391.41, Physical Qualification may be granted under the rules of Department of Public Safety, Driver's License Division, Section 53-3-303.5 for intrastate drivers under R708-34.

(4) Drivers involved wholly in intrastate commerce shall be at least 18 years old. However, if they are transporting placarded amounts of hazardous materials or carrying 16 or more passengers, including the driver, they must be 21 years old.

(5) Licensed child care providers operating a passenger vehicle with a seating capacity of not more than 30 passengers, and wholly in intrastate commerce, are exempt from 49 CFR Part 387 Subpart B but are subject to the minimum coverage requirements in Section 72-9-103.

R909-1-3. Insurance for Private Intrastate/Interstate Motor Carriers.

(1) "Private Motor Carrier" means a person who provides transportation of property or passengers by commercial motor vehicle and is not a for-hire motor carrier.

(2) All intrastate private motor carriers shall have a minimum amount of \$750,000 liability.

(3) All intrastate for-hire and private motor carriers transporting any quantities of oil listed in 49 CFR 172.101; hazardous waste, hazardous material and hazardous substances defined in 49 CFR 171.101, shall have \$1,000,000 minimum level of financial

responsibility and a MCS-90 endorsement maintained at the principal place of business.

R909-1-4. Implements of Husbandry.

"Implements of Husbandry" is defined in Section 41-1a-102(23) and must ~~be in compliance~~ comply with all provisions of Chapter 6, Title 41, Utah Code Annotated. Vehicles meeting this definition are exempt from 49 CFR Part 393 - Parts and Accessories Necessary for Safe Operations.

KEY: trucks, transportation safety, implements of husbandry

Date of Enactment or Last Substantive Amendment: [~~August 24, 2015~~2018]

Notice of Continuation: August 30, 2016

Authorizing, and Implemented or Interpreted Law: 72-9-103; 72-9-104; 72-9-101; 72-9-301; 72-9-303; 72-9-701; 72-9-703

End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a **PROPOSED RULE** in the *Utah State Bulletin*, it may receive comment that requires the **PROPOSED RULE** to be altered before it goes into effect. A **CHANGE IN PROPOSED RULE** allows an agency to respond to comments it receives.

As with a **PROPOSED RULE**, a **CHANGE IN PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **CHANGE IN PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends March 19, 2018.

Following the **RULE ANALYSIS**, the text of the **CHANGE IN PROPOSED RULE** is usually printed. The text shows only those changes made since the **PROPOSED RULE** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (example). Deletions made to the rule appear struck out with brackets surrounding them (~~example~~). A row of dots in the text between paragraphs (.) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **CHANGE IN PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of rules that are too long to print is available from the agency or from the Office of Administrative Rules.

From the end of the 30-day waiting period through June 15, 2018, an agency may notify the Office of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses.

CHANGES IN PROPOSED RULES are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

The Changes in Proposed Rules Begin on the Following Page

**Alcoholic Beverage Control,
Administration
R81-1-11
Multiple-Licensed Facility Storage and
Service**

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 42290

FILED: 02/01/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change in proposed rule is meant to implement a "room" definition as authorized by Subsection 32B-5-207(1)(a)(ii). This rule is consistent with the provisions of H.B. 442, passed in the 2017 General Session. H.B. 442 sought to streamline dining licenses and make a clear distinction between a restaurant license and a bar license. As part of that rule, if there are licenses within the same room as of 07/01/2018, one or more of those licenses must be surrendered if they do not meet the exception of Subsection 32B-5-207(1)(b). This proposed rule change also establishes a procedure by which a licensee surrenders a retail license if there are two or more licensed premises in the same room as required by Subsection 32B-5-207(3)(d). This proposed rule change is to establish the restrictions that must be met in order for a bar and a restaurant to be considered in separate rooms and not in violation of Section 32B-5-207.

SUMMARY OF THE RULE OR CHANGE: This proposed rule change establishes the restrictions that must be met in order for a bar or tavern and a restaurant to be considered in separate rooms and not in violation of Section 32B-5-207. This proposed rule change also changes the due date for a request for a Department of Alcoholic Beverage Control (Department) decision as to whether their licenses are in violation until after the potential effective date of this proposed change. It creates a procedure and establishes a deadline to notify the Department of which license(s) will be surrendered effective 07/01/2018; and creates an avenue for Commission action in the event that a licensee fails to surrender a license that is in violation of Section 32B-5-207. (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the November 15, 2017, issue of the Utah State Bulletin, on page 17. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 32B-2-201 and Subsection 32B-5-207(1)(a)(ii) and Subsection 32B-5-207(1)(b)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** None--Any anticipated cost or savings to the state budget are a result of statutory requirements of H.B. 442 (2017), which requires that a licensee hold only one license per room (with a small exception for banquet/reception and beer recreational licenses). Costs and savings for administering the change was calculated as part of the fiscal note. This rule does not create additional cost or savings beyond what was anticipated during the legislative process.

♦ **LOCAL GOVERNMENTS:** None--Any anticipated cost or savings to local governments are a result of statutory requirements of H.B. 442 (2017), which requires that a licensee hold only one license per room (with a small exception for banquet/reception and beer recreational licenses). Costs and savings to local governments were calculated as part of the fiscal note. This rule does not create additional cost or savings beyond what was anticipated during the legislative process.

♦ **SMALL BUSINESSES:** None--Any anticipated cost or savings to small businesses are a result of statutory requirements of H.B. 442 (2017), which requires that a licensee hold only one license per room (with a small exception for banquet/reception and beer recreational licenses). Costs and savings to small businesses should have been calculated as part of the fiscal note. This rule does not create additional cost or savings beyond what was anticipated during the legislative process.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--Any anticipated cost or savings to persons other than small business, businesses, or local government entities are a result of statutory requirements of H.B. 442 (2017), which requires that a licensee hold only one license per room (with a small exception for banquet/reception and beer recreational licenses). Costs and savings to Persons other than small businesses, businesses, or local government entities was calculated as part of the fiscal note. This rule does not create additional cost or savings beyond what was anticipated during the legislative process.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None--This rule does not create any required compliance cost for licensees. It clarifies whether a license will need to be surrendered if in violation of Section 32B-5-207 and creates a procedure for compliance. There are no fees associated with this process and any costs for compliance are a result of statutory requirements of H.B. 442 (2017), which requires that a licensee hold only one license per room (with a small exception for banquet/reception and beer recreational licenses).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: None--Any anticipated cost or savings to businesses are a result of statutory requirements of H.B. 442 (2017), which requires that a licensee hold only one license per room (with a small exception for banquet/reception and beer recreational

licenses). This proposed rule change establishes the restrictions that must be met in order for a bar and a restaurant to be considered in separate rooms within a premises and not in violation of Section 32B-5-207. The statute and rule did not create a fee for the business to comply. Costs and savings to businesses should have been calculated as part of the fiscal note. There was no fee in statute and there is no fee in the proposed rule. Savings to the business would result in reduced licensing fees as a result of surrendering one or more license(s) as required by statute. While some businesses may choose to construct walls rather than surrender a license, that choice is not required by the rule. Therefore, this rule does not create additional cost or savings beyond what was anticipated during the legislative process.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ALCOHOLIC BEVERAGE CONTROL
 ADMINISTRATION
 1625 S 900 W
 SALT LAKE CITY, UT 84104-1630
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Nina McDermott by phone at 801-977-6805, by FAX at 801-977-6888, or by Internet E-mail at nmcdermott@utah.gov
 ♦ Vickie Ashby by phone at 801-977-6801, by FAX at 801-977-6889, or by Internet E-mail at vickieashby@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/19/2018

THIS RULE MAY BECOME EFFECTIVE ON: 03/26/2018

AUTHORIZED BY: Sal Petilos, Executive Director

R81. Alcoholic Beverage Control, Administration.
R81-1. Scope, Definitions, and General Provisions.
R81-1-11. Multiple-Licensed Facility Storage and Service.

(1) For the purposes of this rule:
 (a) "premises" as defined in Section 32B-1-102(75) shall include the location of any licensed restaurant, limited restaurant, beer-only restaurant, bar establishment, or recreational amenity on-premise beer retailer facility or facilities operated or managed by the same person or entity that are located within the same building or complex, and any similar sublicense located within the same building of a resort license under 32B-8. Multiple licensed facilities shall be termed "qualified premises" as used in this rule[~~-Two premises~~], except that two premises may not be located in the same room except as allowed by 32B-5-207(1)(b).

(i) A bar or tavern and a restaurant premises will be considered in the same room in violation of section 32B-5-207 if the following restrictions are not met.

(A) Shared permanent walls may extend partially or fully from the floor to the ceiling, so long as a partial wall measures at least 8 feet high.

(B) Shared permanent walls may be translucent and include windows and doors, so long as the separation of rooms completely restricts patron access from the restaurant premises to premises licensed as a bar or tavern and prevent visibility to the bar structure of a bar or tavern.

(C) Two or more rooms within a building may be connected by a common hallway, stairway, entrance or exit to the building so long as each room has a separate definable entryway that does not require a patron to pass through a premises licensed as a restaurant, bar or tavern, to gain access to a premises licensed as a restaurant, bar or tavern.

(b) the terms "sell", "sale", "to sell" as defined in Section 32B-1-102(92) shall not apply to a cost allocation of alcoholic beverages as used in this rule.

(c) "cost allocation" means an apportionment of the as purchased cost of the alcoholic beverage product based on the amount sold in each outlet.

(d) "remote storage alcoholic beverage dispensing system" means a dispensing system where the alcoholic product is stored in a single centralized location, and may have separate dispensing heads at different locations, and is capable of accounting for the amount of alcoholic product dispensed to each location.

(2) Where qualified premises have consumption areas in reasonable proximity to each other, the dispensing of alcoholic beverages may be made from the alcoholic beverage inventory of an outlet in one licensed location to patrons in either consumption area of the qualified premises subject to the following requirements:

(a) point of sale control systems must be implemented that will record the amounts of each alcoholic beverage product sold in each location;

(b) cost allocation of the alcoholic beverage product cost must be made for each location on at least a monthly or quarterly basis pursuant to the record keeping requirements of Section 32B-5-302;

(c) dispensing of alcoholic beverages to a licensed location may not be made on prohibited days or at prohibited hours pertinent to that license type;

(d) if separate inventories of liquor are maintained in one dispensing location, the storage area of each licensee's liquor must remain locked during the prohibited hours and days of sale for each license type;

(e) dispensing of alcoholic beverages to a licensed location may not be made in any manner prohibited by the statutory or regulatory operational restrictions of that license type;

(f) alcoholic beverages dispensed under this section may be delivered by servers from one outlet to the various approved consumption areas, or dispensed to each outlet through the use of a remote storage alcoholic beverage dispensing system.

(3) On qualified premises where each licensee maintains an inventory of alcoholic beverage products, the alcoholic beverages owned by each licensee may be stored in a common location in the building subject to the following guidelines:

(a) each licensee shall identify the common storage location when applying for or renewing their license, and shall receive department approval of the location;

(b) each licensee must be able to account for its ownership of the alcoholic beverages stored in the common storage location by keeping records, balanced monthly, of expenditures for alcoholic beverages supported by items such as delivery tickets, invoices, receipted bills, canceled checks, petty cash vouchers; and

(c) the common storage area may be located on the premises of one of the licensed liquor establishments.

(4) 32B-5-207(3)(d) requires that the commission establish by rule a procedure by which a licensee surrenders a retail license if there are two or more licensed premises in the same room in violation of 32B-5-207(1).

(a) If there are two or more premises located in the same room as of May 9, 2017 the licensee shall notify the commission of each retail license the licensee will surrender effective July 1, 2018.

(c) A Request for department decision regarding whether a premises is in violation of the same room requirement must be submitted to the department by ~~March 12, 2018~~ April 10, 2018. Requests received by ~~March 12, 2018~~ April 10, 2018 will receive a decision by May 1, 2018.

(d) Notification of surrender shall be made on a form provided by the department and submitted to the department by May 31, 2018.

(e) Failure to submit notification of surrender will result in non-renewal of retail licenses found to be in violation of the same room requirement.

KEY: alcoholic beverages

Date of Enactment or Last Substantive Amendment: ~~2017~~ 2018

Notice of Continuation: May 2, 2016

Authorizing, and Implemented or Interpreted Law: 32B-2-201(10); 32B-2-202; 32B-2-204; 32B-2-206; 32B-3-203(3)(c); 32B-3-205(2)(b); 32B-5-304; 32B-1-305; 32B-1-306; 32B-1-307; 32B-1-607; 32B-1-304(1)(a); 32B-6-702; 32B-6-805(3); 32B-9-204(4); 32B-4-414(1)(b) and (c)

Health, Disease Control and Prevention, Health Promotion

R384-210

Co-prescription Guidelines -- Reporting

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 42283

FILED: 01/31/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change in proposed rule is to establish scientifically based guidelines for controlled substance prescribers to co-prescribe an opiate antagonist to a patient pursuant to Section 26-55-108. During the public comment period, the Utah Poison Control Center recommended to include on the list of considerations for naloxone to be dispensed/co-prescribed to households where preschool age children live or visit, such as babysitting grandparents, whenever opiate pain medication is prescribed. Intermountain Healthcare provided a coordinated response from primary care, specialists, pharmacists, and behavioral health that included grammatical changes and language clarifications to the rule.

SUMMARY OF THE RULE OR CHANGE: This rule establishes scientifically based guidelines for controlled substance prescribers to coprescribe an opiate antagonist to a patient pursuant to Title 26, Chapter 55. (EDITOR'S NOTE: The original proposed new rule upon which this change in proposed rule (CPR) was based was published in the November 15, 2017, issue of the Utah State Bulletin, on page 30. Underlining in the rule below indicates text that has been added since the publication of the proposed new rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 55

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This rule contains scientifically-based guidelines for controlled substance prescribers to co-prescribe an opiate antagonist to a patient, and provides education on overdose prevention to patients and/or the patient's household members when factors that increase risk for opioid overdose are present. There may be savings in preventing individuals from requiring treatment in an emergency department or in hospitalization but those costs are hard to measure.

◆ **LOCAL GOVERNMENTS:** There may be savings in preventing individuals from requiring treatment in an emergency department or in hospitalization but those costs would be hard to measure.

◆ **SMALL BUSINESSES:** Some small pharmacies may see an increase in sales of naloxone kits due to the co-prescribing guidelines.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There may be savings in preventing individuals from requiring treatment in an emergency department or in hospitalization costs but those costs would be difficult to measure. Some pharmacies may see an increase in sales of naloxone kits due to the co-prescribing guidelines.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule provides scientifically-based guidelines on co-prescribing an opiate antagonist to a patient established by Title 26, Chapter 55, which will not result in any compliance costs for affected persons. Some pharmacies may see an increase in sales of naloxone kits due to the co-prescribing guidelines.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The original version of this rule was published in the November 15, 2017, Utah State Bulletin. This new rule provides guidelines when a provider who prescribes a controlled substance should also co-prescribe an opiate antagonist. This is pursuant to S.B. 258 passed during the 2017 General Session. Due to comments received by the Health Promotion Division, revisions were made to the proposed rule. These revisions were substantive. It adds

households where preschool age children live or visit and when opiate medication is prescribed (as opposed to being present). It changes a risk to include known histories and unstable medical conditions, and adds cognitive decline medical conditions.

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

HEALTH
DISEASE CONTROL AND PREVENTION,
HEALTH PROMOTION
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:

♦ Anna Fondario by phone at 801-538-6201, or by Internet E-mail at afondario@utah.gov or PO Box 142107, Salt Lake City, UT 84114-2107

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/19/2018

THIS RULE MAY BECOME EFFECTIVE ON: 03/26/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

R384. Health, Disease Control and Prevention; Health Promotion.

R384-210. Co-prescription guidelines -- Reporting.

R384-210-1. Authority and Purpose.

This rule establishes scientifically based guidelines for controlled substance prescribers to co-prescribe an opiate antagonist to a patient pursuant to Section 26-55-108.

R384-210-2. Guidelines for the Issuance of a Prescription for an [Opiate]Opioid Antagonist Along With a Prescription for an [Opiate]Opioid.

(1) Co-prescribing guidelines are applicable when prescribing opioids.

(2) ~~[Clinicians shall consider offering a co-prescription for an opiate antagonist]~~ Prescribers are encouraged to co-prescribe and opioid antagonist, such as naloxone, and to provide education on how to recognize an opioid overdose ~~[prevention]~~ to patients, ~~[and the]~~ patient's household members and/or close contacts, ~~[especially]~~ when available, if factors exist that increase risk for opioid overdose, and households where preschool age children live or visit, whenever opiate medication is prescribed. ~~[are present. These risk factors.]~~ Risks for opioid overdose include:

- (a) a known history of overdose;
- (b) a known history of substance use disorder;
- (c) a ~~[underlying]~~ mental health condition that could make a patient susceptible to overdose;
- (d) a risk for returning to a high dose to which they are no longer tolerant (e.g., patients recently released from prison);

(e) unstable medical conditions, such as respiratory disease, sleep apnea, cognitive decline medical conditions, or other comorbidities that make a patient susceptible to opioid toxicity, respiratory distress or overdose;

(f) higher opioid dosages such as a dose greater than or equal to 50 Morphine Milligram Equivalents ~~[(greater than or equal to 50 MME)/day];~~ and

(g) concurrent benzodiazepine use. [

~~(3) Clinicians shall consider offering a co-prescription for an opiate antagonist, such as naloxone, and education on overdose to persons in a position to aid someone who is at risk of overdose.]~~

KEY: naloxone, opioid antagonist, co-prescribing

Date of Enactment or Last Substantive Amendment: [2017]2018

Authorizing, and Implemented or Interpreted Law: 26-55

**Natural Resources, Administration
R634-3
Compensatory Mitigation Program**

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 42309

FILED: 01/22/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Natural Resources (Department) received additional comments during the comment period and in response have added additional clarifying language and made other minor changes.

SUMMARY OF THE RULE OR CHANGE: In response to comments received during the comment period, additional clarifying language and minor changes are made to this rule. These changes include: adding language to clarify that the mitigation ratio of 4:1 is recommended, not mandated on other agencies by this rule; clarifying how the cost per credit will be determined; adding language to clarify that credits can be earned through preservation of occupied habitats in the conservation bank program; clarifying that credits would be available for use again when the disturbance they are offsetting has returned to a functional habitat; clarifying that in-lieu fee payments in the state sponsored program will not be used to preserve habitats; adopting conservation easement definition from Title 57, Chapter 18; adding definition for bank manager; adding requirement for conservation bank agreements to be recorded with counties; clarifying language on adaptive management strategies; and adding language requiring draft conservation easement language will be a part of the application process. (EDITOR'S NOTE: The original proposed new rule upon which this change in proposed rule (CPR) was based was published in the December 1, 2017, issue of the Utah State Bulletin, on page 67. Underlining in the rule below indicates text that has been added since the

publication of the proposed new rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 79-2-501

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: It is anticipated that the revenue needed to administer this program will be recovered by the proceeds created by the implementation of the program. Therefore, this program is expected to be revenue and cost-neutral to the state of Utah in the long-term.

◆ LOCAL GOVERNMENTS: This proposed rule does not require participation by local governments. Local governments that choose to participate in this program will do so voluntarily, and will be given an opportunity to evaluate the cost versus benefit of their participation in this program before doing so.

◆ SMALL BUSINESSES: This proposed rule does not require participation by any entity. Therefore, this filing does not create any direct cost or savings impacts to other persons or entities. Those who choose to participate in this program will do so voluntarily, and will be given an opportunity to evaluate the cost versus benefit of their participation in this program before doing so.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This proposed rule does not require participation by any entity. Therefore, this filing does not create any direct cost or savings impact to other persons or entities. Those who choose to participate in this program will do so voluntarily, and will be given an opportunity to evaluate the cost vs. benefit of their participation in this program before doing so.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This program does not require participation, therefore, no compliance cost is anticipated. For those who choose to participate in this program, the cost to do so is intended to be advantageous to the organization and/or individual.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule is intended to be mutually beneficial to businesses, local, state, and federal governmental agencies and to the conservation of greater sage-grouse in Utah.

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.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Kaelyn Anfinen by phone at 801-538-7201, by FAX at 801-538-7315, or by Internet E-mail at kaelyn@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/19/2018

THIS RULE MAY BECOME EFFECTIVE ON: 03/26/2018

AUTHORIZED BY: Michael Styler, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

The compensatory mitigation program is not new just to Utah but to the other 10 Western States that are developing programs with the similar objective of keeping Greater Sage-grouse from being listed under the U.S. Endangered Species Act. The number of private landowners who will attempt to develop credits for sale under this program as is the number of businesses who will need credits from disturbing Sage-grouse Habitat on federal lands and will be required to complete mitigation. The Department will know a lot more by 2020 when the listing decision for Greater Sage-grouse will be reviewed by the U.S. Fish and Wildlife Service but at this time both the fiscal costs and fiscal benefits are inestimable.

R634. Natural Resources, Administration.**R634-3. Compensatory Mitigation Program.****R634-3-1. Authority and Purpose.**

(1) Under authority of Utah State Code Section 79-2-501 et. seq., this rule establishes the State of Utah's Compensatory Mitigation Program, including procedures for implementing the program to mitigate for permanent disturbances to greater sage-grouse (hereafter sage-grouse) habitat in Utah.

(2) This rule incorporates the conservation strategies contained in the "Conservation Plan for Greater Sage-grouse in Utah".

(3) Sage-grouse habitat in Utah is naturally fragmented due to topography, encroachment of conifer trees, fire, and invasive weeds such as cheat grass. Human-related activities have also contributed to habitat fragmentation. Research conducted on sage-grouse in Utah has clearly demonstrated that the species is space-limited and responds positively when new habitat is created. This compensatory mitigation program will be used to increase space (i.e., habitat) for greater sage-grouse~~[and to]~~, connect disjointed habitat by creating ~~[connections and]~~ corridors~~[where they do not exist]~~, and protect occupied habitat. Acres of habitat lost and created will be the measure used to guide the implementation and track the success of the program in Utah. Other programs in Utah, including the Watershed Restoration Initiative, Sage-grouse Initiative and the Grazing Improvement Program, conduct projects to improve the quality of the habitat. The lessons learned from those programs will guide the implementation of this rule.

R634-3-2. Program Goals.

(1) The Compensatory Mitigation Program seeks to offset the impacts of permanent disturbances to sage-grouse habitat in Utah by~~[-]~~

(a) encouraging responsible economic development through avoiding and minimizing permanent disturbance within sage-grouse habitat, when possible, and thereby maintaining the distribution of~~[functional]~~ sagebrush habitats within Sage-grouse Management Areas (SGMAs) in Utah; and

(b) providing Compensatory Mitigation resulting in an increase to or protection of ~~[functional]~~ habitat to offset the impacts from Permanent Disturbance in sage-grouse habitats within Utah.

(2) The Program strives to be consistent, where practical, with county plans for Sage-grouse that include a compensatory mitigation strategy.

R634-3-3. Definitions.

(1) "Agreement Fee" means a sum of money set by the Legislature and paid by a Credit Provider upon entering into a Term

Mitigation Agreement or Conservation Bank Agreement with the Department to offset the Department's costs in administering the Agreement.

(2) "Application Fee" means a sum of money set by the Legislature and paid by an applicant to the Department to offset the cost of processing ~~[any]~~a compensatory mitigation ~~[applications]~~application submitted to the Department.

(3) "Area of Permanent Disturbance" means the area within a spatial polygon circumscribing the actual permanently disturbed area directly impacting sage-grouse or its habitat.

(4) "Baseline" means the pre-existing condition of a defined project area, prior to commencing any Credit Generation Project.

(5) ~~["Bank Property"]~~"Bank Manager" means the person(s) or entity responsible for managing the Bank Property and implementing the terms and requirements contained in the Conservation Bank Agreement for the long-term conservation of sage-grouse habitat.

(6) "Bank Property" means permanently protected real property included in or devoted to the development of a Conservation Bank.

(~~6~~7) "Compensatory Mitigation" means the restoration or establishment of sage-grouse habitat or permanent protection of existing occupied habitat to offset the unavoidable adverse impacts which remain following permanent disturbance to sage grouse habitat.

(~~7~~8) "Compensatory Mitigation Program" means the sage-grouse habitat mitigation program created by Title 79, Chapter 2, Part 5 of the Utah Code and this Rule.

(~~8~~9) "Conservation Bank" means a site or suite of sites of at least 640 contiguous acres established under a Conservation Bank Agreement with the Department that provides ecological functions and services for sage-grouse, expressed as Credits that are conserved and managed in perpetuity and used to offset impacts to sage-grouse habitat expressed as Debits, occurring elsewhere.

(~~9~~10) "Conservation Bank Agreement" means the legal document for the establishment, operation and use of a conservation bank.

~~(10) "Conservation Easement" means a voluntary legal agreement between a landowner and a third party that limits the use or development of land to protect sage-grouse habitat values.]~~(11) "Conservation Easement" means an easement, covenant, restriction, or condition in a deed, will, or other instrument signed by or on behalf of the record owner(s) of the underlying real property and is an interest in land that runs with the land benefited or burdened by the easement for the purpose of preserving and maintaining land as sage-grouse habitat or Corridors. To be valid, a Conservation Easement must comply with the "Land Conservation Easement Act" in Utah State Code, Title 57 Chapter 18, as amended, which terms and requirements are incorporated herein by reference.

(~~11~~12) "Corridor" means an area of land that facilitates sage-grouse movement between two or more areas of Occupied Habitat containing less than 1% canopy cover in conifers and at least 15% ground cover in perennial grasses, shrubs, and forbs, and is at least 100 acres in size with a width of at least 2000 feet.

(~~12~~13) "Credit" means an acre of Functional Habitat or Corridor lands created~~[-]~~or restored~~[-]~~or an acre of Occupied Habitat preserved by a Credit Provider that may be transferred to a

Credit Buyer to offset impacts of Permanent Disturbances and which represents the value in Compensatory Mitigation activities.

(~~13~~14) "Credit Buyer" means any person who purchases Credits to offset the impacts of permanent [~~disturbances~~]disturbance to sage-grouse habitat.

(~~14~~15) "Credit Exchange Service" means a tool created by the Department to track the development, maintenance and transfer of Credits.

(~~15~~16) "Credit Generation Project" means any planned project implemented by a Credit Provider or a designee within any SGMA to create[~~;~~ or restore[~~;~~ or preserve] Functional Habitat or [~~to create, restore, or preserve~~]Corridors or preserve Occupied Habitat to generate Credits.

(~~16~~17) "Credit Maintenance" means the actions required to ensure that Credit acreage continues to operate as Functional Habitat, Corridors or [~~Corridor lands~~]Occupied Habitat for the duration of the disturbance it was intended to offset.

(~~17~~18) "Credit Provider" means any person or entity that creates or restores Functional Habitat or Corridor(s) or preserves occupied habitat to generate Credits to be transferred utilizing the Credit Exchange Service.

(~~18~~19) "Credit Transfer Fee" means a sum of money set by the Legislature and paid by a Credit Buyer to the Department when a Credit Provider transfers Credits to a Credit Buyer to offset the Department's costs in administering this Program.

(~~19~~20) "Debit" means an acre of sage-grouse habitat permanently disturbed in a SGMA for which Compensatory Mitigation is applicable.

(~~20~~21) "Department" means the Utah Department of Natural Resources, the agency responsible for administering the Compensatory Mitigation Program.

(~~21~~22) "Durability" means the ability for mitigation measures to remain effective for a period of time that is at least as long as the impacts from the permanent disturbance that the mitigation is designed to offset.

(~~22~~23) "Functional Habitat" means any sage-grouse habitat, created through a Credit Generation Project, contiguous with existing Occupied Habitat, and which includes a live sagebrush canopy cover of at least 10% and no more than 1% canopy cover of conifer trees over 0.5 meters in height.

(~~23~~24) "Habitat" means the aggregation of Seasonal Habitats used by sage-grouse during their yearly life-cycle.

(~~24~~25) "In-lieu Fee" means money provided to the State, at the direction of a regulatory agency, to be used for restoration and enhancement of sage-grouse habitat, with the goal to create or restore Functional Habitat that satisfies Compensatory Mitigation requirements to offset Permanent [~~Disturbances on federal or state lands;~~]Disturbance.

(~~25~~26) "Mitigation Ratio" means the ratio of Credits needed by a Credit Buyer or produced by the State to offset any Permanent Disturbance within sage-grouse habitat. [~~Any~~Where a regulatory agency is involved, the agency establishes the mitigation ratio but it is recommended that any person causing Permanent Disturbance to an acre of sage-grouse habitat should provide four acres of Functional Habitat, Protected Habitat, or Corridors as a proper Mitigation Ratio to offset indirect impacts from disturbance and account for differences in habitat quality without conducting a detailed analysis of either factor.

(27) "Occupied Habitat" means any Habitat utilized by Sage-grouse during any portion of their annual lifecycle.

(28) "Permanent Disturbance" means a human caused action that results in a loss of sage-grouse Habitat for a period of five or more years and includes all areas where the direct effects of the action could be expected to disrupt the common activities of sage-grouse for a period of five years or more.

(29) "Plan" means the current Conservation Plan for Greater Sage-grouse in Utah.

(30) "Program Administrator" means the Executive Director of the Department, or their designee, with authority to establish, operate and manage the Compensatory Mitigation Program.

(31) "Project Area" means the geographic boundary of any Credit Generation Project.

(32) "Protected Habitat" means an area of [~~occupied functional habitat~~]Occupied Habitat that is preserved from [~~permanent disturbance~~]Permanent Disturbance through a [~~conservation easement~~]Conservation Easement for at least 20 years and is maintained [~~to meet the definition of functional habitat~~]as suitable habitat[~~or corridor~~] for the length of the easement.

(~~32~~33) "Remedial Action" means any corrective measures which a Credit Provider is required to take to ameliorate any injury or adverse impact to Credits or Transferred Credits to ensure long-term [~~durability of Functional Habitat~~]Durability.

(~~33~~34) "Reserve Pool" means a pool of Credits, managed by the Program Administrator or a Bank Manager, intended to cover risks of potential Reversals on any Project Area.

(~~34~~35) "Reversal" means a Compensatory Mitigation Credit that does not persist [~~as Functional Habitat~~]for the full duration of the Permanent Disturbance.

(~~35~~36) "SGMA" means Sage-grouse Management Areas as identified in the Plan.

(~~36~~37) "Seasonal Habitat" means all habitats utilized by sage-grouse for survival during some portion of its life cycle, including leks, nesting, brood rearing, late brood rearing, transitional corridors, and winter habitat.

(~~37~~38) "Service Area" means any SGMA within the State of Utah.

(~~38~~39) "SITLA Lands" means lands owned or managed by the Utah School and Institutional Trust Lands Administration.

(~~39~~40) "State Lands" means lands owned or managed by any State of Utah agency other than SITLA.

(~~40~~41) "Term Mitigation Agreement" means an agreement between the Department and any person(s) owning or controlling property [~~adjacent to Occupied Habitat~~]within any SGMA, where the landowner [~~generates Functional Habitat or Corridor(s)~~]conducts a Credit Generation Project for the benefit of sage-grouse, and which actions result in the creation of Credits to be transferred to Credit Buyers to offset Permanent Disturbances to sage-grouse Habitat.

(~~41~~42) "Transfer" means the conveyance of Credits from one person or entity to another to offset impacts from Permanent Disturbance.

(~~42~~43) "Transferred Credit" means any Credit transferred [~~from~~]within the Department's Credit Exchange Service to offset impacts from Permanent Disturbance.

~~[(43)]44~~ "Verification" means the process~~(es)~~ used to confirm that Compensatory Mitigation Program rules have been followed through standardized reporting and monitoring.

~~[(44)]45~~ "Verifier" means any person or entity that has been accredited by the Department and certifies or monitors ~~[the existence of]~~ Functional Habitat~~[or]~~, Corridors or Protected Habitat following Credit Generation Projects utilizing the scientific methods and guidelines approved by the Department.

R634-3-4. State Sponsored Compensatory Mitigation Program.

(1) Compensatory Mitigation for Impacts to Private, SITLA and other State Lands.

(a) To meet the mitigation requirements in the Utah Conservation Plan for Greater Sage-grouse, the Department will:

(i) Generate four acres of Functional Habitat or Corridors in SGMA for every one acre of Permanent Disturbance on private or SITLA Lands in any SGMA; and

(ii) For every one acre of Permanent Disturbance on State Lands, other than SITLA lands, in any SGMA, the Department will work with other state agencies to generate four acres of Functional Habitat or Corridors.

(2) Determination of Disturbance.

(a) In consultation with county governments and other state agencies, the Department will determine the number of acres of permanent disturbances within all SGMA on private, SITLA and State Lands every three years, or whenever information becomes available to the Department.

(3) State Credit Generation Projects.

(a) The Department will identify potential Credit Generation Projects within non-functional habitat in any SGMA. Prior to initiation of any Credit Generation Projects on SITLA, State Lands or federal lands, the Department will assess the Project Area to document the Baseline acres of Functional Habitat present within the Project Area before treatment. After conducting any necessary pre-project planning and assessments, the Department will conduct Credit Generation Projects to generate Credits.

(b) The Department will consult with the concerned county government~~(s)~~ and other appropriate agencies before conducting the project.

(c) The Department will meet annually with federal agencies with jurisdiction over federal lands to identify potential Credit Generation Projects that may be completed on federal lands utilizing non-federal dollars. Credit Generation Projects will only be initiated after compliance with any necessary federal planning and permitting requirements. After conducting any necessary pre-project planning and assessments, the Department will conduct Credit Generation Projects to generate Credits.

(4) Verification and Tracking of Credits.

(a) Upon completion of any Credit Generation Project on SITLA, State Lands or federal lands, the Department will assess the Project Area utilizing a Verifier to certify the number of Credits generated on the Project Area. Once Credits are certified by the Department, it will track the Credits utilizing the Credit Exchange Service as provided in Section 3-7(1).

(b) Credits generated by the Department will offset Permanent Disturbance on private, SITLA and other State Lands. Credits generated by the Department will not be transferred to Credit Buyers except as provided in 3-4(7).

(5) Monitoring and Maintenance.

(a) The Department will monitor the condition of each Credit utilizing the monitoring and assessment guidelines it adopts pursuant to Section 3-7(5).

(b) If results from monitoring and assessment demonstrate that Credits produced by the Department no longer provide Functional Habitat or Corridors, then the Department may conduct habitat maintenance projects to restore the Credits, or it may create additional Credits to replace them.

(6) Duration, Durability and Reversals. State Assurance.

(a) The Department will ensure that any Credits generated by the Department to offset permanent disturbance in any SGMA will be maintained for the duration of any direct ~~[and indirect]~~ impacts from Permanent Disturbance on those lands and tracked using the Credit Exchange Service.

(b) In the event of a Reversal to any Credits generated by the Department, the Department will apply additional replacement Credits from other Credit Generation Projects in any SGMA throughout the State. Any actions taken under this Section will be tracked in the Credit Exchange Service.

(7) Federal Agency Use of State Generated Credits.

(a) If a federal agency would like to utilize Credits generated by the State to offset Permanent Disturbance on federal lands, the Department may enter into a written agreement with the federal agency outlining the federal agencies' need and use of Credits to offset Permanent Disturbances on federal lands.

(b) Any federal agency may authorize the use of in-lieu payments from a person permanently disturbing habitat to offset the Department's cost to generate, monitor, and maintain the Credits. Upon payment of the in-lieu fee to the Department, the federal agency will provide a written receipt stating that the compensatory mitigation requirements are satisfied and allow a project causing permanent disturbance to habitat to proceed on federal lands.

R634-3-5. Term Mitigation Credit Program.

(1) Application; Minimum Qualifications. Any person desiring to enter into a Term Mitigation Agreement with the Department to create Credits to mitigate the impacts of disturbances to sage-grouse habitat within Utah, must:

(a) Own or control and manage at least 100 contiguous acres adjacent to Occupied Habitat in any SGMA in Utah identified in the Plan that is not Functional Habitat or a Corridor, but with completion of a Credit Generation Project may become Functional Habitat or a Corridor or own, manage and control at least 100 acres of ~~[occupied habitat]~~ Occupied Habitat that may become ~~[protected habitat]~~ Protected Habitat.

(b) File a completed application with the Department, which, at a minimum, shall include:

(i) name of the owner~~(s)~~ of the surface and mineral rights on the property;

(ii) legal description of the proposed Project Area and the total number of acres owned by the applicant;

(iii) the number of acres on which Credits will be generated~~;~~ and what action is proposed to generate Credits;

(iv) the term of years the person will maintain the Credits on the property, after completing any Credit Generation Project on the property as identified in the Term Mitigation Agreement; ~~[and]~~

(v) ~~[the]~~ if a habitat protection project, a draft of the conservation easement; and

(vi) the Application Fee~~[as set by the Legislature].~~

(c) Upon receiving any completed application, the Department will make a habitat suitability determination identifying whether the proposed Credit Generation Project will likely result in Functional Habitat or Corridor(s) on the property or Protected Habitat and identify the number of potential Credits which may result from the creation of Functional Habitat ~~or Corridor(s)~~, Corridors, or Protected Habitat. In the event another person owns the mineral rights on an applicant's property, the Department may request a mineral report for the property.

(d) The Department may deny any application that is incomplete or does not meet the guidelines outlined in this Section.

(e) The Department will consult with the concerned county government(s) and other appropriate agencies before approving the application.

(2) Establishment of Term Mitigation Agreement.

(a) If the Department determines that an applicant's property is suitable for generating Credits, it may enter into a Term Mitigation Agreement with the property owner, identifying, at a minimum:

(i) the scope of work necessary to create and maintain Credits on the Property;

(ii) the entity or person(s) responsible to perform any Credit Generation Projects;

(iii) a management plan identifying maintenance and verification duties for the landowner or a third-party entity;

(iv) ~~the term of~~ the years duration for ~~Credit Maintenance;~~ the Credits;

(v) an option clause for renewing the agreement for an additional term of years;

(vi) the legal or financial mechanisms utilized by the landowner to provide assurances to the Department that the Credits generated on the landowner's property will be in place for the duration of the agreement; and

(vii) for split-estate properties, the Department may require the owner(s) of a mineral estate to co-sign the Term Mitigation Agreement and provide a written guarantee that the mineral estate will not be developed during the term of the agreement.

(b) In no event shall the term of a Term Mitigation Agreement be less than twenty (20) years, which starts when the credit generation project is verified.

(3) Credit Generation Projects

(a) Prior to initiation of any Credit Generation Project, the Department will assess the Project Area to Verify the number of acres of Functional Habitat ~~or~~, Corridors and Occupied Habitat present on the Project Area before the landowner conducts any Credit Generation Projects.

(b) After conducting any necessary pre-project assessments, a Credit Provider or its designees will complete any Credit Generation Projects as outlined in the Term Mitigation Agreement.

(4) Verification; Tracking of Credits.

(a) Once the Credit Generation Projects are completed, as identified in the Term Mitigation Agreement, a Verifier will inspect the Credit Generation Project area, determine the number of Credits generated on the property, and provide a ~~Certificate of Credits~~ report to the Department and to the landowner identifying the number of Credits available on the property that may be transferred to a Credit Buyer utilizing the Credit Exchange Service.

(b) Prior to entering the ~~credits~~ Credits in the Credit Exchange Service, the Department shall collect the Agreement Fee ~~set by the Legislature~~ from the Credit Provider to offset any costs of administering the Term Mitigation Agreement and issue a Certificate of Credits to the owner.

(c) Upon certifying the Credits, the Department will track the Credits in the Credit Exchange Service identified in Section 3-7(1).

(5) Assessment and Monitoring of Credits.

(a) Credits generated under this Section will be monitored by the Credit Provider and the Department, as outlined in the Term Mitigation Agreement, to ensure that Credits continue to serve as Functional Habitat ~~or~~, Corridors, or Protected Habitat for sage-grouse throughout the duration of the Term Mitigation Agreement.

(b) Credits will be monitored using the Department's Monitoring and Credit Maintenance Policies developed under Section 3-7(5). The Program Administrator may utilize monitoring results to amend the Credit maintenance requirements outlined in the Term Mitigation Agreement.

(6) Durability and Assurances.

(a) Prior to the Department listing any Credits on the Credit Exchange Service, the Credit Provider shall provide the Department with financial and/or legal assurances that the Credits developed will be protected for the duration of the Term Mitigation Agreement. Financial assurances may include Letters of Credit, Performance or Guarantee Bonds, Escrow Agreements, endowments or Causality Insurance coverage to offset any losses or reverses to the Credits on the property. Legal assurances may include permanent or term easements, deed restrictions, and contractual guarantees.

(7) Credit Expiration; Renewal of Exchange Agreements.

(a) All Credits generated or transferred under this Section will automatically expire at the end of the term set out in the Term Mitigation Agreement regardless of whether or not the Credit was transferred. Upon expiration of any Credit, the Department will remove the Credit from the Credit Exchange Service.

(b) The Term Mitigation Agreement can be renewed for an additional term as outlined in the agreement. Prior to reissuing the Credits in the Credit Exchange Service, the Department or a Verifier will confirm that the Credits remain as Functional Habitat or Corridors.

(c) In the event the Department or any person terminates the Term Mitigation Agreement prior to the terms outlined in the agreement, the person providing the Credit Generation Project shall pay the Department its actual costs to obtain or create replacement Credits to complete the remaining years listed in the agreement.

(8) Federal Agency Use of Term Credits.

(a) Any federal regulatory agency that directs Credit Buyers to purchase Term Credits from the Credit Exchange Service is encouraged but not required to utilize the Mitigation Ratios recommended herein, including mitigating at four acres for every one acre of Permanent Disturbance.

(b) Any federal regulatory agency may place additional requirements on a Credit Buyer for maintaining, monitoring, verifying or providing additional assurances for Credits utilized to offset disturbances to sage-grouse habitat on federal land. The federal agency, or a Credit Buyer will be responsible for any

additional monitoring or verification requirements developed by a federal agency.

R634-3-6. Conservation Banks.

(1) Jurisdiction.

(a) The Department has jurisdiction over the creation and regulation of Conservation Banks for Sage-grouse in Utah. Any person desiring to operate a Conservation Bank and transfer Credits generated by the Conservation Bank must first receive authorization from the Department.

(2) Application; Minimum Qualifications.

(a) Any person desiring to establish a Conservation Bank in Utah to create and protect in perpetuity Functional Habitat~~[-and/or]~~, Corridors or Protected Habitat to generate Credits to mitigate for the impacts of Permanent ~~[Disturbances]~~Disturbance to sage-grouse habitat within Utah, must:

(i) own, manage and control at least 640 contiguous acres of land that is not Functional Habitat~~[-or]~~, Corridor(s) ~~[adjacent to Occupied]~~or Protected Habitat that can be made into Functional Habitat, Corridors and/or Protected Habitat in any SGMA in Utah~~[-as identified by the Plan]~~;

(ii) file a completed application with the Department, which shall include:

(A) the name and address of property owner(s);

(B) legal description and number of acres included in the proposed Bank Property;

(C) title search of property identifying current owner(s) and title holder(s) and a list of any existing liens on the property;

(D) list of any mineral owners of the property and a mineral title report if a split estate is involved;

(E) name and address of Bank Manager;

(F) a proposed property management plan, including identified Credit Generation Projects and monitoring and maintenance activities to take place on the bank; and

~~[(iii) Pay](g) the applicable Application Fee[-as outlined in the Fee Schedule attached hereto, as amended by the Department].~~

(b) The Department may reject any bank application that is incomplete or does not meet the requirements of this Section.

(3) Establishment of Conservation Bank Agreement.

(a) The Department may review any completed application and determine whether the property identified in the application may be eligible to operate as a Conservation Bank.

(b) The Department will consult with the concerned county government(s) and other appropriate agencies before approving the application.

(c) Upon review and ~~[informal]~~preliminary approval of the application, the Department will provide a written notice of contingent bank approval to the applicant and shall identify the total number of Credits potentially available on the property upon completion of any Credit Generation Projects.

(i) No split-estate property shall receive informal approval unless the applicant provides a mineral report and written guarantee from the owner(s) of the mineral estate that mineral owners, or their lessees or assigns, will not occupy or disturb the surface in any way for mineral exploration or development while the Conservation Bank Agreement is in place. Such written guarantee shall be recorded, and shall run with the land and be

binding on successors and assigns of the mineral owner for the term of the Agreement.

(d) After the applicant receives the notice of contingent bank approval, the applicant and the Department may enter into a Conservation Bank Agreement which will, at a minimum, identify:

(i) the Bank Manager;

(ii) the legal description of the Bank Property;

(iii) a property management plan identifying any habitat enhancement and maintenance activities to be conducted by Bank Manager to generate Credits on the Bank Property;

(iv) the Bank Manager's monitoring and reporting requirements and schedule;

(v) any Remedial Actions and adaptive management strategies to be taken in case of a Reversal;

(vi) the amount and type of legal or financial assurances the Bank Manager provides for the conservation and maintenance of the Conservation Bank and Credits;

(vii) a means by which the bank or bank property may be transferred to a third party; and

(e) Prior to executing the Conservation Bank Agreement or transferring Credits on the Credit Exchange Service, the owner of the Conservation Bank shall grant a Conservation Easement~~[-to any eligible third party]~~, record a deed restriction, or place the property in an irrevocable trust ensuring the perpetual protection of the property for the benefit of sage-grouse and the protection of sage-grouse habitat.

(f) Once the Conservation Bank Agreement is executed, recorded in the county registry and the Agreement Fee is received, the Department will issue a Certificate of Credits to the Bank Manager for the number of acres of Occupied Habitat placed under perpetual protection by the Bank in 3-6(3)(e).

(f) The Conservation Bank Agreement may be implemented in phases, as needed and appropriate, to generate and ~~[sell]~~transfer Credits on a periodic basis, and may be modified or amended by mutual agreement between the Bank and the Department.

~~[(g) The Department shall collect an Agreement Fee from the person(s) signing the Agreement to offset any costs of administering the Term Mitigation Agreement.]~~

(4) Credit Generation Projects.

(a) Prior to initiating any Credit Generation Projects, the Bank Manager or the Department will survey the Project Area to verify the number of acres of existing Functional Habitat or Corridors present and report the survey results to the Department.

(b) Once the Conservation Bank Agreement is fully executed by all parties and the survey results in subsection (1) are reported to the Department, the Bank Manager may begin Credit Generation Projects~~[-to generate Credits]~~ utilizing the plans and procedures identified in the Conservation Bank Agreement. The Bank Manager shall provide written notification to the Department whenever Credit Generation Projects are completed on the Bank Property.

(5) Verification and Tracking Credits.

(a) Upon completion of any Credit Generation Projects, as identified in the Conservation Bank Agreement, a Verifier will inspect the Credit Generation Project area to determine the number of acres of Functional Habitat or Corridor that exist on the Bank Property using the scientific methods approved or developed by the

Department. When the Verifier determines that Functional Habitat or Corridors exist following Credit Generation Projects, the Verifier will provide a ~~[Certificate of Credits]~~report to the DNR and to the Bank Manager identifying the number of Credits available on the property to be potentially transferred to a Credit Buyer through the Credit Exchange Service.

(b) Upon Verifying the Credits and receiving payment of the Agreement Fee, the Department will issue a Certificate of Credits to the Bank Manager and track the Credits on the Credit Exchange Service as identified in Section 3-7(1).

(6) Management and Monitoring Duties.

(a) The Bank Manager shall manage the Bank Property in accordance with the management plans prescribed in the Conservation Bank Agreement.

(b) The Bank Manager shall be responsible for monitoring and maintaining the condition of the Credits on the Bank Property and shall collect data as prescribed in the Conservation Bank Agreement, in accordance with the Department's Monitoring and Credit Maintenance policies and procedures.

(c) The Bank Manager or a designee will submit an annual assessment and monitoring report to the Department utilizing the reporting guidelines developed by the Department.

(7) Conservation Bank Agreement Revisions.

(a) The Bank Manager and the Department shall meet and confer upon request of ~~[the other]~~either party to consider revisions to the Conservation Bank Agreement which may be necessary to better conserve the habitat and conservation values of the Bank Property.

(8) Compliance Inspection.

(a) The Department may conduct any necessary assessment, monitoring and verification of the Bank Property to Verify that Credits generated ~~[by the Bank]~~continue to qualify as Functional Habitat, Corridors or ~~[Corridor(s)]~~Protected Habitat; to recommend Remedial Action, as needed; or for any other purpose determined necessary by the Department to assess compliance with the Conservation Bank Agreement.

(b) In the event the Department or any person terminates the ~~[Term Mitigation]~~Conservation Bank Agreement prior to the terms outlined in the agreement, the ~~[person providing the Credit Generation Project]~~Conservation Bank shall pay the Department ~~[the]~~its actual costs to obtain or create replacement Credits for any Transferred Credits to complete the remaining years listed in the agreement.

R634-3-7. Administration.

The Compensatory Mitigation Program and associated systems to generate and track Credits shall be administered by the Department.

(1) Credit Exchange Service.

(a) The Department shall monitor and track generated and transferred Credits using the Credit Exchange Service which will include the following information:

(i) Credits. Upon Completion of any Credit Generation Project, the Department will track:

(A) the number of Credits generated under each mitigation system herein;

(B) the dates the Credits were Verified and certified by the Department or a trained Verifier;

(C) the types of Habitat(s) created by the Credit(s), if the information is available;

(D) the name and address of each Credit Provider; and

(E) the duration or term for maintaining a Credit.

(ii) Transferred Credits. The Department will track information relating to each Transferred Credit including:

(A) name of Credit Buyer;

(B) the number of Credits transferred to the Credit Buyer;

(C) date of transfer;

(D) duration and term the Credit ~~[Expires]~~expires, if applicable.

(iii) Expiration of ~~[Credits]~~Credit. If the term of a Credit ~~[or Transferred Credit]~~expires, ~~[then]~~the Department will ~~[remove the Credit or Transferred Credit from the tracking system, and]~~ notify the Buyer of the Credit, the Credit Provider and the involved regulatory agency, if applicable, that the Credit has expired~~[-]~~ and remove the Credit from the tracking system.

(2) Procedure for Transferring Credits.

(a) A Credit Buyer may negotiate the acquisition price for a Credit with any Credit Provider listed on the Credit Exchange Service.

(b) Once an agreement on ~~[price]~~transfer is finalized between the Credit Provider and Credit Buyer, the Credit Provider shall notify the Department within 7 days.

(c) Once the Department receives notice of the agreement from a Credit Provider, the Department will send the Credit Buyer an invoice identifying the Credit Transfer Fee to be paid by the Credit Buyer to the Department.

(d) The Credit Buyer shall pay the Credit Transfer Fee to the Department within 30 days of the Department sending the invoice. Upon receipt of the Credit Transfer Fee, the Department will transfer the agreed upon Credits to the Credit Buyer.

(e) The Department shall track Credits transferred to any Credit Buyer using the Credit Exchange Service.

(f) Any Credit Buyer may purchase additional Credits to offset future planned development projects anticipated to cause a Permanent Disturbance to sage-grouse habitat.

(g) Once a Credit Buyer acquires a Transferred Credit, the Credit Buyer of the Transferred Credit may not be ~~[transferred or sold]~~transfer or sell the Transferred Credit to any other person or entity.

(h) If the term of a Transferred Credit expires and the Credit has not expired, notify the Credit Buyer, the Credit Provider and the involved regulatory agency, if applicable, that the Transferred Credit has expired and the Department will return the Credit to the Credit Provider in the tracking system.

(i) For the purposes of transfer of credits, a Conservation Bank that uses Credits to offset its own Debits will be considered the Credit Buyer.

(3) Fee Schedule.

(a) The Department will annually develop a fee schedule to cover the cost of the Compensatory Mitigation Program and submit to the Legislature, including:

(i) The Application Fee ~~[required]~~to ~~[cover]~~offset the cost of processing ~~[any]~~a compensatory mitigation ~~[applications]~~application submitted to the Department from a potential Credit Provider.

(ii) The Agreement Fee [~~which will outline~~] to offset the [~~costs~~]cost of administering Term Mitigation Agreements and Conservation Banking Agreements.

(iii) The Credit Transfer Fee to [~~be paid by the Credit Buyer to~~]offset the operation and maintenance costs of the Credit Exchange Service.

(4) Verification and Monitoring Guidelines; Certification.

(a) All Credits must be certified by the Department or by a Verifier prior to being tracked and transferred on the Credit Exchange Service to ensure that Credits [~~represent~~]are Functional Habitat [~~or useable~~], Corridors, or Protected Habitat for sage-grouse.

~~[(b) Upon completion of any Credit Generation Project, the Department, or a Verifier, will visit the Project Area, utilize the Department's monitoring and assessment guidelines to determine the number of acres of Functional Habitat or Corridors of new habitat to calculate available Credits, and provide the Credit Provider with Certificate of Credits identifying the number of Credits available to be transferred on the Credit Exchange Service. The Verifier will also submit a verification report to the Program Administrator, together with a copy of the Certificate of Credits. Verifiers may also be utilized by the Department to monitor the long-term viability of Credits.]~~

([e]b) The Department will accredit any person interested in serving as a Verifier. Accreditation will occur after a person attends a verification training provided by the Department, or a designee, and after a person demonstrates proficiency implementing the Department's monitoring and assessment guidelines.

([d]c) Verifiers will act as a designee to the Program Administrator to [~~Certify~~]certify Credits upon completion of any Credit Generation Projects.

([e]d) Upon completion of any property verification activities, the Verifier will provide a written Verification report to the Program Administrator identifying a summary of the verification activities completed, summary of the number of acres of Functional Habitat [~~or~~], Corridors, or Protected Habitat in the Credit Generation Project area and an estimate of the number of

Credits [~~available, and a copy of the Certificate of Credits.~~] available. The Department may add additional criteria to the report needed to carry out this rule.

(5) Monitoring and Assessment Guidelines; Scientific Method.

(a) The Credit Provider, or a designee, is responsible for monitoring and maintaining Credits utilizing the methods identified by the Department throughout the lifetime of the Credit to ensure that each Credit serves as viable Functional Habitat or Corridors for sage-grouse.

(b) The Department, and any trained Verifier, will utilize existing range trend monitoring guidelines or other scientifically approved methods identified by the Department to identify Credit Maintenance activities to be undertaken by a Credit Provider or their designee.

(c) The Department's monitoring and assessment guidelines will be reviewed, at a minimum, every three years to ensure they are consistent with current scientific literature and methods.

(6) Reserve Pool.

(a) All Credits generated by the Department will be maintained on the Credit Exchange Service to serve as a [~~reserve pool~~]Reserve Pool to off-set losses from Reversals to any Credits generated under this Program.

(7) Adaptive Management.

(a) The DNR will monitor compensatory mitigation efforts and employ new scientific findings into this Compensatory Mitigation Program following adaptive management strategies, as such information becomes available.

KEY: [~~sage-grouse, mitigation, Compensatory~~]Sage Grouse, [~~M~~]mitigation [~~Program~~]

Date of Enactment or Last Substantive Amendment: [~~2017~~]2018

Authorizing and Implemented or Interpreted Law: 79-2-501

End of the Notices of Changes in Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a **120-DAY (EMERGENCY) RULE** when it finds that regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **PROPOSED RULE**, a **120-DAY RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **120-DAY RULE** including the name of a contact person, justification for filing a **120-DAY RULE**, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **120-DAY RULE** is printed. New text is underlined (example) and text to be deleted is struck out with brackets surrounding the deleted text ([example]). An emergency rule that is new is entirely underlined. Likewise, an emergency rule that repeals an existing rule shows the text completely struck out. A row of dots in the text (.) indicates that unaffected text was removed to conserve space.

A **120-DAY RULE** is effective when filed with the Office of Administrative Rules, or on a later date designated by the agency. A **120-DAY RULE** is effective for 120 days or until it is superseded by a permanent rule. Because of its temporary nature, a **120-DAY RULE** is not codified as part of the *Utah Administrative Code*.

The law does not require a public comment period for **120-DAY RULES**. However, when an agency files a **120-DAY RULE**, it may file a **PROPOSED RULE** at the same time, to make the requirements permanent.

Emergency or **120-DAY RULES** are governed by Section 63G-3-304, and Section R15-4-8.

Health, Health Care Financing **R410-14** Administrative Hearing Procedures

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 42517
FILED: 01/29/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this emergency rule is to update and implement by rule the new grievance and appeals process for managed care organizations (MCOs) in accordance with federal law.

SUMMARY OF THE RULE OR CHANGE: This emergency rule clarifies the meaning of adverse benefit determinations as they relate to the MCO hearing process, and also updates provisions under the MCO grievance and appeals system.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 42 CFR 438.400 et seq. and Section 26-1-24 and Section 26-1-5

EMERGENCY RULE REASON AND JUSTIFICATION:

REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

JUSTIFICATION: This rule is necessary to update and implement provisions for the MCO hearing process as required by federal law.

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no impact to the state budget because this change only updates MCO hearing procedures and does not affect ongoing Medicaid services. Funding for administrative hearing procedures is already within legislative budget allotments.

◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because this change only updates MCO hearing procedures and does not affect ongoing Medicaid services. Funding for administrative hearing procedures is already within legislative budget allotments.

◆ **SMALL BUSINESSES:** There is no impact to small businesses because this change only updates MCO hearing procedures and does not affect ongoing Medicaid services. Funding for administrative hearing procedures is already within legislative budget allotments.

◆ **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 updates MCO hearing procedures and does not affect ongoing Medicaid services. Funding for administrative hearing procedures is already within legislative budget allotments.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no impact to a single Medicaid provider or to a Medicaid member because this change only updates MCO hearing procedures and does not affect ongoing Medicaid services. Funding for administrative hearing procedures is already within legislative budget allotments.

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 emergency 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
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 PO Box 143101, Salt Lake City, UT 84114-3101

EFFECTIVE: 01/29/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			

State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

None of the 12,600 managed care organization (MCO) providers in the state will see a fiscal impact because this rule only updates hearing procedures for MCOs and does not affect ongoing services for Medicaid members. Funding for administrative hearing procedures is already within legislative budget allotments.

R410. Health, Health Care Financing.

R410-14. Administrative Hearing Procedures.

R410-14-2. Definitions.

(1) The definitions in Rule R414-1 and Section 63G-4-103 apply to this rule.

(2) The following definitions also apply:

(a) "Action" means:

(i) a denial, termination, suspension, or reduction of medical assistance for a recipient[-];

(ii) ~~or~~ a reduction, denial or revocation of reimbursement for services for a provider;

(iii) ~~or~~ a denial or termination of eligibility for participation in a program, or as a provider[-];

(iv) ~~It also means~~ a determination[s] by skilled nursing facilities and nursing facilities to transfer or discharge residents;

(v) an[~~d~~] adverse determination[s], as defined in Subsection R410-14-2(2)(b), ~~made by a state with regard to the preadmission screening and annual resident review requirements of Section 1919(e)(7) of the Social Security Act.~~

(vi) an adverse benefit determination as defined in Subsection R410-14-20(2)(a); or

(vii) placement of a Medicaid enrollee on the restriction program.

(b) "Adverse determination" means a determination made in accordance with Sections 1919(b)(3)(F) or 1919(e)(7)(B) of the Social Security Act that the individual does not require the level of services provided by a nursing facility or that the individual does or does not require specialized services.

(c) "Agency" means Division of Medicaid and Health Financing (DMHF) within the Department of Health, the Department of Human Services (DHS), the Department of Workforce Services (DWS) or any managed health care organization (MCO) that has conducted or performed an action as defined in this rule.

(d) "Aggrieved person" means any recipient, enrollee, or provider who is affected by an action [~~or inaction~~] of an agency.

(e) "CHEC" means Child Health Evaluation and Care program, which is Utah's version of the federally mandated Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Medicaid child health program.

(f) "De novo" means anew, or considering the question of a case for the first time.

(g) "DHS" means the Department of Human Services.

(h) "DOH" means the Department of Health.

(i) "DWS" means the Department of Workforce Services.

(j) "Eligibility Agency" means DWS or DHS or any entity the Agency contracts with to determine medical assistance eligibility.

(k) "Ex Parte" communications mean direct or indirect communication in connection with an issue of fact or law between the hearing officer and one party only.

(l) "Grievance" means an expression of dissatisfaction about any matter other than an action as defined in this rule. Grievances may include but are not limited to the quality of care of services provided, and aspects of interpersonal relationships such as rudeness of a provider or employee or failure to respect the rights of an enrollee of an MCO.

(m) "Grievance system" means the overall system that includes grievances and appeals handled by an MCO and access to the administrative hearing process set out in this rule.

(n) "Hearing Officer" means solely any person designated by the DMHF Director to conduct administrative hearings pursuant to this rule.

(o) "Managed Care Organization" or "MCO" means a health maintenance organization, a prepaid mental health plan or a dental managed care plan that contracts with DMHF to provide health, behavioral health or oral health services to Medicaid or CHIP recipients.

(p) "Medical record" means a record that contains medical data of a medical assistance recipient or enrollee.

(q) "Provider" means any person or entity that is licensed and otherwise authorized to furnish health care to medical assistance recipients or medical assistance MCO enrollees.

(r) "Order" means a ruling by a hearing officer that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more specific persons.

(s) "Scope of service" means medical, oral or behavioral health services set out under R414 as a covered benefit.

(t) "State fair hearing" means an administrative hearing conducted pursuant to this rule.

R410-14-3. Administrative Adjudicative Procedures.

(1) Except as provided in this rule or as otherwise designated by rule or statute or converted pursuant to Subsection 63G-4-202(3), all adjudicative proceedings conducted pursuant to this rule are informal proceedings.

(2) Request for Agency Action. An aggrieved person may file a written request for agency action pursuant to Utah Code Ann. Section 63G-4-201, and in accordance with this rule.

(a) A provider may file a written request for agency action without the consent of the recipient or MCO enrollee if the request for agency action pertains to the denial of an authorization for service or a denial of payment on a claim.

(b) A provider may not file a request for agency action if the request for agency action pertains to the denial, change or termination of eligibility of a member or enrollee for a medical assistance program.

(3) If a medical issue is in dispute, each request shall include supporting medical documentation. DMHF shall schedule a hearing only when it receives sufficient medical records and may dismiss a request for agency action if it does not receive supporting medical documentation in a timely manner.

(4) Notice of Agency Action.

(a) An agency shall provide a written notice of action [~~or adverse action~~] to each aggrieved person. Such actions include but are not limited to:

(i) eligibility for assistance;

(ii) scope of service;

(iii) denial or limited prior authorization of a requested service including the type or level of service; and

(iv) payment of a claim.

(b) The notice must include:

(i) a statement of the action the agency intends to take;

(ii) the date the intended action becomes effective;

(iii) the reasons for the intended action;

(iv) the specific regulations that support the action, or the change in federal law, state law or DMHF policy which requires the action;

(v) the right to request a hearing;

(vi) the right to represent oneself, the right to legal counsel, or the right to use another representative at the hearing; and

(vii) if applicable, an explanation of the circumstances under which reimbursement for medical services will continue or may be reinstated pursuant to this rule.

(c) The agency shall mail the notice at least 10 calendar days before the date of the intended action except:

(i) the agency may mail the notice not later than the date of action in accordance with 42 CFR 431.213;

(ii) the agency may shorten the period of advance notice to five days before the date of action if it has facts that indicate it must take action due to probable fraud by the recipient or provider and the facts have been verified by affidavit.

R410-14-4. Hearings.

(1) DMHF shall conduct informal hearings for all issues except those specifically designated as formal hearings [~~by~~] pursuant to this rule. The hearing officer may convert the proceeding to a formal hearing if an aggrieved person requests a hearing that meets the criteria set forth in Section 63G-4-202.

(2) If a hearing under this rule is converted to a formal hearing pursuant to Section 63G-4-202, the formal hearing shall be conducted in accordance with these rules except as otherwise provided in Sections 63G-4-204 through 63G-4-208 or other applicable statutes.

(3) DMHF shall conduct a hearing in connection with an agency action if the Aggrieved Person requests a hearing and there is a disputed issue of fact. If there is no disputed issue of fact, the hearing officer may deny a request for an evidentiary hearing and issue a recommended decision without a hearing based on the record. In the

recommended decision, the hearing officer shall specifically set out all material and relevant facts that are not in dispute.

(4) There is no disputed issue of fact if the Aggrieved Person submits facts that do not conflict with the facts that the agency relies upon in taking action or seeking relief.

(5) If the Aggrieved Person objects to the hearing denial, the person may raise that objection as grounds for relief in a request for reconsideration.

(6) An MCO may not require an Aggrieved Person to utilize arbitration or mediation in order to resolve an Action. An Aggrieved Person may file a request for hearing relating to an Action regardless of any contractual provision with an MCO which may require arbitration or mediation.

(7) The hearing officer may not grant a hearing if the issue is a state or federal law requiring an automatic change in eligibility for medical assistance or covered services that affect the Aggrieved Person.

R410-14-5. Request for Hearing.

(1) An aggrieved person shall request a hearing by submitting the request on the DMHF "Request for Hearing/Agency Action" form. The aggrieved person must then mail or fax the form to the address or fax number contained on the Notice of Agency Action or Request for Hearing Form. The request must explain why the aggrieved person is seeking agency relief.

(2) Except as set forth in Section R410-14-20, h[H]earings must be requested within the following deadlines:

(a) A medical assistance provider or recipient must request a hearing within 30 calendar days from the date that DMHF sends written notice of its intended action.

(b) A medical assistance recipient must request a hearing with DWS regarding eligibility for medical assistance within 90 calendar days from the date that the agency sends written notice of its intended action.

(c) A medical assistance recipient must request a hearing with DMHF regarding a determination of disability for the purposes of medical assistance eligibility within 90 calendar days from the date that DMHF sends written notice of its intended action.

(d) A medical assistance recipient must request a hearing regarding approval or denial of a scope of service within 30 calendar days from the date the agency sends written notice of its intended action.

(3) A hearing request that an aggrieved person sends via mail is deemed filed on the date of the postmark. If the postmark date is illegible, erroneous, or omitted, the request is deemed filed on the date that the agency receives it, unless the sender can demonstrate through competent evidence of the mailing date.

(4) Failure to submit a timely request for a hearing constitutes a waiver of an individual's due process rights.

(5) DMHF may dismiss a request for a hearing if the Aggrieved Person:

(a) withdraws the request in writing;

(b) verbally withdraws the hearing request at a prehearing conference;

(c) fails to appear or participate in a scheduled proceeding without good cause;

(d) prolongs the hearing process without good cause;

(e) cannot be located or agency mail is returned without a forwarding address; or

(f) does not respond to any correspondence from the hearing officer or fails to provide medical records that the agency requests.

R410-14-20. MCO Grievance and Appeal System.

(1) The procedures in Section R410-14-20 apply only to appeals or requests for agency action arising from actions taken by an MCO.

([+])2 For the purpose of this section, the following definitions apply:

(a) "[Action]Adverse benefit determination" means one of the following actions by an MCO:

(i) The denial or limited authorization of a requested service, including the type and level of services, requirements for medical necessity, appropriateness, setting, or effectiveness of a covered benefit;

(ii) The reduction, suspension, or termination of a previously authorized service;

(iii) The denial, in whole or in part, of payment for a service;

(iv) The failure to provide services in a timely manner;

(v) The failure to act within the time frames provided in 42 CFR 438.408(b);

(vi) The denial of a request by a Medicaid enrollee[~~s-request~~] who is a resident of a rural area with only one MCO to exercise his or her right under 42 CFR 438.52(b)(2)(ii) to obtain services outside of the network; [~~or~~]

(vii) The denial of an enrollee's request to dispute a financial liability, including cost sharing, copayments, premiums, deductibles, coinsurance, and other enrollee financial liabilities; or

(~~viii~~)viii The restriction of a Medicaid enrollee that utilize services at a frequency or amount that are not medically necessary, in accordance with state utilization guidelines.

(b) "Appeal" means a [request for the MCO-]review by an MCO of an "action" as defined in [this section-]Section R410-14-20 or a request for DMHF to review a final decision rendered by an MCO as a result of the MCO's appeal process.

(c) "Grievance" means an expression of dissatisfaction about any matter other than an adverse benefit determination. Grievances may include, but are not limited to, the quality of care or services provided, and aspects of interpersonal relationships such as rudeness of a provider or employee, or failure to respect the enrollee's rights regardless of whether remedial action is requested. Grievance includes an enrollee's right to dispute an extension of time proposed by the MCO to make an authorization decision.

(d) Grievance and appeal system means the processes the MCO implements to handle appeals of an action and grievances.

(~~e~~)e "Party" means the agency, or other person commencing an adjudicative proceeding, all respondents, and any MCO who is or may be obligated to pay a claim or provide a benefit or service to a recipient.

(~~2~~)3 An MCO shall establish a grievance and appeal system in accordance with this rule, 42 CFR 431.200 et seq. and 438.400 et seq. and the MCO's contractual obligations entered into with DMHF.

(~~3~~)4 The MCO grievance and appeal system shall include a written internal grievance and appeal procedure for aggrieved person to challenge an action by the MCO.[the approval for payment or denial of payment for medical services.]

~~[(4)]5~~ The MCO shall provide to its enrollees and providers written information that explains the grievance and appeal procedure including a right to request a state fair hearing in accordance with this rule.

~~[(5)]6~~ The MCO's notice of action shall comply with the requirements set out in Section R410-14-3 and 42 CFR 438.402 and 438.404.

~~[(6)]7~~ The MCO's written notice of final decision shall comply with the requirements set out in 42 CFR 438.408 and include an explanation of the aggrieved person's right to a state fair hearing pursuant to this rule.

~~[(7)]8~~ State fair hearings.

(a) Unless otherwise stated in this section, an aggrieved party may appeal an MCO final written disposition on an action by requesting a state fair hearing in accordance with this rule. The hearing request must include a copy of the final written notice of the MCO disposition.

(b) An aggrieved person must exhaust the MCO grievance and appeal procedure before [an enrollee or provider may] requesting a state fair hearing for an action other than the restriction of a Medicaid enrollee. In the case of an MCO that fails to adhere to the notice and timing requirements in 42 CFR 438.400 et seq., the enrollee is deemed to have exhausted the MCO's appeals process. The hearing request must include a copy of the final written notice of the MCO decision.

(c) The aggrieved party must ~~[also]~~ request a hearing within ~~[30]~~120 days from the date of the MCO final written notice of the decision.

(d) Multiple MCO Participation in a state fair hearing.

(i) If an appeal is based on a dispute regarding the payment liability between two or more MCOs, the aggrieved person is not required to exhaust the MCO grievance procedure for each MCO before requesting a state fair hearing under this rule.

(ii) If DMHF identifies an MCO that may be liable to pay the claim and did not participate in the underlying grievance procedure, it shall send notice to that MCO that it may be subject to liability and its right to participate in the state fair hearing.

(iii) If more than one MCO is party to the state fair hearing, DMHF shall provide a notice to all parties that shall include the identity of all parties, the reason for the dispute, a copy of the hearing request and a statement that the MCO that did not participate in the underlying grievance and appeal procedure may be subject to payment liability and its right to participate in the state fair hearing.

(e) DMHF may, but is not required to, file an answer or other response or position statement in the hearing proceeding at any time so long as it gives notice to all other parties no less than five days before the hearing. If DMHF chooses not to file a response or position statement, it does not waive its right to participate in the hearing.

(9) Reversed appeal resolutions.

(a) If the MCO or the State fair hearing officer reverses a decision to deny, limit, or delay services that were not furnished while the appeal was pending, the MCO must authorize or provide the disputed services promptly and as expeditiously as the enrollee's health condition requires, but no later than 72 hours from the date it receives notice reversing the determination.

(b) If the MCO or the State fair hearing officer reverses a decision to deny authorization of services, and the enrollee received the disputed services while the appeal was pending, the MCO or the State must pay for those services in accordance with State policy and regulations.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: January 29, 2018

Notice of Continuation: August 14, 2017

Authorizing, and Implemented or Interpreted Law: 26-1-24; 26-1-5; 63G-4-102

Health, Health Care Financing, Coverage and Reimbursement Policy **R414-302-6** Residents of Institutions

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 42487

FILED: 01/19/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this emergency rule is to comply with the provisions of H.B. 437 passed during the 2016 General Session, which requires the Department of Health (Department) to expand Medicaid coverage to individuals who reside in certain institutions for mental diseases (IMDs).

SUMMARY OF THE RULE OR CHANGE: This change expands Medicaid coverage to individuals who reside in an IMD licensed as a Substance Use Disorder (SUD) residential treatment program.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 42 CFR 435.1009 and Section 26-1-5 and Section 26-18-3

EMERGENCY RULE REASON AND JUSTIFICATION:
REGULAR RULEMAKING PROCEDURES WOULD cause an imminent peril to the public health, safety, or welfare.
JUSTIFICATION: This emergency rule is necessary to treat residents in IMDs who suffer from the opioid epidemic and other SUDs in accordance with H.B 437 (2016) and the Medicaid Expansion Waiver.

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is an annual cost of about \$3,000,000 in state funds and about \$7,000,000 in federal funds to treat individuals who reside in an IMD licensed for SUD treatment purposes.

◆ **LOCAL GOVERNMENTS:** There is no impact on local governments because they do not fund IMDs under the Medicaid program.

◆ **SMALL BUSINESSES:** Institutions for SUD treatment may see a portion of annual revenue that totals \$10,000,000 based on 241 beds available to treat residents under expanded Medicaid coverage.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Medicaid providers in institutions for SUD treatment may see a portion of annual revenue that totals \$10,000,000 based on 241 beds available to treat residents under expanded Medicaid coverage. Residents who qualify for treatment coverage will also see a portion of \$10,000,000 in out-of-pocket-savings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because a single institution for SUD treatment will only see potential revenue, and a resident who qualifies for SUD treatment will only see out-of-pocket savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Institutions for SUD treatment may see a portion of annual revenue that totals \$10,000,000 based on 241 beds available to treat residents under expanded Medicaid coverage.

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 PO Box 143102, Salt Lake City, UT 84114-3102

EFFECTIVE: 01/19/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$10,000,000	\$10,000,000	\$10,000,000
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$10,000,000	\$10,000,000	\$10,000,000

Fiscal Benefits				
State Government	\$0	\$0	\$0	
Local Government	\$0	\$0	\$0	
Small Businesses	A portion of \$10,000,000	A portion of 10,000,000	A portion of 10,000,000	
Non-Small Businesses	A portion of \$10,000,000	A portion of 10,000,000	A portion of 10,000,000	
Other Persons	A portion of \$10,000,000	A portion of 10,000,000	A portion of 10,000,000	
Total Fiscal Benefits:	\$10,000,000	\$10,000,000	\$10,000,000	
Net Fiscal Benefits:	Portions of \$10,000,000	Portions of 10,000,000	Portions of 10,000,000	

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

Institutions for Substance Use Disorder (SUD) treatment may see a portion of annual revenue that totals \$10,000,000, based on 241 beds available to treat residents under expanded Medicaid coverage.

The Executive Director of the Department of Health, Joseph K. Miner, M.D., has reviewed and approved this fiscal analysis.

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-302. Eligibility Requirements.

R414-302-6. Residents of Institutions.

(1) ~~[The Department provides Medicaid coverage to individuals who are residents of institutions subject to the limitations in 42 CFR 435.1009 and 435.1010 (October 1, 2015), which the Department adopts and incorporates by reference]~~For purposes of institutions, the definitions in 42 CFR 435.1010 apply.

(2) An individual who resides in a halfway house may receive Medicaid coverage if the halfway house meets the following criteria:

(a) The halfway house allows the individual to work outside the facility;

(b) The halfway house allows the individual to use community facilities at will, such as libraries, grocery stores, recreation areas, or schools; and

(c) The halfway house allows the individual to seek health care treatment in the community to the same extent as other Medicaid enrollees.

(3) The Department does not consider an individual who resides in a temporary shelter for a limited period of time as a resident of an institution.

~~(4) [For individuals under 22 years of age who become residents of an IMD before reaching 21 years of age, the Department limits Medicaid eligibility to individuals residing in the Utah State Hospital.]~~ Individuals who are inmates of public institutions are not eligible for Medicaid coverage.

(5) Individuals who reside in an institution for mental disease (IMD) are not eligible for Medicaid coverage with the following exceptions:

(a) Individuals 65 years of age or older;

(b) Individuals under 22 years of age who receive inpatient psychiatric services as described in 42 CFR 440.160; and

(c) Individuals who reside in an IMD that is licensed as a Substance Use Disorder (SUD) residential treatment program and are receiving treatment for an SUD.

KEY: state residency, citizenship, third party liability, Medicaid
Date of Enactment or Last Substantive Amendment: January 19, 2018

Notice of Continuation: January 8, 2018

Authorizing, and Implemented or Interpreted Law: 26-18-3

**Health, Health Care Financing,
 Coverage and Reimbursement Policy
 R414-308-3
 Application and Signature**

NOTICE OF 120-DAY (EMERGENCY) RULE
 DAR FILE NO.: 42488
 FILED: 01/19/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this emergency rule is to comply with the provisions of H.B. 437 passed during the 2016 General Session, which requires the Department of Health (Department) to expand Medicaid coverage for adults without dependent children.

SUMMARY OF THE RULE OR CHANGE: This rule change expands coverage for a new eligibility group of adults without dependent children. These individuals are required to meet basic Medicaid eligibility criteria, and to meet specific criteria for one of the three following Targeted Adult Medicaid groups: "Chronically Homeless"; "Involved in the Justice System"; or "Needing Substance Use or Mental Health Treatment".

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 42 CFR 435.907 and Section 26-1-5 and Section 26-18-3

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD cause an imminent peril to the public health, safety, or welfare.

JUSTIFICATION: This new coverage group specifically targets the homeless population and substance use disorder treatment for the opioid epidemic. This rule, therefore, is needed to protect the homeless from the harmful effects of this epidemic.

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is an annual cost of about \$26,800,000 in state funds and about \$63,000,000 in federal funds as a result of this change.

◆ **LOCAL GOVERNMENTS:** There is no impact on local governments because they do not fund specific programs for the Medicaid adult population.

◆ **SMALL BUSINESSES:** Small businesses in the fields of social services, mental health, and addiction recovery may see a portion of annual revenue that totals \$100,000,000 based on member eligibility and participation in the Needing Substance Use or Mental Health Treatment group.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Utah Hospital Association will incur an annual cost of about \$10,200,000 to share in the implementation of these new programs. On the other hand, Medicaid providers in the fields of social services, mental health, and addiction recovery may see a portion of annual revenue that totals \$100,000,000 based on member eligibility and participation in the Needing Substance Use or Mental Health Treatment group. As more individuals become eligible for the Chronically Homeless coverage group, homeless shelters will see a decrease in operating costs. Likewise, the public will see a decrease in taxes needed to support jails, prisons, and the court system as more individuals become eligible for the Involved in the Justice System coverage group. All of the aforementioned groups will see a portion of \$100,000,000 in out-of-pocket savings as they are able to access these new services.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because an individual business or provider will only see potential revenue, and an individual who qualifies for one of the coverage groups will only see out-of-pocket savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses in the fields of social services, mental health, and addiction recovery will see a portion of annual revenue that totals \$100,000,000 based on member eligibility and participation in the Needing Substance Use or Mental Health Treatment group.

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 PO Box 143102, Salt Lake City, UT 84114-3102

EFFECTIVE: 01/19/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses
 The Utah Hospital Association will incur an annual cost of about \$10,200,000 to share in the implementation of these new programs. On the other hand, about 2,500 Medicaid providers in the fields of social services, mental health, and addiction recovery may see a portion of annual revenue that totals \$100,000,000 based on member eligibility and participation in the Needing Substance Use or Mental Health Treatment group. As more individuals become eligible for the Chronically Homeless coverage group, all 24 of Utah's homeless shelters will see a decrease in operating costs. Likewise, the public will see a decrease in taxes needed to support jails, prison, and the court system as more individuals become eligible for the Involved in the Justice System coverage group. Medicaid members who qualify for the aforementioned programs will share a portion of \$100,000,000 in out-of-pocket savings as they are able to access new services.

The Executive Director of the Department of Health, Joseph K. Miner, M.D., has reviewed and approved this fiscal analysis.

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$100,000,000	\$100,000,000	\$100,000,000
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$10,200,000	\$10,200,000	\$10,200,000
Total Fiscal Costs:	\$110,200,000	\$110,200,000	\$110,200,000
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	A portion of \$100,000,000	A portion of 100,000,000	A portion of 100,000,000
Non-Small Businesses	A portion of \$100,000,000	A portion of 100,000,000	A portion of 100,000,000
Other Persons	A portion of \$100,000,000	A portion of 100,000,000	A portion of 100,000,000
Total Fiscal Benefits:	\$100,000,000	\$100,000,000	\$100,000,000
Net Fiscal Benefits:	Portions of \$100,000,000	Portions of 100,000,000	Portions of 100,000,000

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-308. Application, Eligibility Determinations and Improper Medical Assistance.

R414-308-3. Application and Signature.

(1) The Department adopts and incorporates by reference, 42 CFR 435.907, October 1, 2012 ed., concerning the application requirements for medical assistance programs.

(a) The applicant or authorized representative must complete and sign the application under penalty of perjury. If an applicant cannot write, the applicant must make his mark on the application form and have at least one witness to the signature.

(b) A representative may apply on behalf of an individual. A representative may be a legal guardian, a person holding a power of attorney, a representative payee or other responsible person acting on behalf of the individual. In this case, the eligibility agency may send notices, requests and forms to both the individual and the individual's representative, or to just the individual's representative. The eligibility agency may assign someone to act as the authorized representative when the individual requires help to apply and cannot appoint a representative.

(c) If the Division of Child and Family Services (DCFS) has custody of a child and the child is placed in foster care, DCFS completes the application. DCFS determines eligibility for the child pursuant to a written agreement with the Department. DCFS also determines eligibility for children placed under a subsidized adoption agreement. The Department does not require an application for Title IV-E eligible children.

(2) The application date for medical assistance is the date that the eligibility agency receives the application during normal business hours on a week day that does not include Saturday, Sunday or a state holiday except as described below:

(a) When the individual applies through the federally facilitated marketplace (FFM) and the application is transferred from the FFM for a Medicaid eligibility determination, the date of application is the date the individual applies through the FFM.

(b) If the application is delivered to the eligibility agency after the close of business, the date of application is the next business day;

(c) If the applicant delivers the application to an outreach location during normal business hours, the date of application is that business day when outreach staff is available to receive the application. If the applicant delivers the application to an outreach location on a non-business day or after normal business hours, the date of application is the last business day that a staff person from the eligibility agency was available at the outreach location to receive or pick up the application;

(d) When the eligibility agency receives application data transmitted from the Social Security Administration (SSA) pursuant to the requirements of 42 U.S.C. Sec. 1320b-14(c), the eligibility agency shall use the date that the individual submits the application for the low-income subsidy to the SSA as the application date for Medicare cost sharing programs. The application processing period for the transmitted data begins on the date that the eligibility agency receives the transmitted data. The transmitted data meets the signature requirements for applications for Medicare cost sharing programs;

(e) If an application is filed through the "myCase" system, the date of application is the date the application is submitted to the eligibility agency online.

(3) The eligibility agency shall accept a signed application that an applicant sends by facsimile as a valid application.

(4) If an applicant submits an unsigned or incomplete application form to the eligibility agency, the eligibility agency shall notify the applicant that he must sign and complete the application no later than the last day of the application processing period. The eligibility agency shall send a signature page to the applicant and give the applicant at least ten days to sign and return the signature page. When the application is incomplete, the eligibility agency shall notify the applicant of the need to complete the application and offer ways to complete the application.

(a) The date of application for an incomplete or unsigned application form is the date that the eligibility agency receives the application if the agency receives a signed signature page and completed application within the application processing period.

(b) If the eligibility agency does not receive a signed signature page and completed application form within the application processing period, the application is void and the eligibility agency shall send a denial notice to the applicant.

(c) If the eligibility agency receives a signed signature page and completed application within 30 calendar days after the notice of denial date, the date of receipt is the new application date and the provisions of Section R414-308-3(2) apply.

(d) If the eligibility agency receives a signed signature page and completed application more than 30 calendar days after it sends the denial notice, the applicant must reapply by completing and submitting a new application form. The new application date is determined in accordance with this rule.

(5) The eligibility agency treats the following situations as a new application without requiring a new application form. The application date is the day that the eligibility agency receives the request or verification from the recipient. The effective date of eligibility for these situations depends on the rules for the specific program:

(a) A household with an open medical assistance case asks to add a new household member by contacting the eligibility agency;

(b) The eligibility agency ends medical assistance when the recipient fails to return requested verification, and the recipient provides all requested verification to the eligibility agency before the end of the calendar month that follows the closure date. The eligibility agency waives the requirement for the open enrollment period during that calendar month for programs subject to open enrollment;

(c) A medical assistance program other than PCN ends due to an incomplete review, and the recipient responds to the review request within the three calendar months that follow the closure date. The provisions of Section R414-310-14 apply to recertification for PCN enrollment;

(d) Except for PCN, Targeted Adult Medicaid and UPP that are subject to open enrollment periods, the eligibility agency denies an application when the applicant fails to provide all requested verification, but provides all requested verification within 30 calendar days of the denial notice date. The new application date is the date that the eligibility agency receives all requested verification and the retroactive period is based on that date. The eligibility agency does not act if it receives verification more than 30 calendar days after it denies the application. The recipient must complete a new application to reapply for medical assistance;

(e) For PCN, Targeted Adult Medicaid and UPP applicants, the eligibility agency denies an application when the applicant fails to provide all requested verification, but provides all requested verification within 30 calendar days of the denial notice date and the eligibility agency has not stopped the open enrollment period. If the eligibility agency has stopped enrollment, the applicant must wait for an open enrollment period to reapply.

(6) The eligibility agency shall use the 2013 eligibility criteria in effect from October 1, 2013, through December 31, 2013, when considering applications that it receives during that time period. The agency may also use the three-month retroactive period.

(7) For an individual who applies for and is found ineligible for Medicaid from October 1, 2013, and December 31, 2013, the eligibility agency shall redetermine eligibility under the policies that become effective January 1, 2014, using the modified adjusted gross income (MAGI)-based methodology without requiring a new application.

(a) Medicaid eligibility may begin no earlier than January 1, 2014, for an individual who becomes eligible using the MAGI-based methodology;

(b) For applications received on or after January 1, 2014, the eligibility agency shall apply the MAGI-based methodology first to determine Medicaid eligibility.

(c) The eligibility agency shall determine eligibility for other Medicaid programs that do not use MAGI-based methodology if the individual meets the categorical requirements of these programs, which may include a medically needy eligibility group for individuals found ineligible using the MAGI-based methodology.

(8) If a medical assistance case closes for one or more calendar months, the recipient must complete a new application form to reapply, except as defined in Subsection R414-308-6(7).

(9) An individual determined eligible for a presumptive eligibility period must file an application for medical assistance with the eligibility agency in accordance with the requirements of Sections 1920, 1920A and 1920B of the Social Security Act.

(10) The eligibility agency shall process low-income subsidy application data transmitted from SSA in accordance with 42 U.S.C. Sec. 1320b-14(c) as an application for Medicare cost sharing

programs. The eligibility agency shall take appropriate steps to gather the required information and verification from the applicant to determine the applicant's eligibility.

(a) Data transmitted from SSA is not an application for Medicaid.

(b) An individual who wants to apply for Medicaid when contacted for information to process the application for Medicare cost sharing programs must complete and sign a Department-approved application form for medical assistance. The date of application for Medicaid is the date that the eligibility agency receives the application for Medicaid.

KEY: public assistance programs, applications, eligibility, Medicaid

Date of Enactment or Last Substantive Amendment: January 19, 2018

Notice of Continuation: January 8, 2018

Authorizing, and Implemented or Interpreted Law: 26-18

Health, Health Care Financing, Coverage and Reimbursement Policy **R414-311** Targeted Adult Medicaid

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 42489

FILED: 01/19/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this emergency rule is to comply with the provisions of H.B. 437 passed during the 2016 General Session, which requires the Department of Health (Department) to expand Medicaid coverage for adults without dependent children.

SUMMARY OF THE RULE OR CHANGE: This rule change expands coverage for a new eligibility group of adults without dependent children. These individuals are required to meet basic Medicaid eligibility criteria, and to meet specific criteria for one of the three following Targeted Adult Medicaid groups: "Chronically Homeless"; "Involved in the Justice System"; or "Needing Substance Use or Mental Health Treatment".

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5 and Section 26-18-3 and Subsection 1115(f) of the Social Security Act

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD cause an imminent peril to the public health, safety, or welfare.

JUSTIFICATION: This new coverage group specifically targets the homeless population who need substance use disorder treatment for the opioid epidemic. This rule,

therefore, is needed to protect the homeless from the harmful effects of this epidemic.

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is an annual cost of about \$26,800,000 in state funds and about \$63,000,000 in federal funds as a result of this amendment.

◆ **LOCAL GOVERNMENTS:** There is no impact on local governments because they do not fund specific programs for the Medicaid adult population.

◆ **SMALL BUSINESSES:** Small businesses in the fields of social services, mental health, and addiction recovery may see a portion of annual revenue that totals \$100,000,000 based on member eligibility and participation in the Needing Substance Use or Mental Health Treatment group.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Utah Hospital Association will incur an annual cost of about \$10,200,000 to share in the implementation of these new programs. On the other hand, Medicaid providers in the fields of social services, mental health, and addiction recovery may see a portion of annual revenue that totals \$100,000,000 based on member eligibility and participation in the Needing Substance Use or Mental Health Treatment group. As more individuals become eligible for the Chronically Homeless coverage group, homeless shelters will see a decrease in operating costs. Likewise, the public will see a decrease in taxes needed to support jails, prisons, and the court system as more individuals become eligible for the Involved in the Justice System coverage group. All of the aforementioned groups will see a portion of \$100,000,000 in out-of-pocket savings as they are able to access these new services.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs because an individual business or provider will only see potential revenue, and an individual who qualifies for one of the coverage groups will only see out-of-pocket savings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses in the fields of social services, mental health, and addiction recovery will see a portion of annual revenue that totals \$100,000,000 based on member eligibility and participation in the Needing Substance Use or Mental Health Treatment group.

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 PO Box 143102, Salt Lake City, UT 84114-3102

EFFECTIVE: 01/19/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$100,000,000	\$100,000,000	\$100,000,000
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$10,200,000	\$10,200,000	\$10,200,000
Total Fiscal Costs:	\$110,200,000	\$110,200,000	\$110,200,000
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	A portion of \$100,000,000	A portion of 100,000,000	A portion of 100,000,000
Non-Small Businesses	A portion of \$100,000,000	A portion of 100,000,000	A portion of 100,000,000
Other Persons	A portion of \$100,000,000	A portion of 100,000,000	A portion of 100,000,000
Total Fiscal Benefits:	\$100,000,000	\$100,000,000	\$100,000,000
Net Fiscal Benefits:	Portions of \$100,000,000	Portions of 100,000,000	Portions of 100,000,000

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses
 The Utah Hospital Association will incur an annual cost of about \$10,200,000 to share in the implementation of these new programs. On the other hand, about 2,500 Medicaid providers in the fields of social services, mental health,

and addiction recovery may see a portion of annual revenue that totals \$100,000,000 based on member eligibility and participation in the Needing Substance Use or Mental Health Treatment group. As more individuals become eligible for the Chronically Homeless coverage group, all 24 of Utah's homeless shelters will see a decrease in operating costs. Likewise, the public will see a decrease in taxes needed to support jails, prison, and the court system as more individuals become eligible for the Involved in the Justice System coverage group. Medicaid members who qualify for the aforementioned programs will share a portion of \$100,000,000 in out-of-pocket savings as they are able to access new services.

The Executive Director of the Department of Health, Joseph K. Miner, M.D., has reviewed and approved this fiscal analysis.

R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

R414-311. Targeted Adult Medicaid.

R414-311-1. Introduction and Authority.

(1) This rule is authorized by Sections 26-1-5 and 26-18-3 and allowed under Subsection 1115(f) of the Social Security Act.

(2) This rule establishes eligibility requirements for enrollment under the 1115 Demonstration Waiver for Adults without Dependent Children, also known as the Targeted Adult Medicaid program.

R414-311-2. Definitions

The definitions in Rules R414-1 and R414-301 apply to this rule. In addition, the following definitions apply throughout this rule:

(1) "Chronically Homeless Individual" means an individual who has a substance use disorder, serious mental illness, developmental disability, post-traumatic stress disorder, cognitive impairments resulting from a brain injury, or chronic illness or disability; and

(a) is living or residing for at least 12 months, or on at least four separate occasions that amount to at least 12 months in the last three years, in a place not meant for human habitation, in a safe haven, or in an emergency shelter; or

(b) is living in supportive housing and has previously met the criteria established in Subsection R414-311-2(2)(a).

(2) "Dependent Child" means a child who is under 19 years of age and required to be included in the Targeted Adult Medicaid household size.

(3) "Individual Needing Treatment" means an individual who:

(a) is receiving General Assistance from the Department of Workforce Services and has been diagnosed with a substance use or mental health disorder;

(b) was discharged from the Utah State Hospital and was admitted due to a civil commitment; or

(c) is living or residing for at least 6 months within a 12 month period in a place not meant for human habitation, in a safe haven, or an emergency shelter, and has a substance use or serious mental health disorder.

(4) "Justice Involved Individuals" means an individual who:

(a) has complied with and substantially completed a substance use disorder treatment program while incarcerated in jail or prison; or

(b) was discharged from the Utah State Hospital and was admitted to the civil unit in connection with a criminal charge, or to the forensic unit due to a criminal offense, with which the individual was charged or convicted; or
(c) is involved with a drug or mental health court.

R414-311-3. General Provisions.

(1) The provisions in Rule R414-301 apply to all applicants and enrollees, except that applicants and enrollees are required to report only the following changes in circumstances:

(a) The individual moves out of state; or
(b) The individual enters a public institution or an institution for mental disease.

R414-311-4. General Eligibility Requirements.

Unless otherwise stated, the provisions in Rule R414-302 and Section R414-306-4 apply to applicants and enrollees.

(1) The following individuals are not eligible for Targeted Adult Medicaid:

(a) Individuals who do not meet the coverage group criteria of being chronically homeless, justice involved, or needing treatment as defined in Section R414-311-2;
(b) Individuals who have a dependent child under 19 years old; and

(c) Individuals eligible for another Medicaid program.
(2) A member shall be at least 19 years old, but shall be younger than 65 years old to enroll in Targeted Adult Medicaid.

(a) The month in which an individual turns 19 years old is the first month in which the member may enroll in Targeted Adult Medicaid.

(b) A member may only enroll in Targeted Adult Medicaid through the month in which the member turns 65 years old.

(3) The eligibility agency only enrolls applicants during an open enrollment period. The eligibility agency may limit the number it enrolls and may stop enrollment at any time. The open enrollment period may be limited to a coverage group or a subgroup within the coverage group.

(4) The eligibility agency shall waive the open enrollment requirement for the following situations:

(a) The individual who was previously on Targeted Adult Medicaid, and is moving from another Medicaid program back to Targeted Adult Medicaid, is otherwise eligible, and there is no break in coverage between the medical programs;

(b) The individual is no longer eligible for PCN, is otherwise eligible, and there is no break in coverage between the two medical programs; or

(c) The enrollee completes a review within three months of case closure as outlined in Section R414-308-6.

(5) A resource test is not required.

R414-311-5. Application, Eligibility Reviews and Improper Medical Assistance.

(1) Unless otherwise stated, the provisions of Rule R414-308 apply to applicants and enrollees.

(2) Subject to the provisions of Subsection R414-311-5(3), an individual who is determined eligible shall receive 12 months of coverage that begins with the first month of enrollment.

(3) Coverage for Targeted Adult Medicaid may end before the end of the 12-month certification period if the individual:

(a) turns 65 years old;
(b) moves out of state;
(c) becomes eligible for another Medicaid program;
(d) enters a public institution or an institution for mental disease, except as described in Section R414-302-6;
(e) is convicted of fraud; or
(f) leaves the household.

(4) An individual who leaves prison, jail or the Utah State Hospital must submit an application within 60 days of release or discharge.

(5) An enrollee must verify at each review that he meets the criteria of a coverage group as defined in Section R414-311-2. An enrollee who no longer meets criteria of a coverage group is no longer eligible for Targeted Adult Medicaid.

R414-311-6. Household Composition and Income Provisions.

(1) The eligibility agency shall use the provisions of Section R414-304-5 to determine household composition and countable income.

(2) Section R414-304-12 applies to the budgeting of income through the Modified Adjusted Gross Income (MAGI) methodology.

(3) For an individual to be eligible to enroll in Targeted Adult Medicaid, the individual must have zero countable income.

KEY: Medicaid, Targeted Adult Medicaid, eligibility

Date of Enactment or Last Substantive Amendment: January 19, 2018

Authorizing, and Implemented or Interpreted Law: 26-18-3

Technology Services, Administration
R895-12
 Telecommunications Services and
 Requirements

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 42529

FILED: 01/30/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: As provided in Section 63F-1-206, all state agencies must subscribe to the telecommunications services of the Department of Technology Services, unless exempted by law. The purpose of this rule is to specify the standards and procedures required of state agencies for telecommunications services.

SUMMARY OF THE RULE OR CHANGE: The purpose of this rule is to specify the standards and procedures required of state agencies for telecommunications services. There is no change from the rule that expired on 01/30/2018. This filing puts the rule back in place.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63F-1-206

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law. JUSTIFICATION: Subsection 63F-1-206-1(a)(viii) requires the Chief Information Officer to establish a rule for telecommunications standards and specifications.

ANTICIPATED COST OR SAVINGS TO:
 ♦ THE STATE BUDGET: There is no anticipated cost or savings to the state budget because this rule only provides standards and specifications for telecommunications, with no changes to the original content.
 ♦ LOCAL GOVERNMENTS: There is no anticipated cost or savings to local governments because this rule only provides standards and specifications for telecommunications, with no changes to the original content.
 ♦ SMALL BUSINESSES: There is no anticipated cost or savings to small businesses because this rule only provides standards and specifications for telecommunications, with no changes to the original content.
 ♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no anticipated cost or savings to other persons because this rule only provides standards and specifications for telecommunications, with no changes to the original content.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no anticipated compliance costs because this rule only provides standards and specifications for telecommunications, with no changes to the original content.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no anticipated fiscal impact to businesses because this rule only provides standards and specifications for telecommunications, with no changes to the original content.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 TECHNOLOGY SERVICES
 ADMINISTRATION
 ROOM 6000 STATE OFFICE BUILDING
 450 N STATE ST
 SALT LAKE CITY, UT 84114
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Stephanie Weteling by phone at 801-538-3284, by FAX at 801-538-3622, or by Internet E-mail at stephanie@utah.gov

EFFECTIVE: 01/30/2018

AUTHORIZED BY: Michael Hussey, Executive Director and CIO

R895. Technology Services, Administration.
R895-12. Telecommunications Services and Requirements.

R895-12-1. Purpose.
As provided in Section 63F-1-206, all state agencies must subscribe to the telecommunications services of the Department of Technology Services, unless excepted by law. The purpose of this rule is to specify the standards and procedures required of state agencies for telecommunications services.

R895-12-2. Definitions.
(1) "agency" means all state agencies that fall within the purview 63F-1-102.
(2) "division" means the Division of Enterprise Services.

R895-12-3. Required Agency Coordination with the Division of Enterprise Services.

- A. Pursuant to Section 63F-1-206, all state agencies shall coordinate with and adhere to the requirements of the Division when:
1. in need of consulting assistance on telecommunications systems;
 2. installing a new telecommunications system;
 3. making additions or changes to a telecommunications system; or
 4. moving all or some agency offices to a new location.
- B. Agencies shall contact the Division about, and the Division shall provide assistance with:
1. evaluations of systems and system changes;
 2. long distance services and costs;
 3. technical training;
 4. service and equipment procurement;
 5. bid and proposal specifications and evaluations;
 6. liaison with vendors;
 7. maintenance contracts;
 8. networking;
 9. billing and questions on billings;
 10. repair service;
 11. operator assistance;
 12. wiring and wire installation;
 13. equipment and problems and alternatives;
 14. line information and installation; and
 15. other similar services.

R895-12-4. Delegation of Authority over Telecommunications Functions.

- A. Pursuant to Section 63F-1-208, the Division may delegate specific telecommunications functions to specific agencies by written interagency agreement signed by the Division director and the head of the agency to which the authority is delegated.
- B. Delegation agreements are subject to the approval of the executive director of the Department of Technology Services.
- C. Terms of the interagency agreement must adhere to the provisions of Section 63F-1-208 and shall be audited for compliance by the Division at least annually.
- D. Upon an audit finding of agency non-compliance, the Division director shall issue a written report to the Director of the Department of Technology Services recommending termination of the agreement or other corrective action. The Division shall send copies to the subject agency and head of the agency's department.

E. The Division shall provide any agency found in non-compliance an opportunity for an informal hearing or written response.

F. If, after receiving the agency's response, the Division still finds non-compliance with agreement terms, the Division shall terminate the agreement, subject to approval of the Director of the Department of Technology Services.

R895-12-5. Telecommunications Standards and Specifications.

A. The Division shall develop and update a listing of statewide telecommunications standards and specifications. Agencies may obtain copies of the current standards and specifications from the Division upon request.

B. Because most standards and specifications may vary considerably from one system to another, the Division shall specify all

applicable standards and specifications in each agency contract or interagency delegation agreement.

R895-12-6. Fee Schedules.

As provided in Section 63A-6-105, the Division shall determine a schedule of service fees to be charged agencies, based on the most cost effective and economical alternatives.

KEY: telecommunications, data processing, appellate procedures
Date of Enactment or Last Substantive Amendment: January 30, 2018

Authorizing, and Implemented or Interpreted Law: 63A-6-101 et seq.; 63F-1-102; 63F-1-206; 63F-1-208

End of the Notices of 120-Day (Emergency) Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at <http://www.rules.utah.gov/publicat/code.htm>. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

REVIEWS are governed by Section 63G-3-305.

Agriculture and Food, Plant Industry **R68-5** Grain Inspection

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 42530
FILED: 01/30/2018

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 under Subsection 4-2-103(g) which grants the Department of Agriculture and Food (Department) authority to establish a fee for services that are rendered by the Department. Additionally, the Department is allowed to set standards and grades for agricultural products.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments received either supporting or opposing this rule by the Department.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary in order to facilitate interstate commerce. The Department provides the service for the producer without which they would not be able to sell their product. Additionally, it ensures that products being sold meet a specific standard and is labeled as such.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Melissa Ure by phone at 801-538-4976, or by Internet E-mail at mure@utah.gov
- ◆ Robert Hougaard by phone at 801-538-7187, by FAX at 801-538-7189, or by Internet E-mail at rhougaard@utah.gov
- ◆ Scott Ericson by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at sericson@utah.gov

AUTHORIZED BY: LuAnn Adams, Commissioner

EFFECTIVE: 01/30/2018

Environmental Quality, Water Quality **R317-9** Administrative Procedures

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 42509
FILED: 01/24/2018

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 the Administrative Procedures Act, Title 63G, Chapter 4, as

required, for the Division of Water Quality. The Water Quality Board is given rulemaking authority in Section 19-4-104, of the Utah Water Quality Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received since the last five-year review of this rule from any 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: This rule sets forth the administrative procedures of the Division of Water Quality in compliance with the Administrative Procedures Act and consolidates these procedures into one location. 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: 01/24/2018

rulemaking authority in Section 19-4-104 of the Utah Water Quality Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments either supporting or opposing this rule were received since the rule was originally adopted in February 2008.

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 defines terms and establishes administrative requirements for water reuse projects, including application and approval procedures. This rule is necessary to implement the provisions of the Wastewater Reuse Act and the Board's authority to issue reuse permits under Subsection 19-5-104(3)(f). 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: 01/24/2018

**Environmental Quality, Water Quality
 R317-13
 Approvals and Permits for a Water
 Reuse Project**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 42510
 FILED: 01/24/2018

**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 was adopted in 2008 to implement the requirements of the Wastewater Reuse Act, Title 73, Chapter 3c. The Water Quality Board is given

**Environmental Quality, Water Quality
 R317-14
 Approval of Change in Point of
 Discharge of POTW**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 42511
 FILED: 01/24/2018

**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 was adopted in 2008 to implement the requirements of the Wastewater Reuse Act,

Section 73-3c-304. The Water Quality Board is given rulemaking authority in Section 19-4-104 of the Utah Water Quality 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 have been received since the last five-year review of this rule from any 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: This rule defines terms and describes administrative procedures for considering changes in the point of discharge from a POTW. These procedures are needed to implement the requirements of Section 73-3c-304 and administer the Utah Pollution Discharge Elimination System (UPDES) under Rule R317-8. 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: 01/24/2018

**Health, Disease Control and
Prevention, Environmental Services
R392-700**

Indoor Tanning Bed Sanitation

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42491
FILED: 01/19/2018

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Rule R392-700 is authorized

under Section 26-1-5, Subsection 26-15-2(18), and Section 26-15-13. Section 26-1-5 gives the Department of Health (Department) rulemaking authority to carry out the provisions of Title 26. Subsection 26-15-2(18) authorizes the Department to adopt rules and enforce minimum sanitary standards for the operation and maintenance of commercial tanning facilities. Section 26-15-13 details specific prohibitions for minors, and establishes powers and duties of the Department to adopt rules and enforce minimum sanitary standards for the operation and maintenance of commercial tanning facilities.

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 sought comments from the local health departments in Utah, as well as the commercial tanning industry. No comments were received in opposition to a continuation of Rule R392-700. An individual from one local health department provided a comment, asking the Department to consider a revision of a select regulatory requirement as summarized: From the Weber-Morgan Health Department: Section R392-700-10 requires the operator to sanitize items with chlorine or quaternary ammonia compound. Should the rule require the operator to use sanitizer test strips to ensure adequate chemical concentration?

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Continuation of Rule R392-700 is recommended by the Department. This rule establishes a minimum set of sanitation, maintenance, and operation standards that a commercial tanning facility can meet to protect the health of patrons, and to ensure that the facility and equipment is maintained in a clean and sanitary condition.

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

HEALTH
DISEASE CONTROL AND PREVENTION,
ENVIRONMENTAL SERVICES
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:

♦ Chris Nelson by phone at 801-538-6739, or by Internet E-mail at chrisnelson@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 01/19/2018

Health, Family Health and Preparedness, Licensing

R432-1

General Health Care Facility Rules

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 42520
FILED: 01/29/2018

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 26, Chapter 21, is the health code that mandates the licensing of health care facilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments from any party 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 continues to be required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. The Department of Health agrees with the need to continue this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Carmen Richins by phone at 801-273-2802, by FAX at 801-274-0658, or by Internet E-mail at carmenrichins@utah.gov
♦ Joel Hoffman by phone at 801-273-2804, by FAX at 801-274-0658, or by Internet E-mail at jhoffman@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 01/29/2018

Health, Family Health and Preparedness, Licensing

R432-2

General Licensing Provisions

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 42521
FILED: 01/29/2018

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 26, Chapter 21, is the health code that mandates the licensing of health care facilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments from any party 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 continues to be required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. The Department of Health agrees with the need to continue this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Carmen Richins by phone at 801-273-2802, by FAX at 801-274-0658, or by Internet E-mail at carmenrichins@utah.gov
♦ Joel Hoffman by phone at 801-273-2804, by FAX at 801-274-0658, or by Internet E-mail at jhoffman@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 01/29/2018

Health, Family Health and Preparedness, Licensing

R432-3

General Health Care Facility Rules Inspection and Enforcement

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 42522
FILED: 01/29/2018

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 26, Chapter 21, is the health code that mandates the licensing of health care facilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments from any party 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 continues to be required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. The Department of Health agrees with the need to continue this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Carmen Richins by phone at 801-273-2802, by FAX at 801-274-0658, or by Internet E-mail at carmenrichins@utah.gov
♦ Joel Hoffman by phone at 801-273-2804, by FAX at 801-274-0658, or by Internet E-mail at jhoffman@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 01/29/2018

Health, Family Health and Preparedness, Licensing

R432-4

General Construction

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 42523
FILED: 01/29/2018

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 26, Chapter 21, is the health code that mandates the licensing of health care facilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments from any party 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 continues to be required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. The Department of Health agrees with the need to continue this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Carmen Richins by phone at 801-273-2802, by FAX at 801-274-0658, or by Internet E-mail at carmenrichins@utah.gov
♦ Joel Hoffman by phone at 801-273-2804, by FAX at 801-274-0658, or by Internet E-mail at jhoffman@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 01/29/2018

Health, Family Health and Preparedness, Licensing

R432-5

Nursing Facility Construction

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 42524
FILED: 01/29/2018

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 26, Chapter 21, is the health code that mandates the licensing of health care facilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments from any party 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 continues to be required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. The Department of Health agrees with the need to continue this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Carmen Richins by phone at 801-273-2802, by FAX at 801-274-0658, or by Internet E-mail at carmenrichins@utah.gov
- ◆ Joel Hoffman by phone at 801-273-2804, by FAX at 801-274-0658, or by Internet E-mail at jhoffman@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 01/29/2018

Health, Family Health and Preparedness, Licensing

R432-6

Assisted Living Facility General Construction

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 42525
FILED: 01/29/2018

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 26, Chapter 21, is the health code that mandates the licensing of health care facilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments from any party 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 continues to be required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. The Department of Health agrees with the need to continue this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Carmen Richins by phone at 801-273-2802, by FAX at 801-274-0658, or by Internet E-mail at carmenrichins@utah.gov
- ◆ Joel Hoffman by phone at 801-273-2804, by FAX at 801-274-0658, or by Internet E-mail at jhoffman@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 01/29/2018

Health, Family Health and Preparedness, Licensing
R432-16

Hospice Inpatient Facility Construction

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 42518
FILED: 01/29/2018

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 26, Chapter 21, is the health code that mandates the licensing of health care facilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments from any party 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 continues to be required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. The Department of Health agrees with the need to continue this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Carmen Richins by phone at 801-273-2802, by FAX at 801-274-0658, or by Internet E-mail at carmenrichins@utah.gov
- ◆ Joel Hoffman by phone at 801-273-2804, by FAX at 801-274-0658, or by Internet E-mail at jhoffman@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 01/29/2018

Health, Family Health and Preparedness, Licensing
R432-35

Background Screening -- Health Facilities

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 42519
FILED: 01/29/2018

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 26, Chapter 21, is the health code that mandates the licensing of health care facilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments from any party 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 continues to be required by Title 26, Chapter 21, of the Health Facility Licensure and Inspection Act. The Department of Health agrees with the need to continue this rule.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Carmen Richins by phone at 801-273-2802, by FAX at 801-274-0658, or by Internet E-mail at carmenrichins@utah.gov
- ◆ Joel Hoffman by phone at 801-273-2804, by FAX at 801-274-0658, or by Internet E-mail at jhoffman@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 01/29/2018

Human Services, Aging and Adult Services

R510-105

"Out and About" Homebound Transportation Assistance Fund Rules

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 42485
FILED: 01/17/2018

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 "Out and About" fund is a special revenue fund created by Section 62A-3-110 to provide public transportation assistance for seniors and people with disabilities. This account collects funds on an ongoing basis and requires this rule to determine the use of the collected funds.

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 account continues to collect funds and the funds are used for transportation opportunities as outlined in this rule. Given the ongoing collection of funds, this rule is necessary to ensure the collected funds are used appropriately. Therefore, this rule should be continued.

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

HUMAN SERVICES
AGING AND ADULT SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at nholmgren@utah.gov

AUTHORIZED BY: Nels Holmgren, Director

EFFECTIVE: 01/17/2018

Natural Resources; Oil, Gas and Mining; Administration

R642-200

Applicability

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 42495
FILED: 01/24/2018

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 concerning the applicability of Title R642 is authorized under the rulemaking authority granted in Sections 40-6-5, 40-8-6, and 40-10-6, and is specifically authorized by the Government Records and Management Act (GRAMA) at Subsection 63G-2-201(6) which addresses applicability of other laws or regulations on disclosure of records.

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 is necessary to reflect the applicability of Title R642, Records of the Division and Board, when federal laws or regulations are also established for disclosure of records and are a condition for participation in a federal program. This rule should be continued so Utah's Coal Program continues to retain primacy under the federal Surface Mining Control and Reclamation Act.

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

NATURAL RESOURCES
OIL, GAS AND MINING; ADMINISTRATION
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ James Owen by phone at 801-538-5328, or by Internet E-mail at jcowen@utah.gov
♦ John Baza by phone at 801-538-5334, by FAX at 801-359-3940, or by Internet E-mail at johnbaza@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 01/24/2018

**Natural Resources; Oil, Gas and
Mining; Coal
R645-101
Restrictions on State Employees**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42496

FILED: 01/24/2018

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 40-10-6 and 40-10-6.5 provide rulemaking authority to the Board of Oil, Gas and Mining as necessary for the regulation of coal mining operations and reclamation operations. Section 40-10-17 specifically provides that no employee of the division performing any function under Title 40, Chapter 10, shall have a direct or indirect financial interest in a coal mining operation.

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 is necessary to restrict financial interests in coal mining operations by the Division of Oil, Gas and Mining staff involved in coal regulation. This rule should be continued so Utah's Coal Program continues to retain primacy under the federal Surface Mining Control and Reclamation Act.

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

NATURAL RESOURCES
OIL, GAS AND MINING; COAL
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ James Owen by phone at 801-538-5328, or by Internet E-mail at jcowen@utah.gov

◆ John Baza by phone at 801-538-5334, by FAX at 801-359-3940, or by Internet E-mail at johnbaza@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 01/24/2018

**Natural Resources; Oil, Gas and
Mining; Coal
R645-102**

**Exemption for Coal Extraction Incident
to Government-Financed Highway or
Other Construction**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42497

FILED: 01/24/2018

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 40-10-6 and 40-10-6.5 provide rulemaking authority to the Board of Oil, Gas, and Mining as necessary for the regulation of coal mining operations and reclamation operations. Subsection 40-10-5(2) specifically authorizes an exemption from Title 40, Chapter 10, for extraction of coal as an incidental part of federal, state, or local government-financed highway, or other construction under rules established by the Division of Oil, Gas and Mining.

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 is necessary as it establishes an exemption to the coal mining and reclamation requirements for extraction of coal that is incidental to a government-financed highway or other construction. This rule should be continued so Utah's Coal Program continues to retain primacy under the federal Surface Mining Control and Reclamation Act.

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

NATURAL RESOURCES
OIL, GAS AND MINING; COAL
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ James Owen by phone at 801-538-5328, or by Internet E-mail at jcowen@utah.gov
- ◆ John Baza by phone at 801-538-5334, by FAX at 801-359-3940, or by Internet E-mail at johnbaza@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 01/24/2018

**Natural Resources; Oil, Gas and
Mining; Coal
R645-104
Protection of Employees**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION
DAR FILE NO.: 42498
FILED: 01/24/2018**

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 40-10-6 and 40-10-6.5 provide rulemaking authority to the Board of Oil, Gas and Mining as necessary for the regulation of coal mining operations and reclamation operations. Section 40-10-6.7 specifically provides the authority for administrative procedures for proceedings conducted under Title 40, Chapter 10, and guarantees the parties' due process rights.

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 is necessary to identify the processes for protection of employees in the performance of their coal mining regulation work. This rule should be continued so Utah's Coal Program continues to retain

primacy under the federal Surface Mining Control and Reclamation Act.

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

NATURAL RESOURCES
OIL, GAS AND MINING; COAL
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ James Owen by phone at 801-538-5328, or by Internet E-mail at jcowen@utah.gov
- ◆ John Baza by phone at 801-538-5334, by FAX at 801-359-3940, or by Internet E-mail at johnbaza@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 01/24/2018

**Natural Resources; Oil, Gas and
Mining; Coal
R645-401
Inspection and Enforcement: Civil
Penalties**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION
DAR FILE NO.: 42499
FILED: 01/24/2018**

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 40-10-6 and 40-10-6.5 provide rulemaking authority to the Board of Oil, Gas and Mining as necessary for the regulation of coal mining operations and reclamation operations. Section 40-10-20 specifically authorizes civil penalties for violation of Title 40, Chapter 10.

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 is implemented to deter violations of the Coal Program regulations via the assessment of civil penalties. This rule should be continued so Utah's Coal Program continues to retain primacy under the federal Surface Mining Control and Reclamation Act.

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

NATURAL RESOURCES
OIL, GAS AND MINING; COAL
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ James Owen by phone at 801-538-5328, or by Internet E-mail at jcowen@utah.gov
♦ John Baza by phone at 801-538-5334, by FAX at 801-359-3940, or by Internet E-mail at johnbaza@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 01/24/2018

**Natural Resources; Oil, Gas and
Mining; Non-coal
R647-1
Minerals Regulatory Program**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42500
FILED: 01/24/2018

**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 40-8-6 provides authority to the Board of Oil, Gas and Mining to enact rules that are reasonably necessary to carry out the purposes of the Utah Mined Land Reclamation Act. More specifically, Section 40-8-20 provides authority for the Minerals Program rules to apply to all lands within the state, Section 40-8-22 provides authority to enter into cooperative agreements with other agencies, and Section 40-8-17 provides that program approval does not relieve an operator from complying with other statutes and regulations.

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 should be continued to provide the general conditions for all mineral mine operators for the exploration, development, and reclamation within Utah. Rule R647-1 provides an introduction to the remaining Mineral Program rules in Title R647, including definition of terms. Therefore, this rule should be continued.

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

NATURAL RESOURCES
OIL, GAS AND MINING; NON-COAL
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ James Owen by phone at 801-538-5328, or by Internet E-mail at jcowen@utah.gov
♦ John Baza by phone at 801-538-5334, by FAX at 801-359-3940, or by Internet E-mail at johnbaza@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 01/24/2018

**Natural Resources; Oil, Gas and
Mining; Non-coal
R647-2
Exploration**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42501
FILED: 01/24/2018

**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 40-8-6 provides authority to the Board of Oil, Gas and Mining to enact rules that are reasonably necessary to carry out the purposes of the Utah Mined Land Reclamation Act. This rule reflects the state requirements involving exploration by minerals operators. Section 40-8-13 provides authority for the filing of a Notice of Intention, Section 40-8-14 provides authority for a surety, and

Section 40-8-12.5 provides authority to require reclamation by operators.

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 establishes requirements for the exploration of minerals and should be continued to ensure that the exploration of minerals in Utah occurs with the proper protection to the public and providing for subsequent use of the lands affected.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 NATURAL RESOURCES
 OIL, GAS AND MINING; NON-COAL
 ROOM 1210
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ James Owen by phone at 801-538-5328, or by Internet E-mail at jcowen@utah.gov
 ♦ John Baza by phone at 801-538-5334, by FAX at 801-359-3940, or by Internet E-mail at johnbaza@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 01/24/2018

**Natural Resources; Oil, Gas and
 Mining; Non-coal
 R647-3
 Small Mining Operations**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 42502
 FILED: 01/24/2018

**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 40-8-6 provides authority to the Board of Oil, Gas and Mining to enact rules that are

reasonably necessary to carry out the purposes of the Utah Mined Land Reclamation Act. This rule reflects the state requirements involving mineral operations for small mines. Section 40-8-13 provides authority for the filing of a Notice of Intention, Section 40-8-14 provides authority for a surety, Section 40-8-12.5 provides authority to require reclamation, and Section 40-8-21 provides authority pertaining to suspension or termination of operations.

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 establishes requirements for small mineral mines and should be continued to ensure that operation of Utah's small mineral mines, ten acres of disturbed area or less, occurs with the proper protection to the public, and providing for subsequent use of the lands affected.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 NATURAL RESOURCES
 OIL, GAS AND MINING; NON-COAL
 ROOM 1210
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ James Owen by phone at 801-538-5328, or by Internet E-mail at jcowen@utah.gov
 ♦ John Baza by phone at 801-538-5334, by FAX at 801-359-3940, or by Internet E-mail at johnbaza@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 01/24/2018

**Natural Resources; Oil, Gas and
 Mining; Non-coal
 R647-4
 Large Mining Operations**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 42503
 FILED: 01/24/2018

**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 40-8-6 provides authority to the Board of Oil, Gas and Mining to enact rules that are reasonably necessary to carry out the purposes of the Utah Mined Land Reclamation Act. This rule reflects the state requirements involving mineral operations for large mines. Section 40-8-13 provides authority for the filing of a Notice of Intention, Section 40-8-14 provides authority for a surety, Section 40-8-12.5 provides authority to require reclamation by operators, and Section 40-8-21 provides authority pertaining to suspension or termination of operations.

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 establishes requirements for large mineral mines and should be continued to ensure that operation of Utah's large mineral mines, over ten acres of disturbed area, occurs with the proper protection to the public, and providing for subsequent use of the lands affected.

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

NATURAL RESOURCES
OIL, GAS AND MINING; NON-COAL
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ James Owen by phone at 801-538-5328, or by Internet E-mail at jcowen@utah.gov
- ◆ John Baza by phone at 801-538-5334, by FAX at 801-359-3940, or by Internet E-mail at johnbaza@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 01/24/2018

Natural Resources; Oil, Gas and
Mining; Non-coal
R647-5
Administrative Procedures

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42504
FILED: 01/24/2018

**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 40-8-6 provides authority to the Board of Oil, Gas and Mining to enact rules that are reasonably necessary to carry out the purposes of the Utah Mined Land Reclamation Act. In addition, the Utah Administrative Procedures Act, Title 63G, Chapter 4, provides authority for the administrative procedures applicable to this Minerals Program in Rule R647-5.

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 establishes administrative procedures applicable to the Minerals Program and should be continued to provide administrative procedures at the informal and formal level to enable resolution of issues within the Division of Oil, Gas and Mining, and also the Board of Oil, Gas and Mining.

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

NATURAL RESOURCES
OIL, GAS AND MINING; NON-COAL
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ James Owen by phone at 801-538-5328, or by Internet E-mail at jcowen@utah.gov
- ◆ John Baza by phone at 801-538-5334, by FAX at 801-359-3940, or by Internet E-mail at johnbaza@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 01/24/2018

**Natural Resources; Oil, Gas and
Mining; Non-coal
R647-6**

**Inspection and Enforcement: Division
Authority and Procedures**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 42505
FILED: 01/24/2018

**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 40-8-6 provides authority to the Board of Oil, Gas and Mining to enact rules that are reasonably necessary to carry out the purposes of the Utah Mined Land Reclamation Act. Section 40-8-9 specifically provides authority for inspections and the issuance of cessation orders or notices of violations for noncompliance.

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 establishes the authority for conducting inspections of mineral mined land activities and establishes the procedures for enforcement including cessations orders, notice of violations, and compliance conferences. This rule should be continued to ensure adequate inspection and enforcement provisions are in place to enable a fair and consistent process for issuance and resolution of such matters in the minerals industry.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
OIL, GAS AND MINING; NON-COAL
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ James Owen by phone at 801-538-5328, or by Internet E-mail at jcowen@utah.gov
♦ John Baza by phone at 801-538-5334, by FAX at 801-359-3940, or by Internet E-mail at johnbaza@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 01/24/2018

**Natural Resources; Oil, Gas and
Mining; Non-coal
R647-7**

**Inspection and Enforcement: Civil
Penalties**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 42506
FILED: 01/24/2018

**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 40-8-6 provides authority to the Board of Oil, Gas and Mining to enact rules that are reasonably necessary to carry out the purposes of the Utah Mined Land Reclamation Act. Specifically, Section 40-8-9.1 provides authority for civil penalties to be assessed by the Division of Oil, Gas and Mining for violation of Title 40, Chapter 8.

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 establishes provisions for civil penalties for violation of the Mined Land Reclamation Act, and should be continued to ensure that minerals developed in Utah occurs with compliance to the rules for the exploration, operation, and reclamation.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
OIL, GAS AND MINING; NON-COAL
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ James Owen by phone at 801-538-5328, or by Internet E-mail at jcowen@utah.gov

♦ John Baza by phone at 801-538-5334, by FAX at 801-359-3940, or by Internet E-mail at johnbaza@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 01/24/2018

**Natural Resources; Oil, Gas and
Mining; Non-coal
R647-8
Inspection and Enforcement: Individual
Civil Penalties**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42507

FILED: 01/24/2018

**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 40-8-6 provides authority to the Board of Oil, Gas and Mining to enact rules that are reasonably necessary to carry out the purposes of the Utah Mined Land Reclamation Act. Subsection 40-8-9.1(6) specifically provides authority for individual civil penalties to be assessed by the Division of Oil, Gas and Mining for violation of Title 40, Chapter 8.

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 establishes provisions for individual civil penalties for violation of the Mined Land Reclamation Act, and should be continued to ensure that minerals developed in Utah occurs with compliance to the rules for the exploration, operation, and reclamation.

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

NATURAL RESOURCES
OIL, GAS AND MINING; NON-COAL
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ James Owen by phone at 801-538-5328, or by Internet E-mail at jcowen@utah.gov

♦ John Baza by phone at 801-538-5334, by FAX at 801-359-3940, or by Internet E-mail at johnbaza@utah.gov

AUTHORIZED BY: John Baza, Director

EFFECTIVE: 01/24/2018

**Natural Resources; Oil, Gas and
Mining; Oil and Gas
R649-6
Gas Processing and Waste Crude Oil
Treatment**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42508

FILED: 01/24/2018

**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 40-6-5 provides rulemaking authority to the Board of Oil, Gas and Mining for regulation of the oil and gas industry in Utah. Subsections 40-6-5(2)(c) and 40-6-5(2)(h) specifically provide for the regulation of gas processing plants and waste crude oil treatment, respectively.

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 establishes regulatory requirements for gas processing plants and waste crude oil treatment, and should be continued to ensure adequate regulation of these facilities in the oil and gas industry in order to provide public information and to protect the environment.

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

NATURAL RESOURCES
OIL, GAS AND MINING; OIL AND GAS
ROOM 1210
1594 W NORTH TEMPLE

SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

AUTHORIZED BY: John Baza, Director

DIRECT QUESTIONS REGARDING THIS RULE TO:

EFFECTIVE: 01/24/2018

- ◆ James Owen by phone at 801-538-5328, or by Internet E-mail at jcowen@utah.gov
- ◆ John Baza by phone at 801-538-5334, by FAX at 801-359-3940, or by Internet E-mail at johnbaza@utah.gov

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file a **NOTICE OF FIVE-YEAR REVIEW EXTENSION (EXTENSION)** with the Office of Administrative Rules. The **EXTENSION** permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed **EXTENSIONS** for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date.

EXTENSIONS are governed by Subsection 63G-3-305(6).

Environmental Quality, Air Quality **R307-102** General Requirements: Broadly Applicable Requirements

FIVE-YEAR REVIEW EXTENSION

DAR FILE NO.: 42546
FILED: 01/31/2018

EXTENSION REASON AND NEW DEADLINE: The Air Quality Board (Board) is unable to review this rule until the next Board meeting scheduled for 03/07/2018. A 120-day extension is requested to allow thorough rule review and Board approval. The new deadline is 06/06/2018.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/31/2018

Environmental Quality, Air Quality **R307-115** General Conformity

FIVE-YEAR REVIEW EXTENSION

DAR FILE NO.: 42548
FILED: 01/31/2018

EXTENSION REASON AND NEW DEADLINE: The Air Quality Board (Board) is unable to review this rule until the next Board meeting scheduled for 03/07/2018. A 120-day extension is requested to allow thorough rule review and Board approval. The new deadline is 06/06/2018.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/31/2018

Environmental Quality, Air Quality **R307-170** Continuous Emission Monitoring Program

FIVE-YEAR REVIEW EXTENSION

DAR FILE NO.: 42550
FILED: 01/31/2018

EXTENSION REASON AND NEW DEADLINE: The Air Quality Board (Board) is unable to review this rule until the next Board meeting scheduled for 03/07/2018. A 120-day extension is requested to allow thorough rule review and Board approval. The new deadline is 06/06/2018.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/31/2018

Environmental Quality, Air Quality **R307-220** Emission Standards: Plan for Designated Facilities

FIVE-YEAR REVIEW EXTENSION

DAR FILE NO.: 42553
FILED: 01/31/2018

EXTENSION REASON AND NEW DEADLINE: The Air Quality Board (Board) is unable to review this rule until the next Board meeting scheduled for 03/07/2018. A 120-day extension is requested to allow thorough rule review and Board approval. The new deadline is 06/06/2018.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/31/2018

Environmental Quality, Air Quality
R307-221

Emission Standards: Emission
Controls for Existing Municipal Solid
Waste Landfills

FIVE-YEAR REVIEW EXTENSION

DAR FILE NO.: 42552
FILED: 01/31/2018

EXTENSION REASON AND NEW DEADLINE: The Air Quality Board (Board) is unable to review this rule until the next Board meeting scheduled for 03/07/2018. A 120-day extension is requested to allow thorough rule review and Board approval. The new deadline is 06/06/2018.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/31/2018

Environmental Quality, Air Quality
R307-222

Emission Standards: Existing
Incinerators for Hospital, Medical,
Infectious Waste

FIVE-YEAR REVIEW EXTENSION

DAR FILE NO.: 42532
FILED: 01/31/2018

EXTENSION REASON AND NEW DEADLINE: The Air Quality Board (Board) is unable to review this rule until the next Board meeting scheduled for 03/07/2018. A 120-day extension is requested to allow thorough rule review and Board approval. The new deadline is 06/06/2018.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/31/2018

Environmental Quality, Air Quality
R307-223

Emission Standards: Existing Small
Municipal Waste Combustion Units

FIVE-YEAR REVIEW EXTENSION

DAR FILE NO.: 42533
FILED: 01/31/2018

EXTENSION REASON AND NEW DEADLINE: The Air Quality Board (Board) is unable to review this rule until the next Board meeting scheduled for 03/07/2018. A 120-day extension is requested to allow thorough rule review and Board approval. The new deadline is 06/06/2018.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/31/2018

Environmental Quality, Air Quality
R307-224

Mercury Emission Standards: Coal-
Fired Electric Generating Units

FIVE-YEAR REVIEW EXTENSION

DAR FILE NO.: 42534
FILED: 01/31/2018

EXTENSION REASON AND NEW DEADLINE: The Air Quality Board (Board) is unable to review this rule until the next Board meeting scheduled for 03/07/2018. A 120-day extension is requested to allow thorough rule review and Board approval. The new deadline is 06/06/2018.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/31/2018

Environmental Quality, Air Quality
R307-250
 Western Backstop Sulfur Dioxide
 Trading Program

FIVE-YEAR REVIEW EXTENSION
 DAR FILE NO.: 42535
 FILED: 01/31/2018

EXTENSION REASON AND NEW DEADLINE: The Air Quality Board (Board) is unable to review this rule until the next Board meeting scheduled for 03/07/2018. A 120-day extension is requested to allow thorough rule review and Board approval. The new deadline is 06/06/2018.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/31/2018

Environmental Quality, Air Quality
R307-312
 Aggregate Processing Operations for
 PM2.5 Nonattainment Areas

FIVE-YEAR REVIEW EXTENSION
 DAR FILE NO.: 42536
 FILED: 01/31/2018

EXTENSION REASON AND NEW DEADLINE: The Air Quality Board (Board) is unable to review this rule until the next Board meeting scheduled for 03/07/2018. A 120-day extension is requested to allow thorough rule review and Board approval. The new deadline is 06/01/2018.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/31/2018

Environmental Quality, Air Quality
R307-344
 Paper, Film, and Foil Coatings

FIVE-YEAR REVIEW EXTENSION
 DAR FILE NO.: 42537
 FILED: 01/31/2018

EXTENSION REASON AND NEW DEADLINE: The Air Quality Board (Board) is unable to review this rule until the next Board meeting scheduled for 03/07/2018. A 120-day extension is requested to allow thorough rule review and Board approval. The new deadline is 06/01/2018.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/31/2018

Environmental Quality, Air Quality
R307-345
 Fabric and Vinyl Coatings

FIVE-YEAR REVIEW EXTENSION
 DAR FILE NO.: 42538
 FILED: 01/31/2018

EXTENSION REASON AND NEW DEADLINE: The Air Quality Board (Board) is unable to review this rule until the next Board meeting scheduled for 03/07/2018. A 120-day extension is requested to allow thorough rule review and Board approval. The new deadline is 06/01/2018.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/31/2018

Environmental Quality, Air Quality
R307-346
 Metal Furniture Surface Coatings

FIVE-YEAR REVIEW EXTENSION

DAR FILE NO.: 42539
 FILED: 01/31/2018

EXTENSION REASON AND NEW DEADLINE: The Air Quality Board (Board) is unable to review this rule until the next Board meeting scheduled for 03/07/2018. A 120-day extension is requested to allow thorough rule review and Board approval. The new deadline is 06/01/2018.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/31/2018

Environmental Quality, Air Quality
R307-347
 Large Appliance Surface Coatings

FIVE-YEAR REVIEW EXTENSION

DAR FILE NO.: 42541
 FILED: 01/31/2018

EXTENSION REASON AND NEW DEADLINE: The Air Quality Board (Board) is unable to review this rule until the next Board meeting scheduled for 03/07/2018. A 120-day extension is requested to allow thorough rule review and Board approval. The new deadline is 06/01/2018.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/31/2018

Environmental Quality, Air Quality
R307-348
 Magnet Wire Coatings

FIVE-YEAR REVIEW EXTENSION

DAR FILE NO.: 42543
 FILED: 01/31/2018

EXTENSION REASON AND NEW DEADLINE: The Air Quality Board (Board) is unable to review this rule until the next Board meeting scheduled for 03/07/2018. A 120-day extension is requested to allow thorough rule review and Board approval. The new deadline is 06/01/2018.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/31/2018

Environmental Quality, Air Quality
R307-349
 Flat Wood Panel Coatings

FIVE-YEAR REVIEW EXTENSION

DAR FILE NO.: 42540
 FILED: 01/31/2018

EXTENSION REASON AND NEW DEADLINE: The Air Quality Board (Board) is unable to review this rule until the next Board meeting scheduled for 03/07/2018. A 120-day extension is requested to allow thorough rule review and Board approval. The new deadline is 06/01/2018.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/31/2018

Environmental Quality, Air Quality
R307-350
 Miscellaneous Metal Parts and
 Products Coatings

FIVE-YEAR REVIEW EXTENSION

DAR FILE NO.: 42542
 FILED: 01/31/2018

EXTENSION REASON AND NEW DEADLINE: The Air Quality Board (Board) is unable to review this rule until the next Board meeting scheduled for 03/07/2018. A 120-day extension is requested to allow thorough rule review and Board approval. The new deadline is 06/01/2018.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Thomas Gunter by phone at 801-536-4419, or by Internet
E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/31/2018

**Environmental Quality, Air Quality
R307-351
Graphic Arts**

FIVE-YEAR REVIEW EXTENSION
DAR FILE NO.: 42544
FILED: 01/31/2018

EXTENSION REASON AND NEW DEADLINE: The Air Quality Board (Board) is unable to review this rule until the next Board meeting scheduled for 03/07/2018. A 120-day extension is requested to allow thorough rule review and Board approval. The new deadline is 06/01/2018.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Thomas Gunter by phone at 801-536-4419, or by Internet
E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/31/2018

**Environmental Quality, Air Quality
R307-352
Metal Container, Closure, and Coil
Coatings**

FIVE-YEAR REVIEW EXTENSION
DAR FILE NO.: 42545
FILED: 01/31/2018

EXTENSION REASON AND NEW DEADLINE: The Air Quality Board (Board) is unable to review this rule until the next Board meeting scheduled for 03/07/2018. A 120-day extension is requested to allow thorough rule review and Board approval. The new deadline is 06/01/2018.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Thomas Gunter by phone at 801-536-4419, or by Internet
E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/31/2018

**Environmental Quality, Air Quality
R307-354
Automotive Refinishing Coatings**

FIVE-YEAR REVIEW EXTENSION
DAR FILE NO.: 42547
FILED: 01/31/2018

EXTENSION REASON AND NEW DEADLINE: The Air Quality Board (Board) is unable to review this rule until the next Board meeting scheduled for 03/07/2018. A 120-day extension is requested to allow thorough rule review and Board approval. The new deadline is 06/01/2018.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Thomas Gunter by phone at 801-536-4419, or by Internet
E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/31/2018

**Environmental Quality, Air Quality
R307-355
Control of Emissions from Aerospace
Manufacture and Rework Facilities**

FIVE-YEAR REVIEW EXTENSION
DAR FILE NO.: 42549
FILED: 01/31/2018

EXTENSION REASON AND NEW DEADLINE: The Air Quality Board (Board) is unable to review this rule until the next Board meeting scheduled for 03/07/2018. A 120-day extension is requested to allow thorough rule review and Board approval. The new deadline is 06/01/2018.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Thomas Gunter by phone at 801-536-4419, or by Internet
E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/31/2018

**Environmental Quality, Air Quality
R307-801
Utah Asbestos Rule**

FIVE-YEAR REVIEW EXTENSION

DAR FILE NO.: 42551
FILED: 01/31/2018

EXTENSION REASON AND NEW DEADLINE: The Air Quality Board (Board) is unable to review this rule until the next Board meeting scheduled for 03/07/2018. A 120-day extension is requested to allow thorough rule review and Board approval. The new deadline is 06/06/2018.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 01/31/2018

End of the Notices of Five-Year Review Extensions Section

NOTICES OF FIVE-YEAR EXPIRATIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). The Office of Administrative Rules (Office) is required to notify agencies of rules due for review at least 180 days prior to the anniversary date. If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file a **NOTICE OF FIVE-YEAR EXTENSION (EXTENSION)** with the Office. However, if the agency fails to file either the **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION** or the **EXTENSION** by the date provide by the Office, the rule expires.

Upon expiration of the rule, the Office files a **NOTICE OF FIVE-YEAR EXPIRATION (EXPIRATION)** to document the action. The Office is required to remove the rule from the *Utah Administrative Code*. The agency may no longer enforce the rule and it must follow regular rulemaking procedures to replace the rule if it is still needed.

The Office has filed **EXPIRATIONS** for each of the rules listed below which were not reviewed in accordance with Section 63G-3-305. These rules have expired and have been removed from the *Utah Administrative Code*.

The expiration of administrative rules for failure to comply with the five-year review requirement is governed by Subsection 63G-3-305(8).

Technology Services, Administration

R895-12

Telecommunications Services and Requirements

FIVE-YEAR REVIEW EXPIRATION

DAR FILE NO.: 42528

FILED: 01/30/2018

SUMMARY: The five-year review was not filed by the deadline. Therefore, the rule expired and will be removed from the Administrative Code. (EDITOR'S NOTE: A 120-day (emergency) rule that is effective as of 01/30/2018 puts this rule back in place and is under Filing No. 42529 in this issue, February 15, 2018, of the Bulletin.)

EFFECTIVE: 01/30/2018

End of the Notices of Notices of Five Year Expirations Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal & Reenact

REP = Repeal

Criminal and Juvenile Justice (State Commission on),
Indigent Defense Commission

No. 42351 (NEW): R364-1. Conflicts of Interest for Indigent
Defense Commission Members

Published: 12/15/2017

Effective: 01/29/2018

Administrative Services

Facilities Construction and Management

No. 42347 (AMD): R23-5. Contingency Funds

Published: 12/15/2017

Effective: 01/23/2018

No. 42348 (AMD): R23-9. Cooperation with Local
Government Planning

Published: 12/15/2017

Effective: 01/23/2018

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 42306 (REP): R414-4x. Policy Statement on Denial of
Payment to Medicaid Provider When Client Fails to Keep
Scheduled Appointment

Published: 12/01/2017

Effective: 01/19/2018

No. 42353 (AMD): R414-517. Inpatient Hospital Provider
Assessments

Published: 12/15/2017

Effective: 01/29/2018

Commerce

Occupational and Professional Licensing

No. 42338 (AMD): R156-72. Acupuncture Licensing Act Rule

Published: 12/15/2017

Effective: 01/23/2018

Science Technology and Research Governing Authority
Administration

No. 42360 (R&R): R856-1. USTAR Technology Acceleration
Program Grants

Published: 12/15/2017

Effective: 01/23/2018

Environmental Quality

Water Quality

No. 42274 (AMD): R317-10-10. Examination

Published: 11/15/2017

Effective: 01/24/2018

No. 42357 (R&R): R856-2. USTAR University-Industry
Partnership Program Grants

Published: 12/15/2017

Effective: 01/23/2018

Governor

Economic Development

No. 42332 (AMD): R357-16. Utah Outdoor Recreation
Infrastructure Grant

Published: 12/01/2017

Effective: 01/17/2018

No. 42359 (R&R): R856-3. USTAR University Technology
Acceleration Grants

Published: 12/15/2017

Effective: 01/23/2018

NOTICES OF RULE EFFECTIVE DATES

No. 42358 (R&R): R856-4. USTAR Science Technology
Initiation Grant
Published: 12/15/2017
Effective: 01/23/2018

No. 42356 (R&R): R856-5. Utah Science, Technology, and
Research (USTAR) Energy Research Triangle Professors
(ERT-P) Grant
Published: 12/15/2017
Effective: 01/23/2018

No. 42355 (R&R): R856-6. Utah Science, Technology and
Research (USTAR) Energy Research Triangle Scholars
(ERT-S) Grant
Published: 12/15/2017
Effective: 01/23/2018

Transportation

Motor Carrier

No. 42336 (AMD): R909-19. Safety Regulations for Tow
Truck Operations - Tow Truck Requirements for Equipment,
Operation, and Certification
Published: 12/15/2017
Effective: 01/24/2018

End of the Notices of Rule Effective Dates Section

**RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)**

The Rules Index is a cumulative index that reflects all effective changes to Utah's administrative rules. The current Index lists changes made effective from January 2, 2018 through February 01, 2018. 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/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
<u>Facilities Construction and Management</u>					
R23-5	Contingency Funds	42347	AMD	01/23/2018	2017-24/8
R23-9	Cooperation with Local Government Planning	42348	AMD	01/23/2018	2017-24/9
AGRICULTURE AND FOOD					
<u>Plant Industry</u>					
R68-5	Grain Inspection	42530	5YR	01/30/2018	Not Printed
COMMERCE					
<u>Occupational and Professional Licensing</u>					
R156-31b	Nurse Practice Act Rule	42448	5YR	01/08/2018	2018-3/69
R156-46b-401	In General	42428	NSC	01/18/2018	Not Printed
R156-55b-102	Definitions	42429	NSC	01/18/2018	Not Printed
R156-68	Utah Osteopathic Medical Practice Act Rule	42447	5YR	01/08/2018	2018-3/70
R156-72	Acupuncture Licensing Act Rule	42338	AMD	01/23/2018	2017-24/11
R156-78-502	Unprofessional Conduct	42243	AMD	01/02/2018	2017-22/28
EDUCATION					
<u>Administration</u>					
R277-469	Instructional Materials Commission Operating Procedures	42322	AMD	01/09/2018	2017-23/4
R277-490	Beverly Taylor Sorenson Elementary Arts Learning Program (BTSALP)	42471	5YR	01/12/2018	2018-3/70
R277-491-4	School Community Council Principal Responsibilities	42323	AMD	01/09/2018	2017-23/9
R277-515	Utah Educator Professional Standards	42324	AMD	01/09/2018	2017-23/11
R277-519	Educator Professional Learning Procedures and Credit	42325	AMD	01/09/2018	2017-23/16
R277-530-3	Board Expectations for Effective Teaching, Educational Leadership, and Educational School Counselor Standards	42439	NSC	01/25/2018	Not Printed
R277-621	District of Residence	42326	NEW	01/09/2018	2017-23/17
R277-920	Implementation of the School Turnaround and Leadership Development Act	42327	AMD	01/09/2018	2017-23/19
ENVIRONMENTAL QUALITY					
<u>Air Quality</u>					
R307-102	General Requirements: Broadly Applicable Requirements	42546	EXT	01/31/2018	Not Printed
R307-115	General Conformity	42548	EXT	01/31/2018	Not Printed

R307-170	Continuous Emission Monitoring Program	42550	EXT	01/31/2018	Not Printed
R307-220	Emission Standards: Plan for Designated Facilities	42553	EXT	01/31/2018	Not Printed
R307-221	Emission Standards: Emission Controls for Existing Municipal Solid Waste Landfills	42552	EXT	01/31/2018	Not Printed
R307-222	Emission Standards: Existing Incinerators for Hospital, Medical, Infectious Waste	42532	EXT	01/31/2018	Not Printed
R307-223	Emission Standards: Existing Small Municipal Waste Combustion Units	42533	EXT	01/31/2018	Not Printed
R307-224	Mercury Emission Standards: Coal-Fired Electric Generating Units	42534	EXT	01/31/2018	Not Printed
R307-250	Western Backstop Sulfur Dioxide Trading Program	42535	EXT	01/31/2018	Not Printed
R307-312	Aggregate Processing Operations for PM2.5 Nonattainment Areas	42536	EXT	01/31/2018	Not Printed
R307-344	Paper, Film, and Foil Coatings	42537	EXT	01/31/2018	Not Printed
R307-345	Fabric and Vinyl Coatings	42538	EXT	01/31/2018	Not Printed
R307-346	Metal Furniture Surface Coatings	42539	EXT	01/31/2018	Not Printed
R307-347	Large Appliance Surface Coatings	42541	EXT	01/31/2018	Not Printed
R307-348	Magnet Wire Coatings	42543	EXT	01/31/2018	Not Printed
R307-349	Flat Wood Panel Coatings	42540	EXT	01/31/2018	Not Printed
R307-350	Miscellaneous Metal Parts and Products Coatings	42542	EXT	01/31/2018	Not Printed
R307-351	Graphic Arts	42544	EXT	01/31/2018	Not Printed
R307-352	Metal Container, Closure, and Coil Coatings	42545	EXT	01/31/2018	Not Printed
R307-354	Automotive Refinishing Coatings	42547	EXT	01/31/2018	Not Printed
R307-355	Control of Emissions from Aerospace Manufacture and Rework Facilities	42549	EXT	01/31/2018	Not Printed
R307-356	Appliance Pilot Light	42430	EXT	01/02/2018	2018-2/59
R307-505	Oil and Gas Industry: Registration Requirements	42110	NEW	01/26/2018	2017-19/71
R307-801	Utah Asbestos Rule	42551	EXT	01/31/2018	Not Printed
<u>Waste Management and Radiation Control, Waste Management</u>					
R315-301	Solid Waste Authority; Definitions, and General Requirements	42452	5YR	01/12/2018	2018-3/71
R315-302	Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements	42453	5YR	01/12/2018	2018-3/72
R315-303	Landfilling Standards	42454	5YR	01/12/2018	2018-3/72
R315-304	Industrial Solid Waste Landfill Requirements	42455	5YR	01/12/2018	2018-3/73
R315-305	Class IV and VI Landfill Requirements	42456	5YR	01/12/2018	2018-3/74
R315-306	Incinerator Standards	42457	5YR	01/12/2018	2018-3/74
R315-307	Landtreatment Disposal Standards	42458	5YR	01/12/2018	2018-3/75
R315-308	Ground Water Monitoring Requirements	42459	5YR	01/12/2018	2018-3/75
R315-309	Financial Assurance	42460	5YR	01/12/2018	2018-3/76
R315-310	Permit Requirements for Solid Waste Facilities	42461	5YR	01/12/2018	2018-3/77
R315-311	Permit Approval For Solid Waste Disposal, Waste Tire Storage, Energy Recovery, And Incinerator Facilities	42462	5YR	01/12/2018	2018-3/77
R315-312	Recycling and Composting Facility Standards	42463	5YR	01/12/2018	2018-3/78
R315-313	Transfer Stations and Drop Box Facilities	42464	5YR	01/12/2018	2018-3/79
R315-314	Facility Standards for Piles Used for Storage and Treatment	42465	5YR	01/12/2018	2018-3/79
R315-315	Special Waste Requirements	42466	5YR	01/12/2018	2018-3/80
R315-316	Infectious Waste Requirements	42467	5YR	01/12/2018	2018-3/80
R315-317	Other Processes, Variances, Violations, and Petition for Rule Change	42468	5YR	01/12/2018	2018-3/81
R315-318	Permit by Rule	42469	5YR	01/12/2018	2018-3/82
R315-320	Waste Tire Transporter and Recycler Requirements	42470	5YR	01/12/2018	2018-3/82
<u>Water Quality</u>					
R317-9	Administrative Procedures	42509	5YR	01/24/2018	Not Printed
R317-10-10	Examination	42274	AMD	01/24/2018	2017-22/29
R317-13	Approvals and Permits for a Water Reuse Project	42510	5YR	01/24/2018	Not Printed

RULES INDEX

R317-14	Approval of Change in Point of Discharge of POTW	42511	5YR	01/24/2018	Not Printed
GOVERNOR					
<u>Criminal and Juvenile Justice (State Commission on)</u>					
R356-4	Juvenile Confinement	42055	NEW	01/02/2018	2017-18/26
<u>Criminal and Juvenile Justice (State Commission on), Indigent Defense Commission</u>					
R364-1	Conflicts of Interest for Indigent Defense Commission Members	42351	NEW	01/29/2018	2017-24/14
<u>Economic Development</u>					
R357-16	Utah Outdoor Recreation Infrastructure Grant	42332	AMD	01/17/2018	2017-23/25
HEALTH					
<u>Disease Control and Prevention, Environmental Services</u>					
R392-700	Indoor Tanning Bed Sanitation	42491	5YR	01/19/2018	Not Printed
<u>Disease Control and Prevention, Epidemiology</u>					
R386-702	Communicable Disease Rule	42285	AMD	01/02/2018	2017-22/31
<u>Disease Control and Prevention, Laboratory Services</u>					
R438-15	Newborn Screening	42282	NEW	01/29/2018	2017-22/60
<u>Disease Control and Prevention: HIV/AIDS, Tuberculosis Control/Refugee Health</u>					
R388-805	Ryan White Part B Program	42328	AMD	02/01/2018	2017-23/28
<u>Family Health and Preparedness, Children with Special Health Care Needs</u>					
R398-1	Newborn Screening	42279	REP	01/29/2018	2017-22/46
<u>Family Health and Preparedness, Licensing</u>					
R432-1	General Health Care Facility Rules	42520	5YR	01/29/2018	Not Printed
R432-2	General Licensing Provisions	42521	5YR	01/29/2018	Not Printed
R432-3	General Health Care Facility Rules Inspection and Enforcement	42522	5YR	01/29/2018	Not Printed
R432-4	General Construction	42523	5YR	01/29/2018	Not Printed
R432-5	Nursing Facility Construction	42524	5YR	01/29/2018	Not Printed
R432-6	Assisted Living Facility General Construction	42525	5YR	01/29/2018	Not Printed
R432-16	Hospice Inpatient Facility Construction	42518	5YR	01/29/2018	Not Printed
R432-35	Background Screening -- Health Facilities	42519	5YR	01/29/2018	Not Printed
R432-150-8	Administrator	42201	AMD	01/11/2018	2017-21/108
R432-270-19	Medication Administration	42200	AMD	01/11/2018	2017-21/109
<u>Health Care Financing</u>					
R410-14	Administrative Hearing Procedures	42517	EMR	01/29/2018	Not Printed
<u>Health Care Financing, Coverage and Reimbursement Policy</u>					
R414-4x	Policy Statement on Denial of Payment to Medicaid Provider When Client Fails to Keep Scheduled Appointment	42306	REP	01/19/2018	2017-23/49
R414-27	Medicaid Enrollment Process for Nursing Care Facilities	42427	5YR	01/02/2018	2018-2/54
R414-301	Medicaid General Provisions	42440	5YR	01/08/2018	2018-3/83
R414-302	Eligibility Requirements	42441	5YR	01/08/2018	2018-3/84
R414-302-6	Residents of Institutions	42487	EMR	01/19/2018	Not Printed
R414-303	Coverage Groups	42442	5YR	01/08/2018	2018-3/84
R414-304	Income and Budgeting	42443	5YR	01/08/2018	2018-3/85
R414-305	Resources	42444	5YR	01/08/2018	2018-3/85
R414-306	Program Benefits and Date of Eligibility	42445	5YR	01/08/2018	2018-3/86
R414-308	Application, Eligibility Determinations and Improper Medical Assistance	42446	5YR	01/08/2018	2018-3/86
R414-308-3	Application and Signature	42488	EMR	01/19/2018	Not Printed
R414-311	Targeted Adult Medicaid	42489	EMR	01/19/2018	Not Printed
R414-517	Inpatient Hospital Provider Assessments	42353	AMD	01/29/2018	2017-24/16

HUMAN SERVICES

Aging and Adult Services

R510-105 "Out and About" Homebound Transportation Assistance Fund Rules 42485 5YR 01/17/2018 Not Printed

Substance Abuse and Mental Health, State Hospital

R525-2 Patient Rights 42473 5YR 01/16/2018 2018-3/87
 R525-3 Medication Treatment of Patients 42474 5YR 01/16/2018 2018-3/87
 R525-4 Visitors 42475 5YR 01/16/2018 2018-3/88
 R525-5 Background Checks 42476 5YR 01/16/2018 2018-3/88
 R525-6 Prohibited Items and Devices 42477 5YR 01/16/2018 2018-3/89
 R525-7 Complaints/Suggestions/Concerns 42478 5YR 01/16/2018 2018-3/89

INSURANCE

Administration

R590-157 Surplus Lines Insurance Premium Tax and Stamping Fee 42438 5YR 01/04/2018 2018-3/90
 R590-218 Permitted Language for Reservation of Discretion Clauses 42437 5YR 01/04/2018 2018-3/90
 R590-243 Commercial Motor Vehicle Insurance Coverage 42436 5YR 01/04/2018 2018-3/91
 R590-266-1 Authority 42319 AMD 01/10/2018 2017-23/66

JUDICIAL PERFORMANCE EVALUATION COMMISSION

Administration

R597-5 Electronic Meetings 42262 NEW 01/02/2018 2017-22/68

NATURAL RESOURCES

Oil, Gas and Mining: Administration

R642-200 Applicability 42495 5YR 01/24/2018 Not Printed

Oil, Gas and Mining: Coal

R645-101 Restrictions on State Employees 42496 5YR 01/24/2018 Not Printed
 R645-102 Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction 42497 5YR 01/24/2018 Not Printed
 R645-104 Protection of Employees 42498 5YR 01/24/2018 Not Printed
 R645-401 Inspection and Enforcement: Civil Penalties 42499 5YR 01/24/2018 Not Printed

Oil, Gas and Mining: Non-Coal

R647-1 Minerals Regulatory Program 42500 5YR 01/24/2018 Not Printed
 R647-2 Exploration 42501 5YR 01/24/2018 Not Printed
 R647-3 Small Mining Operations 42502 5YR 01/24/2018 Not Printed
 R647-4 Large Mining Operations 42503 5YR 01/24/2018 Not Printed
 R647-5 Administrative Procedures 42504 5YR 01/24/2018 Not Printed
 R647-6 Inspection and Enforcement: Division Authority and Procedures 42505 5YR 01/24/2018 Not Printed
 R647-7 Inspection and Enforcement: Civil Penalties 42506 5YR 01/24/2018 Not Printed
 R647-8 Inspection and Enforcement: Individual Civil Penalties 42507 5YR 01/24/2018 Not Printed

Oil, Gas and Mining: Oil and Gas

R649-6 Gas Processing and Waste Crude Oil Treatment 42508 5YR 01/24/2018 Not Printed

Wildlife Resources

R657-58 Fishing Contests and Clinics 42449 5YR 01/09/2018 2018-3/91

PARDONS (BOARD OF)

Administration

R671-201 Original Hearing Schedule and Notice 42295 AMD 01/08/2018 2017-22/75
 R671-202 Notification of Hearings 42294 AMD 01/08/2018 2017-22/77
 R671-203 Victim Input and Notification 42297 AMD 01/08/2018 2017-22/78

RULES INDEX

R671-205	Credit for Time Served	42227	AMD	01/08/2018	2017-21/169
R671-206	Competency of Offenders	42296	NEW	01/08/2018	2017-22/81
R671-304	Hearing Record	42231	AMD	01/08/2018	2017-21/171

PUBLIC SAFETY

Administration

R698-11	Submission and Testing of Sexual Assault Kits	42269	NEW	01/10/2018	2017-22/82
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Criminal Investigations and Technical Services, Criminal Identification

R722-300	Concealed Firearm Permit and Instructor Rule	42258	AMD	01/10/2018	2017-22/89
R722-350	Certificate of Eligibility	42259	AMD	01/10/2018	2017-22/94
R722-380	Firearm Background Check Information	42260	AMD	01/10/2018	2017-22/96

PUBLIC SERVICE COMMISSION

Administration

R746-409-1	General Provisions	42331	AMD	01/09/2018	2017-23/75
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SCIENCE TECHNOLOGY AND RESEARCH GOVERNING AUTHORITY

Administration

R856-1	USTAR Technology Acceleration Program Grants	42360	R&R	01/23/2018	2017-24/22
R856-2	USTAR University-Industry Partnership Program Grants	42357	R&R	01/23/2018	2017-24/28
R856-3	USTAR University Technology Acceleration Grants	42359	R&R	01/23/2018	2017-24/36
R856-4	USTAR Science Technology Initiation Grant	42358	R&R	01/23/2018	2017-24/41
R856-5	Utah Science, Technology, and Research (USTAR) Energy Research Triangle Professors (ERT-P) Grant	42356	R&R	01/23/2018	2017-24/48
R856-6	Utah Science, Technology and Research (USTAR) Energy Research Triangle Scholars (ERT-S) Grant	42355	R&R	01/23/2018	2017-24/54

TECHNOLOGY SERVICES

Administration

R895-12	Telecommunications Services and Requirements	42528	EXD	01/30/2018	Not Printed
R895-12	Telecommunications Services and Requirements	42529	EMR	01/30/2018	Not Printed

TRANSPORTATION

Motor Carrier

R909-19	Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation, and Certification	42336	AMD	01/24/2018	2017-24/60
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RULES INDEX - BY KEYWORD (SUBJECT)

ABBREVIATIONS

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>acupuncture</u> Commerce, Occupational and Professional Licensing	42338	R156-72	AMD	01/23/2018	2017-24/11
<u>ADAP</u> Health, Disease Control and Prevention; HIV/AIDS, Tuberculosis Control/Refugee Health	42328	R388-805	AMD	02/01/2018	2017-23/28
<u>adjudicative proceedings</u> Environmental Quality, Water Quality	42509	R317-9	5YR	01/24/2018	Not Printed
<u>administrative procedures</u> Commerce, Occupational and Professional Licensing	42428	R156-46b-401	NSC	01/18/2018	Not Printed
<u>administrative proceedings</u> Environmental Quality, Water Quality	42509	R317-9	5YR	01/24/2018	Not Printed
<u>aerospace</u> Environmental Quality, Air Quality	42549	R307-355	EXT	01/31/2018	Not Printed
<u>aggregate</u> Environmental Quality, Air Quality	42536	R307-312	EXT	01/31/2018	Not Printed
<u>air pollution</u> Environmental Quality, Air Quality	42546	R307-102	EXT	01/31/2018	Not Printed
	42548	R307-115	EXT	01/31/2018	Not Printed
	42550	R307-170	EXT	01/31/2018	Not Printed
	42553	R307-220	EXT	01/31/2018	Not Printed
	42552	R307-221	EXT	01/31/2018	Not Printed
	42532	R307-222	EXT	01/31/2018	Not Printed
	42533	R307-223	EXT	01/31/2018	Not Printed
	42534	R307-224	EXT	01/31/2018	Not Printed
	42535	R307-250	EXT	01/31/2018	Not Printed
	42536	R307-312	EXT	01/31/2018	Not Printed
	42538	R307-345	EXT	01/31/2018	Not Printed
	42539	R307-346	EXT	01/31/2018	Not Printed
	42541	R307-347	EXT	01/31/2018	Not Printed
	42543	R307-348	EXT	01/31/2018	Not Printed
	42540	R307-349	EXT	01/31/2018	Not Printed
	42542	R307-350	EXT	01/31/2018	Not Printed
	42544	R307-351	EXT	01/31/2018	Not Printed
	42545	R307-352	EXT	01/31/2018	Not Printed
	42547	R307-354	EXT	01/31/2018	Not Printed
	42549	R307-355	EXT	01/31/2018	Not Printed
	42110	R307-505	NEW	01/26/2018	2017-19/71
	42551	R307-801	EXT	01/31/2018	Not Printed
<u>alternative district of residency</u> Education, Administration	42326	R277-621	NEW	01/09/2018	2017-23/17
<u>appellate procedures</u> Technology Services, Administration	42528	R895-12	EXD	01/30/2018	Not Printed
<u>applications</u> Health, Health Care Financing, Coverage and Reimbursement Policy	42446	R414-308	5YR	01/08/2018	2018-3/86
	42488	R414-308-3	EMR	01/19/2018	Not Printed
<u>arts programs</u> Education, Administration	42471	R277-490	5YR	01/12/2018	2018-3/70
<u>asbestos</u> Environmental Quality, Air Quality	42551	R307-801	EXT	01/31/2018	Not Printed

RULES INDEX

<u>asbestos hazard emergency response</u> Environmental Quality, Air Quality	42551	R307-801	EXT	01/31/2018	Not Printed
<u>asphalt</u> Environmental Quality, Air Quality	42536	R307-312	EXT	01/31/2018	Not Printed
<u>automotive refinishing</u> Environmental Quality, Air Quality	42547	R307-354	EXT	01/31/2018	Not Printed
<u>background checks</u> Human Services, Substance Abuse and Mental Health, State Hospital	42476	R525-5	5YR	01/16/2018	2018-3/88
<u>budgeting</u> Health, Health Care Financing, Coverage and Reimbursement Policy	42443	R414-304	5YR	01/08/2018	2018-3/85
<u>buildings</u> Administrative Services, Facilities Construction and Management	42347	R23-5	AMD	01/23/2018	2017-24/8
<u>certificate of eligibility</u> Public Safety, Criminal Investigations and Technical Services, Criminal Identification	42259	R722-350	AMD	01/10/2018	2017-22/94
<u>certifications</u> Transportation, Motor Carrier	42336	R909-19	AMD	01/24/2018	2017-24/60
<u>citizenship</u> Health, Health Care Financing, Coverage and Reimbursement Policy	42441 42487	R414-302 R414-302-6	5YR EMR	01/08/2018 01/19/2018	2018-3/84 Not Printed
<u>client rights</u> Health, Health Care Financing, Coverage and Reimbursement Policy	42440	R414-301	5YR	01/08/2018	2018-3/83
<u>coal mines</u> Natural Resources, Oil, Gas and Mining; Coal	42496 42497 42498 42499	R645-101 R645-102 R645-104 R645-401	5YR 5YR 5YR 5YR	01/24/2018 01/24/2018 01/24/2018 01/24/2018	Not Printed Not Printed Not Printed Not Printed
<u>coatings</u> Environmental Quality, Air Quality	42540 42542 42547 42549	R307-349 R307-350 R307-354 R307-355	EXT EXT EXT EXT	01/31/2018 01/31/2018 01/31/2018 01/31/2018	Not Printed Not Printed Not Printed Not Printed
<u>coil coatings</u> Environmental Quality, Air Quality	42545	R307-352	EXT	01/31/2018	Not Printed
<u>commercial motor vehicle insurance</u> Insurance, Administration	42436	R590-243	5YR	01/04/2018	2018-3/91
<u>communicable disease</u> Health, Disease Control and Prevention, Epidemiology	42285	R386-702	AMD	01/02/2018	2017-22/31
<u>complaints</u> Human Services, Substance Abuse and Mental Health, State Hospital	42478	R525-7	5YR	01/16/2018	2018-3/89
<u>concealed firearm permit instructors</u> Public Safety, Criminal Investigations and Technical Services, Criminal Identification	42258	R722-300	AMD	01/10/2018	2017-22/89

<u>concealed firearm permits</u> Public Safety, Criminal Investigations and Technical Services, Criminal Identification	42258	R722-300	AMD	01/10/2018	2017-22/89
<u>concerns</u> Human Services, Substance Abuse and Mental Health, State Hospital	42478	R525-7	5YR	01/16/2018	2018-3/89
<u>concrete</u> Environmental Quality, Air Quality	42536	R307-312	EXT	01/31/2018	Not Printed
<u>confidentiality of information</u> Environmental Quality, Air Quality	42546	R307-102	EXT	01/31/2018	Not Printed
<u>conflict of interest</u> Governor, Criminal and Juvenile Justice (State Commission on), Indigent Defense Commission	42351	R364-1	NEW	01/29/2018	2017-24/14
<u>construction</u> Administrative Services, Facilities Construction and Management	42348	R23-9	AMD	01/23/2018	2017-24/9
<u>contingency fund</u> Administrative Services, Facilities Construction and Management	42347	R23-5	AMD	01/23/2018	2017-24/8
<u>continuous monitoring</u> Environmental Quality, Air Quality	42550	R307-170	EXT	01/31/2018	Not Printed
<u>contractors</u> Commerce, Occupational and Professional Licensing	42429	R156-55b-102	NSC	01/18/2018	Not Printed
<u>coverage groups</u> Health, Health Care Financing, Coverage and Reimbursement Policy	42442	R414-303	5YR	01/08/2018	2018-3/84
<u>credit for time served</u> Pardons (Board Of), Administration	42227	R671-205	AMD	01/08/2018	2017-21/169
<u>criminal competency</u> Pardons (Board Of), Administration	42296	R671-206	NEW	01/08/2018	2017-22/81
<u>data processing</u> Technology Services, Administration	42528	R895-12	EXD	01/30/2018	Not Printed
<u>disabled</u> Human Services, Aging and Adult Services	42485	R510-105	5YR	01/17/2018	Not Printed
<u>discharge</u> Environmental Quality, Water Quality	42511	R317-14	5YR	01/24/2018	Not Printed
<u>educators</u> Education, Administration	42324 42439	R277-515 R277-530-3	AMD NSC	01/09/2018 01/25/2018	2017-23/11 Not Printed
<u>effective date</u> Health, Health Care Financing, Coverage and Reimbursement Policy	42445	R414-306	5YR	01/08/2018	2018-3/86
<u>effectiveness</u> Education, Administration	42439	R277-530-3	NSC	01/25/2018	Not Printed
<u>effluent standards</u> Environmental Quality, Water Quality	42510	R317-13	5YR	01/24/2018	Not Printed

RULES INDEX

<u>electric generating unit</u>						
Environmental Quality, Air Quality	42534	R307-224	EXT	01/31/2018	Not Printed	
<u>electric generating units</u>						
Environmental Quality, Air Quality	42553	R307-220	EXT	01/31/2018	Not Printed	
<u>electricians</u>						
Commerce, Occupational and Professional Licensing	42429	R156-55b-102	NSC	01/18/2018	Not Printed	
<u>electronic meetings</u>						
Judicial Performance Evaluation Commission, Administration	42262	R597-5	NEW	01/02/2018	2017-22/68	
<u>eligibility</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	42446	R414-308	5YR	01/08/2018	2018-3/86	
	42488	R414-308-3	EMR	01/19/2018	Not Printed	
	42489	R414-311	EMR	01/19/2018	Not Printed	
<u>emission controls</u>						
Environmental Quality, Air Quality	42538	R307-345	EXT	01/31/2018	Not Printed	
	42539	R307-346	EXT	01/31/2018	Not Printed	
	42541	R307-347	EXT	01/31/2018	Not Printed	
	42543	R307-348	EXT	01/31/2018	Not Printed	
	42540	R307-349	EXT	01/31/2018	Not Printed	
	42542	R307-350	EXT	01/31/2018	Not Printed	
	42545	R307-352	EXT	01/31/2018	Not Printed	
<u>endowed universities</u>						
Education, Administration	42471	R277-490	5YR	01/12/2018	2018-3/70	
<u>Energy Research Triangle Professors Grant (ERT-P)</u>						
Science Technology and Research Governing Authority, Administration	42356	R856-5	R&R	01/23/2018	2017-24/48	
<u>Energy Research Triangle Scholars Grant (ERT-S)</u>						
Science Technology and Research Governing Authority, Administration	42355	R856-6	R&R	01/23/2018	2017-24/54	
<u>environmental protection</u>						
Environmental Quality, Air Quality	42548	R307-115	EXT	01/31/2018	Not Printed	
<u>essential health benefit insurance</u>						
Insurance, Administration	42319	R590-266-1	AMD	01/10/2018	2017-23/66	
<u>expungement</u>						
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	42259	R722-350	AMD	01/10/2018	2017-22/94	
<u>fabric coating</u>						
Environmental Quality, Air Quality	42538	R307-345	EXT	01/31/2018	Not Printed	
<u>film coating</u>						
Environmental Quality, Air Quality	42537	R307-344	EXT	01/31/2018	Not Printed	
<u>financial disclosures</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	42443	R414-304	5YR	01/08/2018	2018-3/85	
<u>firearm background check information</u>						
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	42260	R722-380	AMD	01/10/2018	2017-22/96	
<u>firearm denials</u>						
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	42260	R722-380	AMD	01/10/2018	2017-22/96	

<u>firearm purchases</u>						
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	42260	R722-380	AMD	01/10/2018	2017-22/96	
<u>firearm releases</u>						
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	42260	R722-380	AMD	01/10/2018	2017-22/96	
<u>fireplaces</u>						
Environmental Quality, Air Quality	42430	R307-356	EXT	01/02/2018	2018-2/59	
<u>fish</u>						
Natural Resources, Wildlife Resources	42449	R657-58	5YR	01/09/2018	2018-3/91	
<u>fishing</u>						
Natural Resources, Wildlife Resources	42449	R657-58	5YR	01/09/2018	2018-3/91	
<u>flat wood paneling</u>						
Environmental Quality, Air Quality	42540	R307-349	EXT	01/31/2018	Not Printed	
<u>foil coating</u>						
Environmental Quality, Air Quality	42537	R307-344	EXT	01/31/2018	Not Printed	
<u>former foster care youth</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	42442	R414-303	5YR	01/08/2018	2018-3/84	
<u>furnaces</u>						
Environmental Quality, Air Quality	42430	R307-356	EXT	01/02/2018	2018-2/59	
<u>gas</u>						
Environmental Quality, Air Quality	42110	R307-505	NEW	01/26/2018	2017-19/71	
<u>general conformity</u>						
Environmental Quality, Air Quality	42548	R307-115	EXT	01/31/2018	Not Printed	
<u>government hearings</u>						
Commerce, Occupational and Professional Licensing	42428	R156-46b-401	NSC	01/18/2018	Not Printed	
Pardons (Board Of), Administration	42231	R671-304	AMD	01/08/2018	2017-21/171	
<u>grants</u>						
Education, Administration	42471	R277-490	5YR	01/12/2018	2018-3/70	
Governor, Economic Development	42332	R357-16	AMD	01/17/2018	2017-23/25	
<u>graphic arts</u>						
Environmental Quality, Air Quality	42544	R307-351	EXT	01/31/2018	Not Printed	
<u>health care facilities</u>						
Health, Family Health and Preparedness, Licensing	42520	R432-1	5YR	01/29/2018	Not Printed	
	42521	R432-2	5YR	01/29/2018	Not Printed	
	42522	R432-3	5YR	01/29/2018	Not Printed	
	42523	R432-4	5YR	01/29/2018	Not Printed	
	42524	R432-5	5YR	01/29/2018	Not Printed	
	42525	R432-6	5YR	01/29/2018	Not Printed	
	42518	R432-16	5YR	01/29/2018	Not Printed	
	42519	R432-35	5YR	01/29/2018	Not Printed	
	42201	R432-150-8	AMD	01/11/2018	2017-21/108	
	42200	R432-270-19	AMD	01/11/2018	2017-21/109	
<u>hearings</u>						
Environmental Quality, Water Quality	42509	R317-9	5YR	01/24/2018	Not Printed	
Health, Health Care Financing, Coverage and Reimbursement Policy	42440	R414-301	5YR	01/08/2018	2018-3/83	
Pardons (Board Of), Administration	42295	R671-201	AMD	01/08/2018	2017-22/75	

RULES INDEX

<u>HIV/AIDS</u>						
Health, Disease Control and Prevention; HIV/AIDS, Tuberculosis Control/Refugee Health	42328	R388-805	AMD	02/01/2018	2017-23/28	
<u>hospitals</u>						
Environmental Quality, Air Quality	42532	R307-222	EXT	01/31/2018	Not Printed	
<u>incinerators</u>						
Environmental Quality, Air Quality	42553	R307-220	EXT	01/31/2018	Not Printed	
<u>income</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	42443	R414-304	5YR	01/08/2018	2018-3/85	
<u>industrial waste</u>						
Environmental Quality, Water Quality	42510	R317-13	5YR	01/24/2018	Not Printed	
<u>Industry Partnership Program (IPP)</u>						
Science Technology and Research Governing Auth., Administration	42357	R856-2	R&R	01/23/2018	2017-24/28	
<u>infectious waste</u>						
Environmental Quality, Air Quality	42532	R307-222	EXT	01/31/2018	Not Printed	
<u>inmates</u>						
Pardons (Board Of), Administration	42295	R671-201	AMD	01/08/2018	2017-22/75	
	42294	R671-202	AMD	01/08/2018	2017-22/77	
<u>inspections</u>						
Agriculture and Food, Plant Industry	42530	R68-5	5YR	01/30/2018	Not Printed	
<u>instructional materials</u>						
Education, Administration	42322	R277-469	AMD	01/09/2018	2017-23/4	
<u>insurance discretion clauses</u>						
Insurance, Administration	42437	R590-218	5YR	01/04/2018	2018-3/90	
<u>insurance fee</u>						
Insurance, Administration	42438	R590-157	5YR	01/04/2018	2018-3/90	
<u>juvenile confinement in adult jails</u>						
Governor, Criminal and Juvenile Justice (State Commission on)	42055	R356-4	NEW	01/02/2018	2017-18/26	
<u>juvenile confinement in lockups</u>						
Governor, Criminal and Juvenile Justice (State Commission on)	42055	R356-4	NEW	01/02/2018	2017-18/26	
<u>juvenile detention in adult jails</u>						
Governor, Criminal and Juvenile Justice (State Commission on)	42055	R356-4	NEW	01/02/2018	2017-18/26	
<u>juvenile detention in lockups</u>						
Governor, Criminal and Juvenile Justice (State Commission on)	42055	R356-4	NEW	01/02/2018	2017-18/26	
<u>landfills</u>						
Environmental Quality, Air Quality	42553	R307-220	EXT	01/31/2018	Not Printed	
<u>large appliance</u>						
Environmental Quality, Air Quality	42541	R307-347	EXT	01/31/2018	Not Printed	
<u>leadership</u>						
Education, Administration	42439	R277-530-3	NSC	01/25/2018	Not Printed	
<u>licensing</u>						
Commerce, Occupational and Professional Licensing	42448	R156-31b	5YR	01/08/2018	2018-3/69	

	42429	R156-55b-102	NSC	01/18/2018	Not Printed
	42447	R156-68	5YR	01/08/2018	2018-3/70
	42338	R156-72	AMD	01/23/2018	2017-24/11
	42243	R156-78-502	AMD	01/02/2018	2017-22/28
<u>MAGI-based</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	42442	R414-303	5YR	01/08/2018	2018-3/84
<u>magnet wire</u>					
Environmental Quality, Air Quality	42543	R307-348	EXT	01/31/2018	Not Printed
<u>market trading program</u>					
Environmental Quality, Air Quality	42535	R307-250	EXT	01/31/2018	Not Printed
<u>Medicaid</u>					
Health, Health Care Financing	42517	R410-14	EMR	01/29/2018	Not Printed
Health, Health Care Financing, Coverage and Reimbursement Policy	42306	R414-4x	REP	01/19/2018	2017-23/49
	42427	R414-27	5YR	01/02/2018	2018-2/54
	42440	R414-301	5YR	01/08/2018	2018-3/83
	42441	R414-302	5YR	01/08/2018	2018-3/84
	42487	R414-302-6	EMR	01/19/2018	Not Printed
	42444	R414-305	5YR	01/08/2018	2018-3/85
	42446	R414-308	5YR	01/08/2018	2018-3/86
	42488	R414-308-3	EMR	01/19/2018	Not Printed
	42489	R414-311	EMR	01/19/2018	Not Printed
	42353	R414-517	AMD	01/29/2018	2017-24/16
<u>medical incinerator</u>					
Environmental Quality, Air Quality	42532	R307-222	EXT	01/31/2018	Not Printed
<u>medical transportation</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	42445	R414-306	5YR	01/08/2018	2018-3/86
<u>medication treatment</u>					
Human Services, Substance Abuse and Mental Health, State Hospital	42474	R525-3	5YR	01/16/2018	2018-3/87
<u>mercury</u>					
Environmental Quality, Air Quality	42534	R307-224	EXT	01/31/2018	Not Printed
<u>metal containers</u>					
Environmental Quality, Air Quality	42545	R307-352	EXT	01/31/2018	Not Printed
<u>metal furniture</u>					
Environmental Quality, Air Quality	42539	R307-346	EXT	01/31/2018	Not Printed
<u>minerals reclamation</u>					
Natural Resources, Oil, Gas and Mining; Non-Coal	42500	R647-1	5YR	01/24/2018	Not Printed
	42501	R647-2	5YR	01/24/2018	Not Printed
	42502	R647-3	5YR	01/24/2018	Not Printed
	42503	R647-4	5YR	01/24/2018	Not Printed
	42504	R647-5	5YR	01/24/2018	Not Printed
	42505	R647-6	5YR	01/24/2018	Not Printed
	42506	R647-7	5YR	01/24/2018	Not Printed
	42507	R647-8	5YR	01/24/2018	Not Printed
<u>miscellaneous metal parts</u>					
Environmental Quality, Air Quality	42542	R307-350	EXT	01/31/2018	Not Printed
<u>monitoring</u>					
Environmental Quality, Air Quality	42550	R307-170	EXT	01/31/2018	Not Printed
<u>municipal landfills</u>					
Environmental Quality, Air Quality	42552	R307-221	EXT	01/31/2018	Not Printed

RULES INDEX

<u>municipal waste incinerator</u>						
Environmental Quality, Air Quality	42533	R307-223	EXT	01/31/2018	Not Printed	
<u>newborn screening</u>						
Health, Disease Control and Prevention, Laboratory Services	42282	R438-15	NEW	01/29/2018	2017-22/60	
Health, Family Health and Preparedness, Children with Special Health Care Needs	42279	R398-1	REP	01/29/2018	2017-22/46	
<u>nurses</u>						
Commerce, Occupational and Professional Licensing	42448	R156-31b	5YR	01/08/2018	2018-3/69	
<u>occupational licensing</u>						
Commerce, Occupational and Professional Licensing	42428	R156-46b-401	NSC	01/18/2018	Not Printed	
	42429	R156-55b-102	NSC	01/18/2018	Not Printed	
<u>oil</u>						
Environmental Quality, Air Quality	42110	R307-505	NEW	01/26/2018	2017-19/71	
<u>oil and gas law</u>						
Natural Resources, Oil, Gas and Mining; Oil and Gas	42508	R649-6	5YR	01/24/2018	Not Printed	
<u>operator certification</u>						
Environmental Quality, Water Quality	42274	R317-10-10	AMD	01/24/2018	2017-22/29	
<u>osteopathic physicians</u>						
Commerce, Occupational and Professional Licensing	42447	R156-68	5YR	01/08/2018	2018-3/70	
<u>osteopaths</u>						
Commerce, Occupational and Professional Licensing	42447	R156-68	5YR	01/08/2018	2018-3/70	
<u>outdoor recreation</u>						
Governor, Economic Development	42332	R357-16	AMD	01/17/2018	2017-23/25	
<u>Outdoor Recreation Infrastructure Grant</u>						
Governor, Economic Development	42332	R357-16	AMD	01/17/2018	2017-23/25	
<u>paper coating</u>						
Environmental Quality, Air Quality	42537	R307-344	EXT	01/31/2018	Not Printed	
<u>parole</u>						
Pardons (Board Of), Administration	42295	R671-201	AMD	01/08/2018	2017-22/75	
	42294	R671-202	AMD	01/08/2018	2017-22/77	
	42227	R671-205	AMD	01/08/2018	2017-21/169	
<u>patient rights</u>						
Human Services, Substance Abuse and Mental Health, State Hospital	42473	R525-2	5YR	01/16/2018	2018-3/87	
<u>pilot lights</u>						
Environmental Quality, Air Quality	42430	R307-356	EXT	01/02/2018	2018-2/59	
<u>pipelines</u>						
Public Service Commission, Administration	42331	R746-409-1	AMD	01/09/2018	2017-23/75	
<u>planning</u>						
Administrative Services, Facilities Construction and Management	42348	R23-9	AMD	01/23/2018	2017-24/9	
<u>POTW</u>						
Environmental Quality, Water Quality	42511	R317-14	5YR	01/24/2018	Not Printed	
<u>presumptive eligibility</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	42442	R414-303	5YR	01/08/2018	2018-3/84	

<u>principals</u> Education, Administration	42327	R277-920	AMD	01/09/2018	2017-23/19
<u>printing operations</u> Environmental Quality, Air Quality	42544	R307-351	EXT	01/31/2018	Not Printed
<u>prison release</u> Pardons (Board Of), Administration	42227	R671-205	AMD	01/08/2018	2017-21/169
<u>procedures</u> Judicial Performance Evaluation Commission, Administration	42262	R597-5	NEW	01/02/2018	2017-22/68
<u>professional competency</u> Education, Administration	42325	R277-519	AMD	01/09/2018	2017-23/16
<u>professionals</u> Education, Administration	42324	R277-515	AMD	01/09/2018	2017-23/11
<u>program benefits</u> Health, Health Care Financing, Coverage and Reimbursement Policy	42445	R414-306	5YR	01/08/2018	2018-3/86
<u>prohibited items and devices</u> Human Services, Substance Abuse and Mental Health, State Hospital	42477	R525-6	5YR	01/16/2018	2018-3/89
<u>public assistance programs</u> Health, Health Care Financing, Coverage and Reimbursement Policy	42446 42488	R414-308 R414-308-3	5YR EMR	01/08/2018 01/19/2018	2018-3/86 Not Printed
<u>public records</u> Natural Resources, Oil, Gas and Mining; Administration	42495	R642-200	5YR	01/24/2018	Not Printed
<u>public schools</u> Education, Administration	42471	R277-490	5YR	01/12/2018	2018-3/70
<u>rabies</u> Health, Disease Control and Prevention, Epidemiology	42285	R386-702	AMD	01/02/2018	2017-22/31
<u>reclamation</u> Natural Resources, Oil, Gas and Mining; Coal	42496 42497 42498 42499	R645-101 R645-102 R645-104 R645-401	5YR 5YR 5YR 5YR	01/24/2018 01/24/2018 01/24/2018 01/24/2018	Not Printed Not Printed Not Printed Not Printed
<u>renewals</u> Environmental Quality, Water Quality	42274	R317-10-10	AMD	01/24/2018	2017-22/29
<u>reporting</u> Health, Disease Control and Prevention, Epidemiology	42285	R386-702	AMD	01/02/2018	2017-22/31
<u>resources</u> Health, Health Care Financing, Coverage and Reimbursement Policy	42444	R414-305	5YR	01/08/2018	2018-3/85
<u>rules and procedures</u> Health, Disease Control and Prevention, Epidemiology	42285	R386-702	AMD	01/02/2018	2017-22/31
Public Service Commission, Administration	42331	R746-409-1	AMD	01/09/2018	2017-23/75

RULES INDEX

Ryan White Part B Program

Health, Disease Control and Prevention; HIV/AIDS, Tuberculosis Control/Refugee Health 42328 R388-805 AMD 02/01/2018 2017-23/28

safety

Public Service Commission, Administration 42331 R746-409-1 AMD 01/09/2018 2017-23/75

safety regulations

Transportation, Motor Carrier 42336 R909-19 AMD 01/24/2018 2017-24/60

salons

Health, Disease Control and Prevention, Environmental Services 42491 R392-700 5YR 01/19/2018 Not Printed

sanitation

Health, Disease Control and Prevention, Environmental Services 42491 R392-700 5YR 01/19/2018 Not Printed

school community councils

Education, Administration 42323 R277-491-4 AMD 01/09/2018 2017-23/9

school improvements

Education, Administration 42327 R277-920 AMD 01/09/2018 2017-23/19

school leaders

Education, Administration 42327 R277-920 AMD 01/09/2018 2017-23/19

schools

Environmental Quality, Air Quality 42551 R307-801 EXT 01/31/2018 Not Printed

Science Technology Initiation Grant (STIG)

Science Technology and Research Governing Auth., Administration 42358 R856-4 R&R 01/23/2018 2017-24/41

screening

Health, Disease Control and Prevention, Laboratory Services 42282 R438-15 NEW 01/29/2018 2017-22/60

secure areas

Human Services, Substance Abuse and Mental Health, State Hospital 42477 R525-6 5YR 01/16/2018 2018-3/89

seniors

Human Services, Aging and Adult Services 42485 R510-105 5YR 01/17/2018 Not Printed

sexual assault kit analysis

Public Safety, Administration 42269 R698-11 NEW 01/10/2018 2017-22/82

sexual assault kits

Public Safety, Administration 42269 R698-11 NEW 01/10/2018 2017-22/82

solid waste disposal

Environmental Quality, Waste Management and Radiation Control, Waste Management 42452 R315-301 5YR 01/12/2018 2018-3/71

42455 R315-304 5YR 01/12/2018 2018-3/73

42456 R315-305 5YR 01/12/2018 2018-3/74

solid waste management

Environmental Quality, Waste Management and Radiation Control, Waste Management 42452 R315-301 5YR 01/12/2018 2018-3/71

42453 R315-302 5YR 01/12/2018 2018-3/72

42454 R315-303 5YR 01/12/2018 2018-3/72

42455 R315-304 5YR 01/12/2018 2018-3/73

42456 R315-305 5YR 01/12/2018 2018-3/74

42457 R315-306 5YR 01/12/2018 2018-3/74

42458 R315-307 5YR 01/12/2018 2018-3/75

42459 R315-308 5YR 01/12/2018 2018-3/75

	42460	R315-309	5YR	01/12/2018	2018-3/76
	42461	R315-310	5YR	01/12/2018	2018-3/77
	42462	R315-311	5YR	01/12/2018	2018-3/77
	42463	R315-312	5YR	01/12/2018	2018-3/78
	42464	R315-313	5YR	01/12/2018	2018-3/79
	42465	R315-314	5YR	01/12/2018	2018-3/79
	42466	R315-315	5YR	01/12/2018	2018-3/80
	42467	R315-316	5YR	01/12/2018	2018-3/80
	42468	R315-317	5YR	01/12/2018	2018-3/81
	42469	R315-318	5YR	01/12/2018	2018-3/82
	42470	R315-320	5YR	01/12/2018	2018-3/82
<u>solid waste permit</u>					
Environmental Quality, Waste Management and Radiation Control, Waste Management	42453	R315-302	5YR	01/12/2018	2018-3/72
<u>standards</u>					
Education, Administration	42324	R277-515	AMD	01/09/2018	2017-23/11
	42439	R277-530-3	NSC	01/25/2018	Not Printed
<u>state hospital</u>					
Human Services, Substance Abuse and Mental Health, State Hospital	42477	R525-6	5YR	01/16/2018	2018-3/89
<u>state residency</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	42441	R414-302	5YR	01/08/2018	2018-3/84
	42487	R414-302-6	EMR	01/19/2018	Not Printed
<u>stoves</u>					
Environmental Quality, Air Quality	42430	R307-356	EXT	01/02/2018	2018-2/59
<u>students</u>					
Education, Administration	42326	R277-621	NEW	01/09/2018	2017-23/17
<u>suggestions</u>					
Human Services, Substance Abuse and Mental Health, State Hospital	42478	R525-7	5YR	01/16/2018	2018-3/89
<u>sulfur dioxide</u>					
Environmental Quality, Air Quality	42535	R307-250	EXT	01/31/2018	Not Printed
<u>surface coating</u>					
Environmental Quality, Air Quality	42539	R307-346	EXT	01/31/2018	Not Printed
	42541	R307-347	EXT	01/31/2018	Not Printed
	42543	R307-348	EXT	01/31/2018	Not Printed
<u>tanning beds</u>					
Health, Disease Control and Prevention, Environmental Services	42491	R392-700	5YR	01/19/2018	Not Printed
<u>Targeted Adult Medicaid</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	42489	R414-311	EMR	01/19/2018	Not Printed
<u>taxes</u>					
Insurance, Administration	42438	R590-157	5YR	01/04/2018	2018-3/90
<u>teacher certification</u>					
Education, Administration	42325	R277-519	AMD	01/09/2018	2017-23/16
<u>Technology Acceleration Program (TAP) grants</u>					
Science Technology and Research Governing Authority, Administration	42360	R856-1	R&R	01/23/2018	2017-24/22

RULES INDEX

<u>technology readiness level (TRL)</u>						
Science Technology and Research Governing Authority, Administration	42360	R856-1	R&R	01/23/2018	2017-24/22	
	42357	R856-2	R&R	01/23/2018	2017-24/28	
	42359	R856-3	R&R	01/23/2018	2017-24/36	
	42358	R856-4	R&R	01/23/2018	2017-24/41	
	42356	R856-5	R&R	01/23/2018	2017-24/48	
	42355	R856-6	R&R	01/23/2018	2017-24/54	
<u>telecommunications</u>						
Technology Services, Administration	42528	R895-12	EXD	01/30/2018	Not Printed	
	42529	R895-12	EMR	01/30/2018	Not Printed	
<u>third party liability</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	42441	R414-302	5YR	01/08/2018	2018-3/84	
	42487	R414-302-6	EMR	01/19/2018	Not Printed	
<u>tow trucks</u>						
Transportation, Motor Carrier	42336	R909-19	AMD	01/24/2018	2017-24/60	
<u>towing</u>						
Transportation, Motor Carrier	42336	R909-19	AMD	01/24/2018	2017-24/60	
<u>transportation</u>						
Human Services, Aging and Adult Services	42485	R510-105	5YR	01/17/2018	Not Printed	
<u>treatment and care</u>						
Health, Disease Control and Prevention; HIV/AIDS, Tuberculosis Control/Refugee Health	42328	R388-805	AMD	02/01/2018	2017-23/28	
<u>ultraviolet light safety</u>						
Health, Disease Control and Prevention, Environmental Services	42491	R392-700	5YR	01/19/2018	Not Printed	
<u>University Technology Acceleration Grants (UTAG)</u>						
Science Technology and Research Governing Authority, Administration	42359	R856-3	R&R	01/23/2018	2017-24/36	
<u>Utah Indigent Defense Commission</u>						
Governor, Criminal and Juvenile Justice (State Commission on), Indigent Defense Commission	42351	R364-1	NEW	01/29/2018	2017-24/14	
<u>Utah Science Technology and Research (USTAR)</u>						
Science Technology and Research Governing Authority, Administration	42360	R856-1	R&R	01/23/2018	2017-24/22	
	42357	R856-2	R&R	01/23/2018	2017-24/28	
	42359	R856-3	R&R	01/23/2018	2017-24/36	
	42358	R856-4	R&R	01/23/2018	2017-24/41	
	42356	R856-5	R&R	01/23/2018	2017-24/48	
	42355	R856-6	R&R	01/23/2018	2017-24/54	
<u>variances</u>						
Environmental Quality, Air Quality	42546	R307-102	EXT	01/31/2018	Not Printed	
<u>victims of crimes</u>						
Pardons (Board Of), Administration	42297	R671-203	AMD	01/08/2018	2017-22/78	
<u>vinyl coating</u>						
Environmental Quality, Air Quality	42538	R307-345	EXT	01/31/2018	Not Printed	
<u>visitors</u>						
Human Services, Substance Abuse and Mental Health, State Hospital	42475	R525-4	5YR	01/16/2018	2018-3/88	
<u>VOC</u>						
Environmental Quality, Air Quality	42544	R307-351	EXT	01/31/2018	Not Printed	

	42547	R307-354	EXT	01/31/2018	Not Printed
<u>VOC emission</u>					
Environmental Quality, Air Quality	42537	R307-344	EXT	01/31/2018	Not Printed
<u>vocational rehabilitation counselor</u>					
Commerce, Occupational and Professional Licensing	42243	R156-78-502	AMD	01/02/2018	2017-22/28
<u>waste disposal</u>					
Environmental Quality, Waste Management and Radiation Control, Waste Management	42453	R315-302	5YR	01/12/2018	2018-3/72
	42454	R315-303	5YR	01/12/2018	2018-3/72
	42457	R315-306	5YR	01/12/2018	2018-3/74
	42458	R315-307	5YR	01/12/2018	2018-3/75
	42459	R315-308	5YR	01/12/2018	2018-3/75
	42460	R315-309	5YR	01/12/2018	2018-3/76
	42461	R315-310	5YR	01/12/2018	2018-3/77
	42462	R315-311	5YR	01/12/2018	2018-3/77
	42463	R315-312	5YR	01/12/2018	2018-3/78
	42464	R315-313	5YR	01/12/2018	2018-3/79
	42465	R315-314	5YR	01/12/2018	2018-3/79
	42466	R315-315	5YR	01/12/2018	2018-3/80
	42467	R315-316	5YR	01/12/2018	2018-3/80
	42468	R315-317	5YR	01/12/2018	2018-3/81
	42469	R315-318	5YR	01/12/2018	2018-3/82
	42470	R315-320	5YR	01/12/2018	2018-3/82
Environmental Quality, Water Quality	42510	R317-13	5YR	01/24/2018	Not Printed
<u>waste to energy plant</u>					
Environmental Quality, Air Quality	42533	R307-223	EXT	01/31/2018	Not Printed
<u>wastewater</u>					
Environmental Quality, Water Quality	42511	R317-14	5YR	01/24/2018	Not Printed
<u>wastewater treatment</u>					
Environmental Quality, Water Quality	42274	R317-10-10	AMD	01/24/2018	2017-22/29
<u>water pollution</u>					
Environmental Quality, Water Quality	42274	R317-10-10	AMD	01/24/2018	2017-22/29
	42510	R317-13	5YR	01/24/2018	Not Printed
<u>weapons</u>					
Human Services, Substance Abuse and Mental Health, State Hospital	42477	R525-6	5YR	01/16/2018	2018-3/89
<u>wildlife</u>					
Natural Resources, Wildlife Resources	42449	R657-58	5YR	01/09/2018	2018-3/91
<u>wildlife law</u>					
Natural Resources, Wildlife Resources	42449	R657-58	5YR	01/09/2018	2018-3/91
<u>zoning</u>					
Administrative Services, Facilities Construction and Management	42348	R23-9	AMD	01/23/2018	2017-24/9