

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed March 02, 2018, 12:00 a.m. through March 15, 2018, 11:59 p.m.

Number 2018-7
April 01, 2018

Nancy L. Lancaster, Managing Editor

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

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

Unless otherwise noted, all information presented in this publication is in the public domain and may be reproduced, reprinted, and redistributed as desired. Materials incorporated by reference retain the copyright asserted by their respective authors. Citation to the source is requested.

Utah state bulletin.

Semimonthly.

1. Delegated legislation--Utah--Periodicals. 2. Administrative procedure--Utah--Periodicals.
- I. Utah. Office of Administrative Rules.

KFU440.A73S7

348.792'025--DDC

85-643197

TABLE OF CONTENTS

EXECUTIVE DOCUMENTS	1
Governor	
Administration	
Establishing a Policy for Legislative Communications of Executive Branch Departments and Employees, Utah Exec. Order No. 2018-1.....	1
NOTICES OF PROPOSED RULES	5
Administrative Services	
Inspector General of Medicaid Services (Office of)	
No. 42658 (Repeal): R30-1 Office of Inspector General of Medicaid Services.....	6
No. 42694 (New Rule): R30-1 Office Procedures.....	10
No. 42695 (New Rule): R30-2 Adjudicative Procedures.....	14
No. 42696 (New Rule): R30-3 Declaratory Orders.....	17
Education	
Administration	
No. 42697 (Amendment): R277-502 Educator Licensing and Data Retention.....	19
No. 42698 (Amendment): R277-508 Employment of Substitute Teachers.....	24
No. 42699 (Amendment): R277-521 National Board Certification Reimbursement.....	26
No. 42700 (Amendment): R277-532 Local Board Policies for Evaluation of Non-Licensed Public Education Employees (Classified Employees).....	29
No. 42701 (Amendment): R277-609 Standards for LEA Discipline Plans and Emergency Safety Interventions.....	31
No. 42702 (Amendment): R277-746 Driver Education Programs for Utah Schools.....	36
No. 42703 (Amendment): R277-751 Special Education Extended School Year (ESY).....	38
Environmental Quality	
Air Quality	
No. 42676 (Amendment): R307-101-2 Definitions.....	41
No. 42673 (Amendment): R307-110-12 Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide.....	49
No. 42675 (Amendment): R307-403 Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas.....	50
Water Quality	
No. 42692 (Amendment): R317-1-7 TMDLs.....	56
No. 42691 (Amendment): R317-2 Standards of Quality for Waters of the State.....	58
Health	
Disease Control and Prevention, Environmental Services	
No. 42684 (Amendment): R392-100 Food Service Sanitation.....	93
No. 42685 (New Rule): R392-102 Food Truck Sanitation.....	97
Health Care Financing, Coverage and Reimbursement Policy	
No. 42635 (New Rule): R414-519 Settings for Home and Community-Based Services.....	112
Human Services	
Aging and Adult Services	
No. 42636 (Repeal and Reenact): R510-200 Long-Term Care Ombudsman Program Policy.....	114
Recovery Services	
No. 42638 (New Rule): R527-303 Automatic Payment Withdrawal.....	134
Public Service Commission	
Administration	
No. 42670 (Amendment): R746-1-201 Complaints.....	136
School and Institutional Trust Lands	
Administration	
No. 42678 (Amendment): R850-40 Easements.....	137
No. 42677 (Amendment): R850-50 Range Management.....	139
Transportation	
Administration	
No. 42688 (Amendment): R907-80 Disposition of Surplus Land.....	142
Operations, Construction	

TABLE OF CONTENTS

No. 42690 (Amendment): R916-2 Prequalification of Contractors..... 148
 Operations, Traffic and Safety
 No. 42689 (Amendment): R920-6 Snow Tire and Chain Requirements..... 151
 Workforce Services
 Employment Development
 No. 42693 (Amendment): R986-600 Workforce Innovation and Opportunity Act..... 154

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION..... 161

Corrections
 Administration
 No. 42637: R251-114 Offender Long-Term Health Care - Notice..... 161
 Environmental Quality
 Air Quality
 No. 42639: R307-102 General Requirements: Broadly Applicable Requirements..... 161
 No. 42640: R307-107 General Requirements: Breakdowns..... 162
 No. 42641: R307-115 General Conformity..... 163
 No. 42642: R307-123 General Requirements: Clean Fuels and Vehicle Technology
 Grant and Loan Program..... 163
 No. 42643: R307-170 Continuous Emission Monitoring Program..... 164
 No. 42644: R307-208 Outdoor Wood Boilers..... 164
 No. 42645: R307-220 Emission Standards: Plan for Designated Facilities..... 165
 No. 42646: R307-221 Emission Standards: Emission Controls for Existing Municipal
 Solid Waste Landfills..... 166
 No. 42647: R307-222 Emission Standards: Existing Incinerators for Hospital, Medical,
 Infectious Waste..... 166
 No. 42648: R307-223 Emission Standards: Existing Small Municipal Waste
 Combustion Units..... 167
 No. 42649: R307-224 Mercury Emission Standards: Coal-Fired Electric Generating Units..... 167
 No. 42650: R307-250 Western Backstop Sulfur Dioxide Trading Program..... 168
 No. 42651: R307-303 Commercial Cooking..... 168
 No. 42652: R307-312 Aggregate Processing Operations for PM2.5 Nonattainment Areas..... 169
 No. 42653: R307-342 Adhesives and Sealants..... 170
 No. 42654: R307-344 Paper, Film, and Foil Coatings..... 170
 No. 42655: R307-345 Fabric and Vinyl Coatings..... 171
 No. 42656: R307-346 Metal Furniture Surface Coatings..... 171
 No. 42657: R307-347 Large Appliance Surface Coatings..... 172
 No. 42659: R307-348 Magnet Wire Coatings..... 172
 No. 42660: R307-349 Flat Wood Paneling Coatings..... 173
 No. 42661: R307-350 Miscellaneous Metal Parts and Products Coatings..... 174
 No. 42662: R307-351 Graphic Arts..... 174
 No. 42663: R307-352 Metal Container, Closure, and Coil Coatings..... 175
 No. 42664: R307-353 Plastic Parts Coatings..... 176
 No. 42665: R307-354 Automotive Refinishing Coatings..... 176
 No. 42666: R307-355 Aerospace Manufacture and Rework Facilities..... 177
 No. 42667: R307-356 Appliance Pilot Light..... 177
 No. 42668: R307-357 Consumer Products..... 178
 No. 42669: R307-801 Utah Asbestos Rule..... 179
 Insurance
 Administration
 No. 42686: R590-94 Rule Permitting Smoker/Nonsmoker Mortality Tables For
 Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits..... 179
 No. 42687: R590-154 Unfair Marketing Practices Rule; Misleading Names..... 180
 Natural Resources
 Parks and Recreation
 No. 42682: R651-407 Off-Highway Vehicle Advisory Council..... 181
 Public Safety
 Fire Marshal
 No. 42683: R710-5 Automatic Fire Sprinkler System Inspecting and Testing..... 181

NOTICES OF FIVE YEAR EXPIRATIONS..... 183
 Administrative Services
 Administrative Rules
 No. 42674: R710-12 Hazardous Materials Training and Certification..... 183

NOTICES OF RULE EFFECTIVE DATES..... 185

**RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)..... 187**

EXECUTIVE DOCUMENTS

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

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

Establishing a Policy for Legislative Communications of Executive Branch Departments and Employees, Utah Exec. Order No. 2018-1

EXECUTIVE ORDER

Establishing a Policy for Legislative Communications of Executive Branch Departments and Employees

WHEREAS, Executive Branch departments and employees play a crucial role in the policy-making process by contributing information and subject-matter expertise; and

WHEREAS, the Executive Branch has an interest in ensuring that such information and subject-matter expertise is provided to the Legislature in the most effective and efficient manner.

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, by the authority vested in me by the Constitution and laws of this State do hereby order that the Executive Branch and all Executive Branch employees are subject to the following directions:

1. Application

a. This order applies to all Executive Branch department employees and replaces and supersedes any prior executive order establishing a policy for legislative communications of Executive Branch department and employees. Independently elected officers may adopt this policy. This order does not apply to any employee of the Legislature or Judiciary.

b. Each Executive Branch department shall amend its existing policy to be consistent with the directions set forth below.

2. Definitions

a. "Department" means a department of the Executive Branch and includes an institution of higher education, State Tax Commission, National Guard, and Board of Pardons and Parole.

b. "Deputy director" means an individual by any title appointed to act on behalf of the Executive Director in the administration of the affairs of the department and who has the charge and general supervision of the department (whether alone or in cooperation with other deputy directors) in the absence or disability of the executive director.

c. "Division" means a division or other agency within an Executive Branch department.

d. "Executive director" means the head of a department or an equivalent position by any title, and includes the president of an institution of higher education or the president's designee.

e. "Legislative action" means a bill, resolution, amendment, veto override, or any other matter pending or proposed in either house of the Utah Legislature or a committee of the Utah Legislature during a General Session or Special Session of the Utah Legislature.

f. "Legislative liaison" means an individual appointed by a department to communicate to legislators and others the positions of the department.

g. "Legislative communications" means the attempt by an employee of the State of Utah in the capacity of an employee of the State of Utah to influence, either directly or indirectly, by communicating with a legislator, the passage or defeat of legislative action; provided, however, that "Legislative Communications" does not include (i) requests to a legislator to sponsor legislation; (ii) communications between or within a department of the Executive Branch; (iii) testifying before a legislative body, including a legislative committee or task force; (iv) answering questions asked by a legislator; (v) communications with legislative staff; or (vi) communications required by law.

h. "State employee" means an individual employed by a department of the Executive Branch other than an executive director, deputy director, or legislative liaison.

3. Legislative Communications

a. **Official Positions.** Departments may represent the Governor by taking official positions on legislative action. Divisions may not take a position on legislative action that is contrary to the position of the Governor or the department.

b. **No Prohibition for Certain Individuals.**

(i) An executive director, deputy director, or legislative liaison may engage in legislative communications without restriction at any time and for any reason.

(ii) An executive director may appoint up to two legislative liaisons for any General Session or Special Session of the Legislature.

c. **Prohibition of the Giving of Gifts.** Except with the consent of the Governor, no department, division, executive director, deputy director, legislative liaison, or state employee may offer or give a gift or other form of compensation, including gifts of de minimis value, either directly or indirectly, to a legislator (e.g., admission to events and venues, promotional items, food, drink).

d. **Prohibition of Certain Legislative Communications.**

(i) Except as provided in Sections 3(d)(ii) and Section 5, no state employee may engage in legislative communications.

(ii) An executive director may authorize a state employee to engage in legislative communications for the limited purpose of (a) explaining technical concepts; or (b) providing subject-matter expertise.

4. Prohibition of Certain Other Communications. Except with the consent of the Governor or as provided in Section 5, no executive director, deputy director, legislative liaison, or state employee may directly contact a non-governmental entity or individual for the sole purpose of requesting that such individual or entity advocate for or against the policy positions of a department or legislator on legislative action.

5. No Limitation of Free Speech. Nothing in this Executive Order should be interpreted as a limitation of an individual's right to free speech on the individual's own time and with non-state resources; provided, however, that an individual acting pursuant to this Section 5 may not state or imply that he or she is representing the interests of the Governor or a department.

IN TESTIMONY, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 5th day of March 2018.

(State Seal)

Gary R. Herbert
Governor

Attest:

Spencer J. Cox
Lieutenant Governor

2018/001/EO

End of the Executive Documents 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 March 02, 2018, 12:00 a.m., and March 15, 2018, 11:59 p.m. are included in this, the April 01, 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 May 1, 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 July 30, 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** or a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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

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

The Proposed Rules Begin on the Following Page

Administrative Services, Inspector
 General of Medicaid Services (Office
 of)
R30-1
 Office of Inspector General of Medicaid
 Services

(OFFICE OF)
 288 N 1460 W
 SALT LAKE CITY, UT 84116
 or at the Office of Administrative Rules.

NOTICE OF PROPOSED RULE

(Repeal)
 DAR FILE NO.: 42658
 FILED: 03/08/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This is a repeal of Rule R30-1 which is the original Office of Inspector General administrative rule that was approved in 2012. Title 63A, Chapter 13 has been changed a number of times and processes have changed enough that this rule is no longer accurate.

SUMMARY OF THE RULE OR CHANGE: Rule R30-1 is repealed in its entirety. Three new rules will take its place, R30-1, R30-2, and R30-3. (EDITOR'S NOTE: The proposed new Rule R30-1 is under Filing No. 42694, the proposed new Rule R30-2 is under Filing No. 42695, and the proposed new Rule R30-3 is under Filing No. 42696 in this issue, April 1, 2018, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Sections 63A-13-101 through 63A-13-602

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: There is no fiscal impact to the state budget associated with this repeal.
- ◆ LOCAL GOVERNMENTS: There is no fiscal impact to local governments associated with this repeal.
- ◆ SMALL BUSINESSES: There is no fiscal impact to small businesses associated with this repeal.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no fiscal impact to other "persons" associated with this repeal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance costs associated with this repeal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact associated with this repeal.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ADMINISTRATIVE SERVICES
 INSPECTOR GENERAL OF MEDICAID SERVICES

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Gene Cottrell by phone at 801-538-6856, by FAX at 801-538-6382, or by Internet E-mail at gcottrell@utah.gov
- ◆ Nathan Johansen by phone at 801-538-6455, by FAX at 801-538-6382, or by Internet E-mail at nmjohansen@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/15/2018

AUTHORIZED BY: Gene Cottrell, Inspector General

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 in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

There is no fiscal impact to non-small businesses because this rule is repealed and will be replaced by new Rules R30-1, R30-2, and R30-3.

The Inspector General, Gene D. Cottrell, has reviewed and approved this fiscal analysis.

R30. Administrative Services, Inspector General of Medicaid Services (Office of).**[R30-1. Office of Inspector General of Medicaid Services.****R30-1-1. Introduction and Authority.**

(1) This rule generally characterizes the scope of the Office of Inspector General of Medicaid Services in Utah, and defines all of the provisions necessary to administer the Office.

(2) The rule is authorized under Utah Code Annotated Section 63A-13-602 pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

R30-1-2. Definitions.

(1) The terms used in this rule are defined in Section 63A-13-102.

(2) Policy is defined as the Utah State Plan, Medicaid Administrative rule, provider manuals and their attachments, and the Medicaid Information Bulletins.

R30-1-3. The Office of Inspector General.

(1) The Office of Inspector General shall inspect and monitor the Utah Medicaid Program pursuant to Section 63A-13-202.

(2) The Office of Inspector General has entered into a Memorandum of Understanding (MOU) with the Department of Health outlining the delegation of duties from the Department to the Office and as required by federal and state statutes.

R30-1-4. Office Duties.

(1) The Office of the Inspector General shall perform the following duties:

(a) The Office shall receive reports of suspected fraud, waste, or abuse in the state Medicaid program through phone, website, mail, or other electronic means open to the public:

(i) Establish a 24-hour, toll free hotline monitored by staff, or voicemail as appropriate.

(ii) Establish a separate identifiable email to report fraud, waste or abuse of Medicaid funds.

(b) The Office shall investigate and identify potential or actual fraud, waste, or abuse in the state Medicaid program by post payment review of claims paid under fee-for-service, managed care, capitation, waiver, contracts or other payment methods where funds are expended by the Department of Health for Medicaid related services or programs:

(c) The Office shall establish an MOU with the Medicaid Fraud Control Unit to identify and recover improperly or fraudulently expended Medicaid funds.

(d) The Office shall determine appropriate methodology for identifying risk associated with the Department of Health and its programs under Medicaid funding.

(2) The Office shall regularly report to the Department regarding all identified cases of fraud, waste or abuse. The Office will report how the Department can reduce cost or improve performance through changes in policies or claims payment systems. The Office

will operate the program integrity function and audit function to the extent possible and as described under a MOU with the Department

(3) The Office shall establish a means for providers to return payments to the Office. The Office will return all collected overpayments to the appropriate department.

(4) The Office shall afford any person or entity due process and administrative hearing rights through Subsection R414-1-5(16).

R30-1-5. Incorporations by Reference.

(1) All rules, regulations, and laws below are incorporated by reference.

R30-1-6. Medicaid Fraud (Criminal).

(1) The Office establishes and maintains methods, criteria, and procedures that meet all federal and state requirements for prevention of program fraud and abuse.

(2) The Office will enter into an MOU with The Medicaid Fraud Control Unit (MFCU) and the Department to ensure appropriate measures are established to reduce and prevent fraud and abuse in the Medicaid program.

(3) The Office shall report any instances of suspected Provider criminal fraud or misconduct to the MFCU within reasonable time.

(a) A hold shall be placed on the funds in accordance with 42 CFR 455.23.

(i) The Office shall notify the provider of the suspension within five (5) days; notice shall be given to the provider in accordance with Section R30-1-11a.

(ii) Law Enforcement may request in writing to delay notification of the provider in accordance with 42 CFR 455.23.

(4) The Office shall report instances of suspected recipient criminal fraud or misconduct in accordance with Subsection 63A-13-202(1)(k) to the appropriate law enforcement agency within a reasonable time.

R30-1-7a. Auditing of the State and Local Entities: Audit Responsibilities.

(1) Audit is defined as an independent, objective review of a process and associated controls to determine the effectiveness, efficiency and or compliance of that program or process. Audits will be conducted under the regular supervision of the Inspector General.

(a) The specific definition of Audit, defined above, shall only apply to audits executed within the scope of Section R30-1-7a.

(2) The audit reports pertaining to the functioning of the Department will then be released to the Governor, Speaker of the House, President of the Senate, Executive Director of the Department that is audited.

(3) Audits will primarily be determined through a risk assessment approved by the Office.

(4) Audit activities of the Office will remain free of influence from any Department, Division, private or contracted entities.

(5) The Office audit group will follow the Generally Accepted Government Auditing Standards (GAGAS) Federal OIG Quality Standards by the Council of Inspectors General on Integrity and Efficiency (CIGIE) as it relates to audit standards, inspections and review standards.

~~(6) The auditors will immediately notify the Inspector General of any serious deficiency or the suspicion of significant fraud during its review.~~

~~(7) Pursuant to Section 63A-13-301 the Office will have unrestricted access to all records of state executive branch entities, all local government entities, and all providers relating directly or indirectly to the state Medicaid program.~~

~~R30-1-7b. Auditing of the State and Local Entities: Audit Plan.~~

~~(1) An audit plan will be prepared by the Office at least annually and shall:~~

~~(a) Identify the audits to be performed based on audit risk assessment reviewed annually;~~

~~(b) Identify resources to be devoted to audits in plan;~~

~~(c) Ensure that audits evaluate the efficiency and effectiveness of tax payer dollars in the Medicaid program;~~

~~(d) Determine adequacy of Medicaid's controls over federal and state compliance.~~

~~(2) The OIG audit function shall:~~

~~(a) Issue regular audit reports on the effectiveness and efficiency of the defined audits within the Medicaid program in Utah;~~

~~(b) Ensure that such audits are conducted within professional standards such as those defined by the Generally Accepted Governmental Auditing Standards (GAGAS), GIGIE QSI, or the Association of Inspector Generals;~~

~~(c) Report annually to the Governor's office on or before October 1, and to the Utah Legislature before November 30 as stated in Section 63A-13-502.~~

~~R30-1-8a. Auditing of Medical Providers.~~

~~(1) The Office may conduct performance and financial audits of entities described in Subsection 63A-13-202(2).~~

~~(2) Ensure that such audits are conducted within professional standards such as those defined by the Generally Accepted Governmental Auditing Standards (GAGAS), Federal Office of Inspector General, or the Association of Inspector Generals.~~

~~(3) The Office may conduct audits based upon risk assessments, random samples, and referrals from any credible source.~~

~~(4) The audit findings shall be reported to the audited entity within 30 days of the closing of the audit. The Office shall send a written report with the findings and recommendations.~~

~~(5) Each audit shall consider impact to the provider community when making recommendations to the Department and applying a remedy if necessary.~~

~~R30-1-8b. Access to Records and Employees.~~

~~(1) In order to fulfill the duties described in Section 63A-13-202, the Office shall have unrestricted access to all records of state executive branch entities, all local government entities, and all providers relating directly or indirectly, as stated in 63A-13-301. Access to employees that the inspector general determines may assist in the fulfilling of the duties of the Office shall be granted as stated in Section 63A-13-302.~~

~~(2) The Office shall request access to records or documents through a written request. The responding agency or entity must respond to the request within 30 days.~~

~~(a) The written request shall be sent in accordance with R30-1-11-2.~~

~~R30-1-9. Subpoena Power.~~

~~(1) The Office shall have the power to issue a subpoena to obtain records or interview a person that the Office has the right to access as stated in 63A-13-401.~~

~~(2) The form of Subpoena shall meet the requirements of Utah Rule of Civil Procedure 45.~~

~~R30-1-10a. Post-Payment Review: Utilization Reviews and Medicaid Reviews of Services Provided Under the Utah Medicaid Program.~~

~~(1) The Office shall conduct hospital utilization reviews as outlined in the Department's Superior System Waiver in effect at the time service was rendered.~~

~~(2) The Office may request records that support provider claims for payment under programs funded through the Department.~~

~~(3) The medical records requests shall comply with Section R30-1-11b.~~

~~(4) The Office shall review the records in accordance with Department rules and policies in effect at the time the service was rendered.~~

~~(i) The Office shall enforce policies in accordance with Subsections 63A-13-202(3)(a)-(b).~~

~~R30-1-10b. Post-Payment Review: Thirty Day Re-Admissions.~~

~~(1) The Office shall conduct reviews of hospital re-admissions within 30 days. The reviews shall be conducted in accordance with the Department's Superior System Waiver in effect at the time service was rendered.~~

~~(2) The Office may request records to evaluate the re-admissions.~~

~~(3) The medical records requests shall comply with Section R30-1-11b.~~

~~(4) If after review of the re-admission and the claim or encounter does not comply with the Department's policy the Office shall appropriately enforce the Department's policy and/or rule.~~

~~R30-1-10c. Post-Payment Review: Medicaid Program Integrity (MPI).~~

~~(1) The Office shall conduct post-payment review of claims submitted by providers to Medicaid.~~

~~(2) The Office shall investigate of any referral that contains allegations of fraud, waste and abuse in accordance with 42 CFR 455.~~

~~(3) The Office shall conduct post-payment review of the claims for fraud, waste and abuse.~~

~~(4) The Office may request medical records to evaluate the claims.~~

~~(5) The medical records requests shall comply with Section R30-1-11b.~~

~~(6) If after review, the claim submitted does not comply with the Department Health policy, the Office shall appropriately enforce Department Health policy and/or rule.~~

~~(7) The Office shall enforce policies in accordance with Subsections 63A-13-202(3)(a)-(b).~~

~~R30-1-10d. Post-Payment Review: Site Visits.~~

~~(1) The Office of Inspector General shall conduct site visits in a minimally intrusive manner. The Office shall perform the following prior to a site visit:~~

~~_____ (a) The Office shall notify the provider of a site visit in writing, seven (7) calendar days before the inspection. The notice requirement shall comply with Section R30-1-11a.~~

~~_____ (b) The Office shall make reasonable efforts to coordinate and afford the provider an opportunity to make an appointment and arrange visits at a time best suited for the provider.~~

~~_____ (c) The Office shall attempt to minimize interference with patient care.~~

~~_____ (2) If there is a credible allegation of fraud, the requirements of Section R30-1-12(1) are not required.~~

~~_____ (3) This rule does not limit the Office from conducting new Provider Enrollment site visits under 42 CFR 455.432.~~

~~_____ (a) Provider Enrollment visits shall be conducted in a minimally intrusive manner, during normal business hours.~~

~~_____ (b) No notice is required for Provider Enrollment site visits, if it is a verification visit.~~

R30-1-10c. Post-Payment Review: Training.

~~_____ (1) The Office of Inspector General shall provide training to the provider community at no cost.~~

~~_____ (2) The training may include the following:~~

~~_____ (a) Common methods to prevent fraud, waste and abuse.~~

~~_____ (b) Current trends on how fraud, waste and abuse are occurring.~~

~~_____ (c) How to report fraud, waste, and abuse.~~

~~_____ (d) Office programs and audit policies, procedures, and compliance.~~

~~_____ (e) Any other topic necessary to carry out the duties of the Office.~~

~~_____ (3) The Office may conduct quarterly webinars on topics that pertain to Medicaid.~~

~~_____ (4) The Office may consult with the Department to prepare curriculum and training material.~~

~~_____ (5) Any provider may request training by contacting the Office.~~

R30-1-10f. Post-Payment Review: Policy Reviews.

~~_____ (1) The Office shall conduct policy reviews of the Medicaid Provider Manuals and the Medicaid information bulletins (MIBs). These reviews shall be conducted as follows:~~

~~_____ (a) The Office shall review the policies for internal inconsistencies and report those to the Department.~~

~~_____ (b) The Office shall complete the review within 45 days from receiving the proposed policy from the Department.~~

~~_____ (c) The Office shall advise and make recommendations on the policy if there is a policy that would create waste or abuse in the Medicaid program.~~

~~_____ (d) Recommendations may be submitted to the Department for review.~~

~~_____ (e) This procedure shall occur prior to the publishing of the MIB and policies.~~

R30-1-11a. Provider Communication: Notices of Recovery.

~~_____ (1) The Office shall notify providers of overpayments and recover improperly paid claims through the following:~~

~~_____ (a) Any suspected recoupment or take back against future funds less than \$5,000 shall be communicated to the provider via first class mail including a verification certificate attached to verify delivery.~~

~~_____ (b) Any suspected recoupment or take back against future funds greater than \$5,000 shall be communicated to the provider through certified mail or similar guaranteed delivery mechanism.~~

~~_____ (c) Administrative hearing notice requirements will also comply with (a) and (b) above.~~

~~_____ (d) Notices of suspension of payments and placement of holds will also comply with (a) and (b) above.~~

~~_____ (d) In addition to the methods set forth in this rule, a party may be served as permitted by the Utah Rules of Civil Procedure.~~

~~_____ (2) The Office shall send the notice of recovery to the mailing address that is on file with the Department of Health. The Provider may, request in writing, that the Office use the billing address or the service location address on file with the Department of Health. The written request to the Office shall specify the address to be used; the address identified by the Provider must be on file with the Department of Health, the OIG shall not send correspondence to an address not on file with the Department of Health.~~

R30-1-11b. Provider Communication: Records Requests.

~~_____ (1) The Office may request records that support provider claims for payment under programs funded through the Department of Health. These requests shall be in writing and identify the records to be reviewed.~~

~~_____ (2) The requests shall be sent first class mail with proper United States Postal Service postage attached; to the mailing address on file with the Department of Health.~~

~~_____ (i) If a request is returned undeliverable the Office shall send the notification of an invalid address to the Department of Health.~~

~~_____ (ii) The Office shall file a certificate of service that certifies the request was sent that contain the following requirements:~~

~~_____ (a) The date of mailing.~~

~~_____ (b) The name of the sender.~~

~~_____ (c) The signature, electronic or otherwise, of the sender that verifies the document was properly mailed.~~

~~_____ (d) Address that the records request was sent to.~~

~~_____ (e) Written responses to requests shall be returned within 30 days of the date of the written request. Responses must include the complete record of all services and supporting services for which reimbursement is claimed.~~

~~_____ (f) However, if there is no response within the 30 day period, the Office shall close the record and shall evaluate the payment based on the records that the Office has in its file.~~

~~_____ (3) The Office shall send the requests for records to the mailing address that is on file with the Department of Health. The Provider may, requests in writing, that the Office use the billing address or the service location address on file with the Department of Health. The written request to the Office shall specify the address to be used, the address identified by the Provider must be on file with the Department of Health, the OIG shall not send correspondence to an address not on file with the Department of Health.~~

~~_____ (4) The Office shall limit requests for medical records to 36 months prior to the date of the inception of the investigation in accordance with Section 63A-13-204.~~

R30-1-12. Placement of Hold.

~~_____ (1) The Office shall notify the provider of any hold on payment through written correspondence within in five (5) days. The correspondence shall be communicated to the provider in a manner consistent with Section R30-1-11a.~~

~~(2) The correspondence shall contain the following:~~
~~(a) Name and address of provider.~~
~~(b) Notification of suspension.~~
~~(c) General reason for suspension.~~
~~(d) Explanation of due process rights.~~
~~(3) Providers may request a state fair hearing through Subsection R414-1-5(16) Office of Inspector General Administrative Hearings Procedures Manual.~~

R30-1-13. Human Resources.

~~(1) The Office incorporates by reference the DHRM rules under Title R477 applicable to the type and category of the employees in the Office.~~
~~(2) The Office incorporated by reference the OIG Human Resources Manual and Policies.~~

R30-1-14. General Rule Format.

~~(1) The following format is used generally throughout the rules of the Office. Section headings as indicated and the following general definitions are for guidance only. The section headings are not part of the rule content itself. In certain instances, this format may not be appropriate and will not be implemented due to the nature of the subject matter of a specific rule.~~
~~(2) Introduction and Authority. A concise statement as to what Medicaid service is covered by the rule, and a listing of specific federal statutes and regulations and state statutes that authorize or require the rule.~~
~~(3) Definitions. Definitions that have special meaning to the particular rule.~~
~~(4) Other Sections. As necessary under the particular rule, additional sections may be indicated. Other sections include regulatory language that does not fit into sections (1) through (4).~~

~~**KEY: Office of the Inspector General, Medicaid fraud, Medicaid waste, Medicaid abuse**~~
~~**Date of Enactment or Last Substantive Amendment: June 21, 2013**~~
~~**Notice of Continuation: April 21, 2017**~~
~~**Authorizing, and Implemented or Interpreted Law: 63A-13-101 to 602]**~~

Administrative Services, Inspector
 General of Medicaid Services (Office
 of)
R30-1
 Office Procedures

NOTICE OF PROPOSED RULE
 (New Rule)
 DAR FILE NO.: 42694
 FILED: 03/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to completely replace

the current Rule R30-1 which has been in place since 2012 and does not adequately reflect how Title 63A, Chapter 13, is applied by the Office of Inspector General (OIG) of Medicaid Services. (EDITOR'S NOTE: The proposed repeal of Rule R30-1 is under Filing No. 42658 in this issue, April 1, 2018, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: Rule R30-1 outlines procedures followed by the OIG of Medicaid Services in carrying out its duties as outlined in Title 63A, Chapter 13. Specifically, Rule R30-1 outlines procedures for conducting audits, requesting records, on-site inspections, and OIG directed self-audits.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63A-13-603 and Subsection 63G-3-201(2)

ANTICIPATED COST OR SAVINGS TO:
 ♦ THE STATE BUDGET: There is no fiscal cost or benefit to state government with this new rule. The OIG under the old rule consulted with and worked closely with state government(s) that had any interaction with Medicaid funds. The OIG does not think that the relationship and/or time spent with these state government(s) will increase or decrease as a result of this new proposed rule.
 ♦ LOCAL GOVERNMENTS: There will be an aggregate savings to local governments of \$5,723 annually. The OIG identified two areas of which the rule may have a direct fiscal cost or benefit. The nature of the OIG is such that OIG does not conduct regular business (i.e. reviews) with any one specific local government but does conduct work on an as needed basis. Just because the OIG has worked with a local government in the past is not necessarily an indicator that OIG will work with them in the future. As such, for the analysis, the OIG gathered data from 07/01/2015 through 12/31/2017, and combined services into two groups that have an impact on local governments (mental and behavioral health services). These services are broken into these groups as it would be effective to report them as a group rather than selecting the top local governments. Of the data pulled, local governments accounted for 4.24% of the total Medicaid claims reviewed and less than 1% of the total dollar amount identified on those claims. Cost: There are two pieces with the new rule that may have a direct fiscal costs (on-site inspections and self-audits). They are broken out as follows: on-site visits can be conducted by the OIG when the OIG identifies the provider as a new provider, it has been determined by the Medicaid program to be high risk provider, when the OIG is conducting an investigation and it has been determined that it is easier to conduct work directly on-site, or it may result from a random selection. It is determined that the OIG will conduct 12 on-site visits each year. The fiscal costs of those on-site visits have been broken out as follows: it was determined that the average time of an on-site visit is 5 hours; it is determined that two office staff personnel, at the provider's location, would assist with the on-site; it was identified that each OIG staff personnel would cost the provider \$50 per hour; at \$50 per hour for 2 individuals at 5

total hours the total estimated cost of an on-site visit would be \$500. With that, the total costs of 12 on-site visits would be \$6,000; and multiplied that by the percentage of claims reviewed as identified in our local government section. Self-audits are initiated by the OIG when it has been determined that a problem exists within a medical claims. The OIG researches the problem and identifies the claims that are effected by the problem. The OIG will then write up the problem and request that a provider look into its own claims to see if the problem exists. If the problem does exist, the OIG encourages the provider to submit repayment of funds back to the Medicaid program and/or rebill the claim in the proper manner. The OIG conducts self-audits as a result of determining that is it not cost beneficial for the office to request records and review them individually, that the concern identified is not significant and the provider has better capabilities to review records, or as determined to be the method to have records reviewed. It is determined that the OIG will conduct 4 self-audits during any given year and identify that 2,000 individual claims be reviewed for a total of \$8,000 individual claims. The fiscal costs of those self-audits have been broken as follows: it was determined that the average number of claims reviewed on a similar issue would be 10 per hour; based upon that amount it would require 800 total hours; it would cost, on average \$50 per hour to review records; the total amount for 4 self-audits and the number of claims would be \$40,000; and multiplied that by the percentage of claims reviewed as identified in our local government section. Benefits: In order to properly determine if a Medicaid overpayment has occurred or not, OIG sends a request for records to a provider. The records request historically has required the provider to submit medical records and any other documentation to the OIG within 30 days. If a provider is unable to comply with this 30-day rule, the Office will request that a reimbursement be made to the Medicaid program for the amount identified on the medical claim. Under the new rule, the period of which a provider must submit those records goes from 30 days to 45 days. It is estimated that roughly 5% of the requests for records are unable to comply with the old rule. It is anticipated that this new rule will eliminate almost all non-compliance. The OIG therefore took the following steps: determined the value of 5% of all claims reviewed from July 2015 – December 2017; annualized this to proper determine an estimate; multiplied that by the percentage of claims reviewed as identified in our local government section; and finally multiplied all of this by the average dollar amount as identified on our notice of recovery documents.

◆ **SMALL BUSINESSES:** There will be an aggregate savings to small businesses of \$49,194 annually. Cost: There are two pieces with this new rule that may have a direct fiscal costs: on-site inspections and self-audits. They are broken out as follows: on-site visits can be conducted by the OIG when the OIG identifies the provider as a new provider, it has been determined by the Medicaid program to be high risk provider, when the OIG is conducting an investigation and it has been determined that it is easier to conduct work directly on-site, or may result from a random selection. It is determined that the office will conduct 12 on-site visits each year. The fiscal

costs of those on-site visits have been broken out as follows: it was determined that the average time of an on-site visit is 5 hours; it is determined that 2 office staff personnel at the provider's location would assist with the on-site; it was identified that each office staff personnel would cost the provider \$50 per hour; at \$50 per hour for 2 individuals at 5 total hours the total estimated cost of an on-site visit would be \$500. With that, the total costs of 12 on-site visits would be \$6,000; multiplied that by the percentage of claims reviewed as identified in our small business section. Self-audits are initiated by the OIG when it has been determined that a problem exists within a medical claims. The OIG researches the problem and identifies the claims that are effected by the problem. The OIG will then write up the problem and request that a provider look into its own claims to see if the problem exists. If the problem does exist, the OIG encourages the provider to submit repayment of funds back to the Medicaid program and/or rebill the claim in the proper manner. The OIG conducts self-audits as a result of determining that is it not cost beneficial for the OIG to request records and review them individually, that the concern identified is not significant and the provider has better capabilities to review records, or as determined to be the method to have records reviewed. It is determined that the office will conduct 4 self-audits during any given year and identify that 2,000 individual claims be reviewed for a total of \$8,000 individual claims. The fiscal costs of those self-audits have been broken out as follows: it was determined that the average number of claims reviewed on a similar issue would be 10 per hour; based upon that amount it would require 800 total hours; it would cost, on average \$50 per hour to review records; the total amount for 4 self-audits and the number of claims would be \$40,000; and multiplied that by the percentage of claims reviewed as identified in our small business section. Benefits: In order to properly determine if a Medicaid overpayment has occurred or not, OIG sends a request for records to a provider. The records request historically has required the provider to submit medical records and any other documentation to the office within 30 days. If a provider is unable to comply with this 30-day rule, the OIG will request that a reimbursement be made to the Medicaid program for the amount identified on the medical claim. Under the new rule, the period of which a provider must submit those records goes from 30 days to 45 days. It is estimated that roughly 5% of the requests for records are unable to comply with the old rule. It is anticipated that this new rule will eliminate almost all non-compliance. The OIG therefore, took the following steps: determined the value of 5% of all claims reviewed from July 2015 – December 2017; annualized this to proper determine an estimate; multiplied that by the percentage of claims reviewed as identified in our local government section; and finally multiplied all of this by the average dollar amount as identified on our notice of recovery documents.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The OIG does not believe there is cost or savings to any "person" associated with this new rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The OIG does not anticipate significant compliance costs associated with implementation of this rule. The compliance components of this rule are already adhered to by providers through contracts with Medicaid.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will be a net savings to Medicaid providers whom the OIG provides oversight of. These savings are realized primarily in the self-audit procedure as the provider reviews low risk, low return on investment (ROI) claims identified by the OIG that appear to have been billed incorrectly. This process saves the provider the time of copying each claim and then delivering them to the OIG. Self-audits are directed only on low risk claims with small dollar amounts that would be more costly to produce the records for and mail to the OIG. The OIG saves the states time and money by not having to review records that likely have a very small ROI.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ADMINISTRATIVE SERVICES
 INSPECTOR GENERAL OF MEDICAID SERVICES
 (OFFICE OF)
 288 N 1460 W
 SALT LAKE CITY, UT 84116
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Gene Cottrell by phone at 801-538-6856, by FAX at 801-538-6382, or by Internet E-mail at gcottrell@utah.gov
 ♦ Nathan Johansen by phone at 801-538-6455, by FAX at 801-538-6382, or by Internet E-mail at nmjohansen@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/15/2018

AUTHORIZED BY: Gene Cottrell, Inspector General

Appendix 1: Regulatory Impact Summary Table*

	FY 2018	FY 2019	FY 2020
Fiscal Costs			
State Government	\$0	\$0	\$0
Local Government	\$1,950	\$1,950	\$1,950
Small Businesses	\$20,999	\$20,999	\$20,999
Non-Small Businesses	\$22,062	\$22,062	\$22,062
Other Persons	\$0	\$0	\$0
Total Fiscal Costs:	\$45,011	\$45,011	\$45,011

Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$7,673	\$7,673	\$7,673
Small Businesses	\$70,193	\$70,193	\$70,193
Non-Small Businesses	\$51,424	\$51,424	\$51,424
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$129,290	\$129,290	\$129,290
Net Fiscal Benefits:	\$84,279	\$84,279	\$84,279

*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 in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

Aggregate savings to non-small businesses of \$29,362. The OIG identified two areas of which the rule may have a direct fiscal cost or benefit. The nature of the OIG is such that the OIG does not conduct regular business (i.e. reviews) with any one specific non-small business but do conduct work on an as needed basis. Just because the office has worked with a large business in the past, is not necessarily an indicator that the OIG will work with them in the future. As such the OIG analysis is that data was gathered from 07/01/2015 through 12/31/2017, and combined services into five groups that have an impact on non-small business (hospitals, psychiatry, behavioral health, hospice, and medical equipment and services). These services are broken into these groups as it would be more effective to report that as a group rather than selecting the five top large businesses. Also note that these groups have been listed in the order of which the OIG identified as higher dollar value versus the number of providers that fall into each category. Of the data pulled from the time period, small businesses accounted for 50.11% of the total Medicaid claims reviewed and 94.98% of the total dollar amount identified on those claims. Cost: there are two pieces with the new rule that may have a direct fiscal costs (on-site inspections and self-audits). They are broken out as follows: on-site visits can be conducted by the OIG when the OIG identifies the provider as a new provider, it has been determined by the Medicaid program to be high risk provider, when the OIG is conducting an investigation and it has been determined that it is easier to conduct work directly on-site, or may result from a random selection. It is determined that the OIG will conduct 12 on-site visits each year. The fiscal costs of those on-site visits have been broken out as follows: it was determined that the average time of an on-site visit is 5 hours; it is determined that 2 office staff personnel at the provider's location would assist with the on-site; it was identified that each OIG staff personnel would cost the provider \$50 per hour; at \$50 per hour for 2 individuals at 5 total hours the total estimated cost of an on-site visit would be \$500. With that, the total costs of 12 on-site visits would be \$6,000; and multiplied that by the percentage of claims reviewed as identified in our non-small business section. Self-audits are initiated by the OIG when it has been determined that a problem exists within a medical claims. The OIG researches the problem and identifies the claims that are effected by the problem. The OIG will then write up the problem and request that a provider look into its own claims to see if the problem exists. If the problem does exist, the office encourages the provider to submit repayment of funds back to the Medicaid program and/or rebill the claim in the proper manner. The OIG conducts self-audits as a result of determining that is it not cost beneficial for the OIG to request records and review them individually, that the concern identified is not significant and the provider has better capabilities to review records, or as determined to be the method to have records reviewed. It is determined that the OIG will conduct 4 self-audits during any given year and identify that 2,000 individual claims be reviewed for a total of \$8,000 individual claims. The fiscal costs of those self-audits have been broken out as follows: it was determined that the average number of claims reviewed on a similar issue would be 10 per hour; based upon that amount it would require 800 total hours; it would cost, on average \$50 per hour to review records; the total amount for 4 self-audits and the number of claims would be \$40,000; and multiplied that by the percentage of claims reviewed as identified in our non-small business section. Benefits: in order to properly determine if a Medicaid overpayment has occurred or not, OIG sends a request for records to a provider. The records request historically has required the provider to submit medical records and any other documentation to the OIG within 30 days. If a provider is unable to comply with this 30-

day rule, the OIG will request that a reimbursement be made to the Medicaid program for the amount identified on the medical claim. Under the new rule, the period of which a provider must submit those records goes from 30 days to 45 days. It is estimated that roughly 5% of the requests for records are unable to comply with the old rule. It is anticipated that the new rule will eliminate almost all non-compliance. The OIG therefore, took the following steps: determined the value of 5% of all claims reviewed from July 2015 - December 2017; annualized this to properly determine an estimate; multiplied that by the percentage of claims reviewed as identified in our local government section; and finally multiplied all of this by the average dollar amount as identified on our notice of recovery documents.

The Inspector General, Gene D. Cottrell, has reviewed and approved this fiscal analysis.

R30. Administrative Services, Office of Inspector General of Medicaid Services.

R30-1. Office Procedures.

R30-1-1. Purpose.

The purpose of this rule is to describe the manner in which the office shall execute the requirements of Title 63A, Chapter 13 and the program integrity functions described in the Memorandum of Understanding and Agreement for Services between the department and the office.

R30-1-2. Authority.

This rule is authorized by Section 63A-13-602.

R30-1-3. Definitions.

Terms used in this rule are defined in Section 63A-13-102, in addition:

(1) "audit" means an independent, objective review of a program or process and associated controls to determine the effectiveness, efficiency and or compliance of the program or process.

R30-1-4. Audit Procedures.

(1)(a) When commencing an audit, the office's audit unit shall:

(i) contact the entity to be audited to advise the entity an audit will be performed;

(ii) send a written announcement memorandum to the entity when the audit begins; and

(iii) obtain background information from the entity to be used in determining the parameters of the audit.

(b) In the course of the audit, the audit unit shall:

(i) hold an entrance conference with the entity to discuss the scope, objectives and timeframe of the audit;

(ii) obtain information from the entity to conduct the audit; and

(iii) keep the entity apprised of issues that arise and any proposed audit findings or conclusions.

(c) At the conclusion of the audit, the audit unit shall conduct an exit conference with the entity audited to:

(i) review any recommendations resulting from the audit; and

(ii) provide the entity with a draft of the audit report.

(d) The entity shall have fourteen days to respond to the audit unit regarding the findings in the audit report.

(e) The entity's response shall be included in a final audit report, which will then be made available to the public.

(2) The audit unit shall seek to incorporate the audit standards created by the Council of Inspectors General on Integrity and Efficiency, the Association of Inspector Generals, and the Generally

Accepted Government Auditing Standards created by the United States Government Accountability Office.

R30-1-5. Requests for Records.

(1) Requests for records sent by the office shall be:

(a) in writing and identify the records to be copied; and

(b) mailed by first class postage to the mailing address on file with the department unless the provider or entity notifies the office in writing of an alternative physical or email address to be used for requests for records.

(2)(a) The records requested shall be returned within thirty calendar days of the date of the written request.

(b) A provider's response to a request for records shall include the complete record of all services and supporting services for which reimbursement is claimed.

(3)(a) If a provider has not provided any records within the first 20 days from the date of a request, the office shall:

(i) verify the request for records was sent to the correct address; and

(ii) attempt to contact the provider before the end of the thirty-day period and remind the provider the records must be provided within 30 days from the date of the original request for records.

(b)(i) If the provider fails to provide any records within the thirty-day period, the office shall notify the provider in writing that the records requested were not received.

(ii) The written notice to the provider shall indicate the provider has an additional 15 days from the date of the notification to submit the records or a credit adjustment on the claim shall be instituted pursuant to Section R414-1-14, the Utah Medicaid General Information Provider Manual, and Section 63G-13-202.

R30-1-6. On-site Inspections.

(1)(a) Unless there is a credible allegation of fraud, the office shall contact a provider or entity prior to an on-site inspection.

(b) The notification to the provider or entity shall identify the information sought to be reviewed during the on-site visit.

(2) If a provider is unable to produce records requested by the office during an on-site inspection, the provider shall have fifteen business days to provide a copy of the records to the office.

R30-1-7. Self-Audits.

(1) When billing concerns are identified, the office may send out a self-audit packet to a provider, which notifies the provider of:

(a) the type of potential billing errors identified by the office;

(b) a list of claims, which may have been billed incorrectly;

(c) the policy, which describes how the claims should be billed;

(d) instructions on conducting a self-audit;

(e) information about refunding any payments the provider identifies as an overpayment; and

(f) the period for conducting the self-audit and responding to the office.

(2) Once the time for responding to the self-audit has passed, the office shall review any information received from a provider to determine if the provider has fully resolved the issues identified by the office.

(3) If the office is not satisfied the provider fully addressed the concerns identified by the office, the office may:

(a) contact the provider about the issues, which were not fully resolved;

(b) conduct a full investigation and initiate a recovery action if appropriate; or

(c) close the case.

(4) Participation in the self-audit program does not preclude any entity from pursuing any criminal, civil, or administrative remedies or to obtain additional damages, penalties, or fines related to the subject of the self-audit.

R30-1-8. Human Resources.

(1) The Department of Human Resource Management rules found in R477 shall apply to all office employees.

(2) All office employees shall comply with the requirements of the office's internal policies and procedures.

KEY: Office of the Inspector General of Medicaid Services, Medicaid fraud, Medicaid waste, Medicaid abuse
Date of Enactment or Last Substantive Amendment: 2018
Authorizing, and Implemented or Interpreted Law: 63A-13

Administrative Services, Inspector
 General of Medicaid Services (Office
 of)
R30-2

Adjudicative Procedures

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 42695

FILED: 03/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to outline the administrative hearings procedures the Office of the Inspector General (OIG) uses to ensure fair hearings.

SUMMARY OF THE RULE OR CHANGE: Rule R30-2 outlines the processes the OIG will use when an administrative hearing is requested by a Medicaid provider. This process differs from processes used in the past in that it outlines a settlement process by which both parties can reach an agreement prior to the case going to hearing.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63A-13-603 and Subsection 63G-3-201(2)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The OIG does not think that there is a fiscal cost or benefit to the state budget with this new rule. The OIG under the old Rule R30-1 consulted with and worked

closely with state government(s) that had any interaction with Medicaid funds. OIG does not think that the relationship and/or time spent with these state government(s) will increase or decrease as a result of this new proposed rule. (EDITOR'S NOTE: The proposed repeal of Rule R30-1 is under Filing No. 42658 in this issue, April 1, 2018, of the Bulletin.)

◆ **LOCAL GOVERNMENTS:** Local governments fiscal cost is \$1,400 annually. The OIG identified one area of which the rule may have a direct fiscal cost. The nature of OIG is such that the OIG does not conduct regular business (i.e. reviews) with any one specific local government but does conduct work on an as needed basis. Just because the office has worked with a local government in the past is not necessarily an indicator that the Office will work with them in the future. As such, for our analysis, the OIG gathered data from 07/01/2015 through 12/31/2017, and combined services into two groups that have an impact in local governments (mental and behavioral health services). These services are broken into these groups as it would be effective to report them as a group rather than selecting the top local governments. Of the data pulled, local governments accounted for 4.24% of the total Medicaid claims reviewed and less than 1% of the total dollar amount identified on those claims. Cost: The one piece that may have a direct fiscal costs is during what OIG calls the review process. Under both the old and new rule, a provider is given the opportunity for a hearing. Historically, of the notices of recoveries sent (i.e. notice telling a provider that a reimbursement of Medicaid funds is needed), the OIG has scheduled around 159 annually. During the hearing process, under the old rule, a provider had the opportunity to discuss their side of the story during the hearing. If after this discussion, an agreement could not be reached, then it was sent before our Administrative Law Judge to make the final decision. The same process is followed in the new rule, but a provider now has the ability to request an agency review. This adds an additional step in the mediation process. Based upon this, the OIG estimated that although there isn't a lot of additional work that would need to take place at the provider level, it may result in a few employee hours being spent by the provider. The OIG believe that the process would cost a provider \$200 more. When conducting the calculation, the OIG used the \$200 and allocated it across the estimated hearings as if each provider would request an agency review. The OIG does not think that will take place, but for purposes of estimating conservatively, the OIG has calculated it as such. With this calculation, the OIG then multiplied it by the percentage of claims reviewed as identified.

◆ **SMALL BUSINESSES:** Small businesses fiscal cost is \$14,399 annually. The OIG identified two areas of which the rule may have a direct fiscal cost or benefit. The nature of OIG is such that the OIG does not conduct regular business (i.e. reviews) with any one specific small business but does conduct work on an as needed basis. Just because the office has worked with a small business in the past is not necessarily an indicator that the OIG will work with them in the future. As such, for the analysis, the OIG gathered data from 07/01/2015 through 12/31/2017, and combined services into six groups that have an impact on small businesses

(rehabilitation, doctors, dentist, pharmacy, therapy, and the sixth group has been combined which is made up of nursing homes, laboratories, and home health). These services are broken into these groups as it would be more effective to report them as a group rather than selecting the five top small businesses. Also, note that these groups have been listed in the order of which we identified as higher dollar value verses the number of providers that fall into each category. Of the data pulled, small businesses accounted for 45.65% of the total Medicaid claims reviewed and 5.01% of the total dollar amount identified on those claims. Cost: The one piece that may have a direct fiscal costs is during what OIG calls the review process. Under both the old rule (R30-1) and the new rule (R30-2), a provider is given the opportunity to a hearing. Historically, of the notices of recoveries sent (i.e. notice telling a provider that a reimbursement of Medicaid funds is needed), the OIG has scheduled around 159 annually. During the hearing process, under the old rule, a provider had the opportunity to discuss their side of the story during the hearing. If after this discussion, an agreement could not be reached, then it was sent before the Administrative Law Judge to make the final decision. The same process is followed in the new rule, but a provider now has the ability to request an agency review. This adds an additional step in the mediation process. Based upon this OIG estimates that although there isn't a lot of additional work that would need to take place at the provider level, it may result in a few employee hours being spent by the provider. The OIG believes that the process would cost a provider \$200 more. Note, when conducting the calculation, the OIG used the \$200 and allocated it across the estimated hearings as if each provider would request an agency review. The OIG does not think that will take place, but for purposes of estimating conservatively, the OIG has calculated it as such. With this calculation, OIG then multiplied it by the percentage of claims reviewed as identified.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The OIG does not believe there is a cost or benefit to other "persons" associated with this new rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The OIG does not believe there will be a compliance cost associated with the implementation of this rule since Medicaid providers already comply with the provisions of this rule through contracts with Medicaid.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impacts identified in this analysis are costs already associated with the hearing process OIG has used since its inception in 2011.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ADMINISTRATIVE SERVICES
 INSPECTOR GENERAL OF MEDICAID SERVICES
 (OFFICE OF)
 288 N 1460 W

SALT LAKE CITY, UT 84116
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Gene Cottrell by phone at 801-538-6856, by FAX at 801-538-6382, or by Internet E-mail at gcottrell@utah.gov
 ◆ Nathan Johansen by phone at 801-538-6455, by FAX at 801-538-6382, or by Internet E-mail at nmjohansen@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/15/2018

AUTHORIZED BY: Gene Cottrell, Inspector General

Appendix 1: Regulatory Impact Summary Table*

	FY 2018	FY 2019	FY 2020
Fiscal Costs			
State Government	\$0	\$0	\$0
Local Government	\$1400	\$1400	\$1400
Small Businesses	\$14,399	\$14,399	\$14,399
Non-Small Businesses	\$16,000	\$16,000	\$16,000
Other Persons	\$0	\$0	\$0
Total Fiscal Costs:	\$31,799	\$31,799	\$31,799
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:	(\$31,799)	(\$31,799)	(\$31,799)

*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 in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

Non-small business fiscal cost is \$16,000 annually. The OIG identified two areas of which the rule may have a direct fiscal cost or benefit. The nature of the OIG is such that the OIG does not conduct regular business (i.e. reviews) with any one specific non-small business but do conduct work on an as needed basis. Just because the OIG has worked with a large business in the past, is not necessarily an indicator that the OIG will work with them in the future. As such for the analysis, the OIG gathered data from 07/01/2015 through

12/31/2017, and combined services into five groups that have an impact on non-small business (hospitals, psychiatry, behavioral health, hospice, and medical equipment and services). These services are broken into these groups as it would be more effective to report that as a group rather than selecting the five top large businesses. Also note that these groups have been listed in the order of which the OIG identified as higher dollar value versus the number of providers that fall into each category. Of the data pulled, small businesses accounted for 50.11% of the total Medicaid claims reviewed and 94.98% of the total dollar amount identified on those claims. Cost: the one piece that may have a direct fiscal costs is during what the OIG calls the review process. Under both the old Rule R30-1 and the new Rule R30-2, a provider is given the opportunity to a hearing. Historically of the notices of recoveries sent (i.e. notice telling a provider that a reimbursement of Medicaid funds is needed), the OIG has scheduled around 159 annually. During the hearing process, under the old Rule R30-1, a provider had the opportunity to discuss their side of the argument during the hearing. If after this discussion, an agreement could not be reached, then it was sent before our Administrative Law Judge to make the final decision. The same process is followed in the new Rule R30-2, but a provider now has the ability to request an agency review. This adds an additional step in the mediation process. Based upon this the OIG estimated that, although there isn't a lot of additional work that would need to take place at the provider level, it may result in a few employee hours being spent by the provider. The OIG therefore, believes that the process would cost a provider \$200 extra. Note when conducting the calculation, the OIG used the \$200 and allocated it across the estimated hearings as if each provider would request an agency review. The OIG does not think that will take place, but for purposes of estimating conservatively, the OIG has calculated it as such. With this calculation, the OIG then multiplied it by the percentage of claims reviewed as identified in our non-small business section.

The Inspector General, Gene D. Cottrell, has reviewed and approved this fiscal analysis.

R30. Administrative Services, Office of Inspector General of Medicaid Services.

R30-2. Adjudicative Procedures.

R30-2-1. Purpose.

The purpose of this rule is to describe the procedures to be followed in adjudicative proceedings handled by the office.

R30-2-2. Authority.

This rule is authorized by Section 63A-13-602 and Title 63G, Chapter 4.

R30-2-3. Definitions.

Terms used in this rule are defined in Section 63A-13-102, in addition:

(1) "agency action" means an adjudicative proceeding initiated by the office under Title 63G, Chapter 4 against a provider, including a:

(a) recovery action seeking repayment of division funds from a provider; or

(b) payment suspension action under Section 63A-13-205 or 42 CFR Section 455.23; and

(2) "ALJ" means an impartial administrative law judge who has been appointed by the inspector general to conduct an adjudicative proceeding according to these rules.

R30-2-4. Agency Action.

(1) When the office determines a division payment made to a provider was incorrect or that a provider's payments from the division should be suspended, the office may file a notice of agency action pursuant to Section 63G-4-201.

(2) The notice of agency action and any other documents associated with the agency action shall be mailed by first class postage to the provider's mailing address on file with the department unless the provider notifies the office in writing of an alternative physical or email address to be used for the adjudicative proceedings.

(3) An agency action initiated by the office shall be an informal adjudicative proceeding under Section 63G-4-202.

(4) Unless otherwise provided by these rules, the rules regarding the calculation of time found in Rule 6 of the Utah Rules of Civil Procedure shall be applicable to an action.

(5) After the initiation of an agency action, the ALJ may issue an order of default against a provider pursuant to Section 63G-4-209 if the ALJ finds a provider:

(a) fails to appear or participate in any step of the adjudicative process; or

(b) unreasonably prolongs the adjudicative process without good cause.

R30-2-5. Request for Agency Review.

(1) If a provider disagrees with the findings contained in a notice of agency action, a provider may file a written request for review within thirty days from the date of the notice of agency action.

(2) The request for review shall be filed with the office and include:

(a) a fully completed "Request for Review" form provided with the notice of agency action;

(b) a copy of the notice of agency action sent by the office; and

(c) a detailed explanation of why the provider is seeking review.

(3)(a) A request for review shall be considered filed on the date it is received by the office as indicated by the date and time:

(i) hand-delivered to the office;

(ii) of the postmark if it is mailed; or

(iii) logged on an email or fax.

(b) If the postmark date is illegible, erroneous, or omitted, the request for review shall be considered filed on the date the office receives it, unless the provider can demonstrate through competent evidence it was mailed before the date of receipt.

(4)(a) If a provider does not request review in a recovery action, a provider shall repay the money sought to be recovered in the notice of agency action within 30 days.

(b) A provider may repay money to the division by:

(i) sending in a check to the address listed in the notice of recovery;

(ii) contacting the office to arrange for a credit adjustment; or

(iii) voiding the original claim paid by the division.

(c) If a provider has not repaid the division within 60 days from the date of the notice of recovery, the office shall issue a final order and request the division initiate a credit adjustment in the amount listed on the notice of recovery.

(5) If a provider does not request review in a payment suspension action, the suspension shall become effective on the date indicated in the notice of suspension.

(6)(a) If a provider does not object to the remedy requested in the notice of agency action after having requested review, the provider may send a withdrawal of the request for hearing to the office.

(b) In response to the provider's withdrawal of the request for hearing, the office shall enter a final order closing the case and canceling any further proceedings.

R30-2-7. Review Process.

(1)(a) If a provider requests review of an agency action initiated by the office, the matter shall be set for a settlement conference between the parties.

(b) The purpose of the settlement conference is to give the parties an opportunity to discuss the issues in the case and attempt to resolve the matter without a hearing.

(2) If the parties are able to resolve the matter, the office shall memorialize the resolution reached in writing and send a copy to the provider.

(3)(a) If after negotiation, the parties are unable to resolve the matter, a party may request the matter be set for a prehearing conference with the ALJ.

(b) The purpose of the prehearing with the ALJ is to set the matter for hearing.

(4) A party may be represented by counsel in the agency review process and at a hearing.

R30-2-8. Hearing.

(1) Hearings before the ALJ shall be governed by the procedures in Section 63G-4-203.

(2)(a) A provider may have access to relevant information contained in the office's files the office intends to use in an action as provided in Title 63G, Chapter 2.

(b) A provider's right to discovery is limited and does not extend to interrogatories, requests for admissions, requests for the production of documents, requests for the inspection of items, or depositions.

(c) Subpoenas and orders to secure the attendance of witnesses or the production of evidence may be issued by the ALJ when requested by a party or on the ALJ's own motion.

(3) At the conclusion of a hearing, the ALJ shall issue a final order as provided in Section 63G-4-203.

R30-2-9. Reconsideration.

(1) A party may seek reconsideration of the ALJ's decision pursuant to Section 63G-4-302.

(2) If a party files a request for reconsideration with the office, the inspector general shall review the request for reconsideration, along with the ALJ's decision, and may:

(a) uphold the ALJ's decision;

(b) reject the ALJ's decision or any portion of the decision, and make an independent determination based upon the record; or

(c) remand the matter to the ALJ to obtain additional evidence and issue a new decision.

(3)(a) The decision of the Inspector General constitutes final administrative action and is subject to judicial review.

(b) The Inspector General shall send a copy of the final decision to each party, which includes notice of the parties' right to judicial review and the time limits for filing an appeal.

KEY: Office of the Inspector General of Medicaid Services; adjudicative procedures

Date of Enactment or Last Substantive Amendment: 2018

Authorizing, and Implemented or Interpreted Law: 63A-13, 63G-4

Administrative Services, Inspector
General of Medicaid Services (Office
of)
R30-3
Declaratory Orders

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 42696

FILED: 03/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to outline the Office of the Inspector General's (OIG) use of declaratory orders.

SUMMARY OF THE RULE OR CHANGE: This rule simply updates wording for the OIG's use of declaratory orders.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 63A, Chapter 13

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This new rule clarifies some language as defined by the declaratory proceedings. The OIG does not believe the new rule has a fiscal cost or benefit to the state budget. There may be an indirect correlation with this rule and Rule R30-2. The costs, as identified in Rule R30-2, cover any items that may be indirectly conferred in this rule. As such, the OIG does not think a clarification of the language has a fiscal cost or benefit. (EDITOR'S NOTE: The proposed new Rule R30-2 is under Filing No. 42695 in this issue, April 1, 2018, of the Bulletin.)

◆ **LOCAL GOVERNMENTS:** The OIG does not believe there is a fiscal cost or savings to local governments associated with this rule.

◆ **SMALL BUSINESSES:** The OIG does not believe there is a fiscal cost or savings to small businesses associated with this rule.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The OIG does not believe there is a fiscal cost or savings to other "persons" associated with this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no compliance cost associated with this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact associated with this rule. It simply identifies how the OIG will use declaratory orders.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ADMINISTRATIVE SERVICES
 INSPECTOR GENERAL OF MEDICAID SERVICES
 (OFFICE OF)
 288 N 1460 W
 SALT LAKE CITY, UT 84116
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Gene Cottrell by phone at 801-538-6856, by FAX at 801-538-6382, or by Internet E-mail at gcottrell@utah.gov
 ♦ Nathan Johansen by phone at 801-538-6455, by FAX at 801-538-6382, or by Internet E-mail at nmjohansen@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/15/2018

AUTHORIZED BY: Gene Cottrell, Inspector General

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 in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

This proposed rule is not expected to have any fiscal impacts on large businesses revenues or expenditures, because it only outlines the OIG's use of Declaratory Orders.

The Inspector General, Gene D Cottrell, has reviewed and approved this fiscal analysis.

R30. Administrative Services, Office of Inspector General of Medicaid Services.

R30-3. Declaratory Orders.

R30-3-1. Purpose.

The purpose of this rule is to describe the procedures the office shall follow in declaratory proceedings.

R30-3-2. Authority.

This rule is authorized by Section 63A-13-602 and Section 63G-4-503.

R30-3-3. Definitions.

(1) Terms used in this rule are defined in Section 63A-13-102.

(2) In addition, "ALJ" means an impartial administrative law judge who has been appointed by the inspector general to conduct adjudicative proceedings according to these rules.

R30-3-4. Petition Form and Filing.

(1) A petition for a declaratory order shall be delivered to the office as provided by Subsection R30-2-6(3).

(2) The petition shall:

- (a) be clearly designated as a request for declaratory order;
- (b) identify the statute, rule or order to be reviewed;
- (c) describe in detail the situation or circumstances to be reviewed;
- (d) describe the reason or need for the review, addressing in particular, why the review should not be considered frivolous;
- (e) include an address and telephone where the petitioner can be contacted during regular business hours; and
- (f) be signed by the petitioner.

R30-3-5. Reviewability.

(1) The agency may not issue a declaratory order if the subject matter is:

- (a) excluded from review under Subsection 63G-4-503(3);
- (b) not within the jurisdiction and expertise of the agency;
- (c) frivolous, trivial, irrelevant or immaterial; or
- (d) otherwise excluded by state and federal law.

R30-3-6. Petition Review and Disposition.

(1) A petition for declaratory relief shall be referred to the ALJ for review and consideration.

(2) The ALJ may request input from the petitioner and the office prior to issuing a written order as provided in Subsection 63G-4-503(6).

KEY: Office of the Inspector General of Medicaid Services, declaratory orders

Date of Enactment or Last Substantive Amendment: 2018

Authorizing, and Implemented or Interpreted Law: 63A-13, 63G-4-503

Education, Administration
R277-502
Educator Licensing and Data Retention

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42697

FILED: 03/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These rule changes remove some specific requirements related to minimum components designed to ensure that only high-quality individuals enter the licensure program e.g. it removes a minimum GPA of 3.0, an ACT composite score of 21, and a combined SAT score of 1,000.

SUMMARY OF THE RULE OR CHANGE: These rule changes remove some specific requirements related to minimum components designed to ensure that only high-quality individuals enter the licensure program e.g. it removes a minimum GPA of 3.0, an ACT composite score of 21, and a combined SAT score of 1,000. The new language in this rule change provides flexibility by instead including measures of previous academic success and disposition for employment in an educational setting to ensure high-quality individuals enter the licensure program. These rule changes also task the Superintendent to work with Board-approved educator preparation programs, local education agencies (LEAs), and other stakeholders to establish standards for pedagogical performance assessments that will be required under Rule R277-501 no later than 01/01/2019. This rule will be superseded by Rule R277-501 on 01/01/2020.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art X Sec 3 and Section 53E-6-201 and Subsection 53E-3-401(4)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** These rule changes are not estimated to have a fiscal impact on the state budget. It provides technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies.

◆ **LOCAL GOVERNMENTS:** These rule changes are not estimated to have a fiscal impact on local governments. It provides technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies.

◆ **SMALL BUSINESSES:** These rule changes are not estimated to have a fiscal impact on small businesses. It provides technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:**

These rule changes are not estimated to have a fiscal impact on persons other than small businesses, businesses, or local government entities. It provides technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These rule changes are not estimated to have a fiscal impact. There are 1,226 entities with a NAICS code 611110 operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are public entities e.g. Alpine Board of Education, Canyons School District, Cache High School, etc. These proposed rule changes are not expected to have any fiscal impact on large businesses' revenues or expenditures because it deals with educator licensing standards set by the Utah State Board of Education and does not require any expenditures or generate any revenues for large businesses. These rule changes remove some specific requirements related to minimum components designed to ensure that only high-quality individuals enter the licensure program e.g. it removes a minimum GPA of 3.0, an ACT composite score of 21, and a combined SAT score of 1,000. This new language in the rule change provides flexibility by instead including measures of previous academic success and disposition for employment in an educational setting to ensure high-quality individuals enter the licensure program. These rule changes also task the Superintendent to work with Board-approved educator preparation programs, local education agencies (LEAs), and other stakeholders to establish standards for pedagogical performance assessments that will be required under Rule R277-501 no later than 01/01/2019. This rule will be superseded by Rule R277-501 on 01/01/2020. These rule changes also enact changes to the requirements for individuals licensed outside of the state of Utah to transfer that license to Utah. References for an out-of-state applicant to earn a level 1 or level 2 license are stricken. Instead this rule directs the Superintendent to: 1) accept scores from an applicant that meet the Utah standard for passing on assessments from licensing jurisdictions outside of Utah that utilize the same assessment as Utah as meeting the assessment requirements of Rule R277-503; 2) accept scores from an applicant on reasonably equivalent content knowledge or pedagogical assessments utilized by licensing jurisdictions outside of Utah that meet the passing standard of that jurisdiction as meeting the requirements of Rules R277-503 and R277-522; 3) accept demonstrations of content knowledge and pedagogical competencies for specific license areas or endorsements from an applicant that are utilized by licensing jurisdictions outside of Utah and reasonably equivalent to Utah competencies; and 4) individuals with four or more years of successful experience in a public or accredited private school under a standard license issued by a licensing jurisdiction outside of Utah shall be considered to have met both the content knowledge and pedagogical

assessment requirements for a Utah license under this rule, Rule R277-503, and Rule R277-522. These rule changes provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies. These rule changes are not expected to have a fiscal impact on LEAs either as it makes policy changes, but mainly allows for increased flexibility regarding educator licensing.

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

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

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2018

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

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

These proposed rule changes are not expected to have any fiscal impact on large businesses' revenues or expenditures because it deals with educator licensing standards set by the Utah State Board of Education and does not require any expenditures of or generate any revenues for large businesses.

The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

R277. Education, Administration.

R277-502. Educator Licensing and Data Retention.

R277-502-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Subsection [~~53A-1-401~~]53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
 - (c) Section [~~53A-6-104~~]53E-6-201, which gives the Board power to issue licenses.

(2) This rule specifies the types of license levels and license areas of concentration available and procedures for obtaining a license, required for employment as a licensed educator in the public schools of Utah.

(3) This rule also provides a process and criteria for educators whose licenses have lapsed to return to the teaching profession.

R277-502-2. Definitions.

- (1) "Accredited school" means a public or private school that:
 - (a) meets standards essential for the operation of a quality school program; and
 - (b) has received formal approval through a regional accrediting association.
- (2) "Comprehensive Administration of Credentials for Teachers in Utah Schools" or "CACTUS" means the electronic file maintained on all licensed Utah educators including information such as:
 - (a) personal directory information;
 - (b) educational background;
 - (c) endorsements;
 - (d) employment history; and

(e) a record of disciplinary action taken against the educator.

(3) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(4) "Letter of Authorization" means a designation given to an individual employed by an LEA for one year authorizing the individual to teach in a public school, such as:

- (a) an out-of-state candidate; or
- (b) an individual pursuing an alternative license, who has not completed the requirements for a Level 1, 2, or 3 license; or
- (c) an individual who has not completed necessary endorsement requirements .

(5)(a) "License areas of concentration" means designations to licenses obtained by completing a Board-approved educator preparation program or an alternative preparation program in a specific area of educational studies to include the following:

- (i) Early Childhood (k-3);
- (ii) Elementary (k-6);
- (iii) Elementary (1-8);
- (iv) Middle (5-9), only for licenses issued before 1988;
- (v) Secondary (6-12);
- (vi) Administrative/Supervisory (k-12);
- (vii) Career and Technical Education;
- (viii) School Counselor;
- (ix) School Psychologist;
- (x) School Social Worker;
- (xi) Special Education (k-12);
- (xii) Deaf Education

- ~~[(xii)]~~(xiii) Preschool Special Education (Birth-Age 5);
- ~~[(xiii)]~~(xiv) Communication Disorders;
- ~~[(xiv)]~~(xv) Speech-Language Pathologist; and
- ~~[(xv)]~~(xvi) Speech-Language Technician.

(b) License areas of concentration may also bear endorsements relating to subjects or specific assignments.

(6)(a) "License endorsement" or "endorsement" means a specialty field or area earned through completing required course work established by the Superintendent or through demonstrated competency approved by the Superintendent.

(b) An endorsement shall be listed on a professional educator license indicating the specific qualifications of the holder.

(7) "Licensing Jurisdiction" means the designated educator licensing authority in any foreign country or state of the United States of America and the Department of Defense Education Activity (DoDEA).

~~[(7)]~~8 "Professional learning plan" means a plan developed by an educator in collaboration with the educator's supervisor, consistent with R277-500, which details appropriate professional learning activities for the purpose of renewing the educator's license.

~~[(8)]~~9 "Renewal" means reissuing or extending the length of a license consistent with R277-500.

~~[(9)]~~10 "State Approved Endorsement Program" or "SAEP" means a plan developed between the Superintendent and a licensed educator to direct the completion of endorsement requirements by the educator consistent with Section R277-520-11.

R277-502-3. Program Approval and Requirements.

(1) The Superintendent shall accept educator license recommendations from educator preparation programs that have

applied for Board approval and have met the requirements described in this Rule R277-502 and the Standards for Program Approval established in:

- (a) Rule R277-504;
- (b) Rule R277-505; or
- (c) Rule R277-506.

(2) The Superintendent may establish deadlines and uniform forms and procedures for all aspects of program ~~[licensing]~~approval.

(3) To be approved for license recommendation an educator preparation program shall:

- (a) have a physical location in Utah where students attend classes or if the program provides only online instruction:
- (i) have the program's primary headquarters located in Utah; and
- (ii) be licensed to do business in Utah through the Utah Department of Commerce;

(b) include ~~[coursework]~~requirements designed to ensure that the educator ~~[is able to]~~ meets the Utah Effective Educator Standards established in R277-530;

(c) include ~~[coursework]~~requirements, if the program offers content endorsement preparation, that ~~[is]~~are, at minimum, equivalent to the ~~[course]~~competency requirements for the endorsement as established by the Superintendent;

(d) establish entry requirements, ~~approved by the Superintendent, that are~~ designed to ensure that only high quality individuals enter the licensure program, ~~[including the following minimum components]~~which include measures of:

- ~~[(i)]~~ a minimum high school or college GPA of 3.0;
- ~~[(ii)]~~ a Board-cleared fingerprint background check; and at least one of the following:

~~[(iii)]~~(A) a passing score on a Board-approved basic skills test;

~~[(B)]~~ an ACT composite score of 21 with a verbal/English score no less than 20 and a mathematics/quantitative score of no less than 19; or

~~[(C)]~~ a combined SAT score of 1000 with neither mathematics nor verbal below 450; and]

- ~~[(i)]~~ previous academic success;
- ~~[(ii)]~~ disposition for employment in an educational setting; and

~~[(iii)]~~ basic skills in reading, writing, and mathematics; and

(e) include a student teaching or intern experience that meets the requirements detailed in Rules R277-504, R277-505, and R277-506.

~~[(4)]~~ ~~[An institution may waive any of the entrance requirements provided in Subsection (3)(d) based on program established guidelines for no more than 10 percent of an entrance cohort.]~~ The Superintendent shall work with Board-approved educator preparation programs, LEAs, and other stakeholders to establish standards for pedagogical performance assessments that will be required under Rule R277-501 no later than January 1, 2019.

(5) The Superintendent shall lead the approval review for any Board-approved educator preparation program seeking to maintain or receive program approval.

(6) The Superintendent shall be responsible for:

- (a) observing and monitoring the approval review process;

(b) reviewing subject specific programs to determine if the program meets state standards for licensure in specific areas;

(c) reviewing program procedures to ensure that Board requirements for licensure are followed; and

(d) reviewing licensure candidate files to determine if the program followed Board requirements for licensure .

(7) After completion of the approval review site visit, a Board-approved educator preparation program, working with the Superintendent, shall prepare and submit a program approval request for consideration by the Board that includes:

(a) a program summary;

(b) approval review findings;

(c) program areas of distinction;

(d) program enrollment; and

(e) program goals and direction.

(8) If the program approval request is approved by the Board, the program shall be considered Board-approved until the next scheduled approval review visit.

(9)(a) Notwithstanding Subsection 8, the Superintendent may place a program on probation for:

(i) failure to meet program requirements detailed in applicable Board rules; and

(ii) submission of inadequate or incomplete information in a report required under this R277-502.

(b) The Board may revoke its approval of a probationary program that fails to meet probationary requirements with at least one year's notice.

(10) If a new educator preparation program seeks Board approval or a previously Board-approved educator preparation program seeks approval for additional license area preparation and endorsements, the program shall submit an application to the Superintendent including:

(a) information detailing the exact license areas of concentration and endorsements that the program intends to award;

(b) detailed ~~[course]~~ requirement information, including required course lists, course descriptions, and course syllabi for all courses that will be required as part of a program;

(c) detailed information showing how the ~~[required coursework]~~ program will ensure that the educator satisfies all standards in the Utah Effective Educator Standards established in Rule R277-530 and Professional Educator Standards established in Rule R277-515;

(d) information about program timelines and anticipated enrollment.

(11) The Board shall approve or deny applications for new educator preparation programs.

(12)(a) The Superintendent shall review and approve or deny applications from previously Board-approved educator preparation programs desiring Board approval for additional license areas and endorsements.

(b) The Superintendent may grant preliminary approval pending Utah State Board of Regents approval of a new program if the program is within a public institution.

(13) An educator preparation program seeking Board approval may apply to the Board for probationary approval for a maximum of three years contingent on the completion of the approval process.

(14) A Board-approved educator preparation program shall submit an annual report to the Superintendent by July 1 of each year, which shall include the following:

(a) student enrollment counts designated by anticipated license area of concentration and endorsement and disaggregated by gender and ethnicity;

(b) information explaining any significant changes to ~~[course]~~ program requirements or ~~[course]~~ content;

(c) the program's response to areas of concern or areas of focus identified by the Superintendent; and

(d) information regarding any program-determined areas of concern or areas of focus and the program's planned response[; ~~and~~

~~(e) a summary explanation of students admitted under the waiver identified in Subsection (4) and an explanation of the waiver].~~

(15) The Superintendent shall provide reporting criteria to Board-approved educator preparation programs regarding the annual report and designated areas of concern or focus by January 31 annually.

(16) An individual that completes a Board-approved educator preparation program may be recommended for licensure within five years of program completion if the individual meets current licensing requirements.

(17)(a) If five years have passed since an individual completed a Board-approved preparation program, the individual may be recommended for licensure following review by the individual program.

(b) The preparation program officials shall determine whether any content or pedagogy ~~[coursework]~~ requirement previously ~~[completed]~~ met meets current program standards and if additional ~~[coursework, hours or other activities]~~ requirements are necessary to recommend licensure.

(c) The individual shall complete all ~~[work required]~~ requirements established by program officials before receiving a license recommendation from the program.

R277-502-4. License Levels, Procedures, and Periods of Validity.

(1)(a) The Superintendent shall recommend an individual to the Board for a Level 1 license if the individual:

(i) is recommended by a Board-approved educator preparation program or approved alternative preparation program; or

(ii) possesses a valid professional educator license from another state.

(b) An LEA and Board-approved educator preparation program shall cooperate in preparing candidates for a Level 1 license and may use joint resources to assist candidates in preparation for licensing.

(c) A Board-approved educator preparation program may only issue a recommendation if the individual has satisfactorily completed the programs of study required for the preparation of educators and has met licensing standards in the license areas of concentration for which the individual is recommended.

(2) A Level 1 license is valid for three years unless suspended or revoked for cause by the Board.

(3) A license applicant who has received or completed license preparation activities or coursework inconsistent with this rule may present compelling information and documentation for review and approval by the Superintendent to satisfy the licensing requirements.

(4) If an educator has taught for three years in a K-12 public education system in Utah, the Superintendent may only recommend renewal of a Level 1 license if:

(a) the employing LEA has requested a one year extension consistent with Section R277-522-4; or

(b) the individual has continuous experience as a speech language pathologist in a clinical setting.

(5) The Superintendent shall recommend a Level 1 licensee to the Board for a Level 2 license upon:

(a) satisfaction of all Board requirements for the Level 2 license; and

(b) the recommendation of the employing LEA.

(6) An LEA shall make a recommendation under Subsection (5)(b), prior to the expiration of the educator's Level 1 license and following:

(a) the completion of three years of successful, professional growth and educator experience;

(b) satisfaction of all requirements of Rule R277-522; and

(c) any additional requirements imposed by the employing LEA.

(7) A Level 2 license shall be valid for five years unless suspended or revoked for cause by the Board.

(8) A Level 2 license may be renewed for successive five year periods consistent with Rule R277-500.

(9) The Superintendent shall recommend a Level 2 licensee to the Board for a Level 3 license who:

(a) has current National Board Certification;

(b) has a doctorate in education in a field related to a content area in a unit of the public education system or an accredited private school; or

(c) holds a Speech-Language Pathology area of concentration and has a current American Speech-Language Hearing Association certification.

(10) A Level 3 license is valid for seven years unless suspended or revoked for cause by the Board.

(11) A Level 3 license may be renewed for successive seven year periods consistent with Rule R277-500.

(12) The Superintendent may establish deadlines and uniform forms and procedures for all aspects of licensing.

(13)(a) All licenses expire on June 30 of the year of expiration and may be renewed any time after January of the same year.

(b) Responsibility for license renewal rests solely with the licensee.

R277-502-5. Professional Educator License Areas of Concentration, and Endorsements and Under-Qualified Employees.

(1) Unless excepted under rules of the Board, to be employed in a public school in a capacity covered by a license area of concentration set forth in Subsection R277-502-2(6)(a), a person shall hold a valid license issued by the Board in the respective license area of concentration.

(2) An educator who is licensed and holds the appropriate license area of concentration but who is working out of the educator's endorsement area, shall:

(a) submit an SAEP to complete the requirements of an endorsement to the Superintendent; or

(b) request, along with the educator's employing LEA, a letter of authorization from the Board if the educator has not completed requirements for an area of concentration or endorsement.

(3)(a) A letter of authorization issued under Subsection (2)(b) is valid for one year.

(b) An educator may receive no more than three Letters of Authorization throughout the educator's employment in Utah schools.

(c) The Superintendent may recommend an exception to the limitation in Subsection (3)(b) on a case by case basis following specific approval of the request by the educator's employing LEA governing board.

(d) A letters of authorization approved prior to the 2000-2001 school year shall not be counted towards the limit in Subsection (3)(b).

(e) If an educator's letter of authorization expires before the individual is approved for licensing, the educator falls into under-qualified status.

(4) A licensed educator may receive an endorsement to indicate qualification in a subject or content area.

(a) An LEA shall recognize a STEM endorsement as a minimum of 16 semester hours of university credit toward lane change on the LEA's salary schedule.

(b) The Superintendent shall determine the courses and experiences necessary for a STEM endorsement.

(c) The Superintendent shall determine which content area endorsements qualify as STEM endorsements.

(5) An endorsement is not valid for employment purposes without a current license and license area of concentration.

R277-502-6. Returning Educator Relicensure.

(1) A previously licensed educator with an expired license may renew an expired license upon satisfaction of the following:

(a) Completion of a criminal background check including review of any criminal offenses and clearance in accordance with Rule R277-214;

(b) Employment by an LEA;

(c) Completion of a one-year professional learning plan developed jointly by the educator's school principal or charter school director and the returning educator consistent with R277-500 that also considers the following:

(i) previous successful public school teaching experience;

(ii) formal educational preparation;

(iii) period of time between last public teaching experience and the present;

(iv) school goals for student achievement within the employing school and the educator's role in accomplishing those goals;

(v) returning educator's professional abilities, as determined by a formal discussion and observation process completed within the first 30 days of employment; and

(vi) completion of additional necessary professional development for the educator.

(d) Filing of the professional learning plan within 30 days of hire;

(e) Successful completion of required Board-approved exams for licensure;

(f) Satisfactory experience as determined by the LEA with a trained mentor; and

(g) Submission to the Superintendent of the completed and signed Return to Original License Level Application, available on the Board website prior to June 30 of the school year in which the educator seeks to return.

(2) A returning educator is eligible for renewal of an educator license following completion of a professional learning plan notwithstanding the license renewal point requirements of Section R277-500-3.

(3)(a) A returning educator who previously held a Level 2 or Level 3 license under this rule shall receive a Level 1 license during the first year of employment following renewal of an expired license.

(b) Upon completion of the requirements listed in Subsection (1) and a satisfactory LEA evaluation, the employing LEA may recommend the educator's return to Level 2 or Level 3 licensure.

(4) A returning educator who taught less than three consecutive years in a public or accredited private school shall complete the requirements of Rule R277-522 before being recommended by an LEA to move from a Level 1 to Level 2 license.

R277-502-7. Professional Educator Licenses Issued by Licensing Jurisdictions Outside of Utah [Reciprocity].

~~[(1) The Superintendent shall act in accordance with the requirements of the Compact for Interstate Qualification of Educational Personnel under Section 53A-6-201, et seq.~~

~~(2) A Level 1 license may be issued to an individual holding a professional educator license in another state who has completed preparation equivalent to Board-approved standards and who has completed Board-approved testing, as required by Subsection R277-503-3(4).~~

~~(3) If an out-of-state applicant has three or more continuous years of previous educator experience in a public or accredited private school, a Level 2 license may be issued upon the recommendation of the employing Utah LEA after at least one year.~~

~~(4) If an out-of-state applicant has less than three years of previous educator experience in a public or accredited private school, a Level 2 license may be issued following satisfaction of the requirements of Rule R277-522.](1) The Superintendent shall review applications for a Utah educator license for individuals holding educator licenses issued by licensing jurisdictions outside of Utah to determine if the applicant has met the requirements for a Utah license under this rule and Rule R277-503.~~

~~(2) The Superintendent shall accept scores from an applicant that meet the Utah standard for passing on assessments from licensing jurisdictions outside of Utah that utilize the same assessment as Utah as meeting the assessment requirements of Rule R277-503.~~

~~(3) The Superintendent shall accept scores from an applicant on reasonably equivalent content knowledge or pedagogical assessments utilized by licensing jurisdictions outside~~

of Utah that meet the passing standard of that jurisdiction as meeting the requirements of Rules R277-503 and R277-522.

(4) The Superintendent shall accept demonstrations of content knowledge and pedagogical competencies for specific license areas or endorsements from an applicant that are utilized by licensing jurisdictions outside of Utah and reasonably equivalent to Utah competencies.

(5) Individuals with 4 or more years of successful experience in a public or accredited private school under a standard license issued by a licensing jurisdiction outside of Utah shall be considered to have met both the content knowledge and pedagogical assessment requirements for a Utah license under this rule, Rule R277-503, and Rule R277-522.

KEY: professional competency, educator licensing

Date of Enactment or Last Substantive Amendment:
~~[November 7, 2017]~~**2018**

Notice of Continuation: July 19, 2017

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; ~~[53A-6-104]~~53E-6-201; ~~[53A-1-401]~~**53E-3-401******

Education, Administration
R277-508
Employment of Substitute Teachers

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42698

FILED: 03/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These rule changes provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies.

SUMMARY OF THE RULE OR CHANGE: This rule was due for its five-year review and continuation. The Utah State Board of Education has reviewed this rule and determined that it continues to be necessary. These rule changes provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art X Sec 3 and Subsection 53E-3-401(4) and Subsection 53E-3-501(1)(a)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** These rule changes are not estimated to have any fiscal impact on the state budget because it deals with the employment of substitute teachers and does not require any expenditures.

♦ **LOCAL GOVERNMENTS:** These rule changes are not estimated to have any fiscal impact on local governments

because it deals with the employment of substitute teachers and does not require any expenditures.

♦ **SMALL BUSINESSES:** These rule changes are not estimated to have any fiscal impact on small businesses because it deals with the employment of substitute teachers and does not require any expenditures.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These rule changes are not estimated to have fiscal impact on persons other than small businesses, businesses, or local government entities because it deals with the employment of substitute teachers and does not require any expenditures.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These rule changes are not estimated to have a fiscal impact. There are 1,226 entities with a NAICS code 611110 operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are public entities e.g. Alpine Board of Education, Canyons School District, Cache High School, etc. These proposed rule changes are not expected to have any fiscal impact on large businesses' revenues or expenditures because it deals with the employment of substitute teachers and does not require any expenditures or generate any revenues for large businesses. This rule was due for its five-year review and continuation. The Utah State Board of Education has reviewed this rule and determined that it continues to be necessary. These rule changes provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies. These changes add additional clarity by specifying that local education agencies (LEAs) shall give third priority in hiring substitute teachers with a college degree rather than stating it is desirable that a substitute hold a valid license or a college degree. These rule changes also specify that evaluation of substitutes by LEAs is periodic. These rule changes are not expected to have a fiscal impact on LEAs either as it mainly provides technical and stylistic changes rather than a change in policy.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2018

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

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

These proposed rule changes are not expected to have any fiscal impact on large businesses' revenues or expenditures because it deals with the employment of substitute teachers and does not require any expenditures of or generate any revenues for large businesses.

The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

R277. Education, Administration.**R277-508. Employment of Substitute Teachers.****R277-508-21. Authority and Purpose.**

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

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

~~(b)~~ Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

~~(c)~~ Subsection ~~[53A-1-402(1)(a)]53E-3-501(1)(a)~~, which directs the Board to make rules regarding the qualifications of educators and ancillary personnel providing direct student services[; and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities].

~~[B-](2)~~ The purpose of this rule is to establish eligibility requirements and employment procedures for substitute teachers.

R277-508-12. Definitions.

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

~~[B-](1)~~ "Comprehensive Administration of Credentials for Teachers in Utah Schools [~~(CACTUS)~~]" or "CACTUS" means the electronic file maintained on all licensed Utah educators~~[. The file includes such as], which includes:~~

~~(1)a)~~ personal directory information;

~~(2)b)~~ educational background;

~~(3)c)~~ endorsements;

~~(4)d)~~ employment history;

~~(5)e)~~ professional development information; and

~~(6)f)~~ a record of disciplinary action taken against the educator.

~~[C-](2)~~ "LEA" ~~[mean a local education agency, including local school boards/public school districts, charter schools, and]includes,~~ for purposes of this rule, the Utah Schools for the Deaf and the Blind.

~~[D-](3)~~ "License" means an authorization issued by the Board which permits the holder to serve in a professional capacity in ~~[the]a~~ Utah public school[s].

~~[E-](4)~~ "Substitute teacher" means an individual employed to take the place of a regular teacher who is temporarily absent.

~~[F-]~~ F. "Temporarily absent" means a period not to exceed eight consecutive weeks.

R277-508-3. Duration of Teaching Assignment.

~~A.~~ A substitute teacher may not serve in a teaching position for more than eight consecutive weeks in one academic year in either the same class or with the same group of students. Individuals serving in the same teaching position for longer than eight weeks shall hold an appropriate license or be replaced by a person with an appropriate license.

~~B.~~ The State Superintendent of Public Instruction may grant exceptions to R277-508-3A, as appropriate, in special circumstances[.].

R277-508-4. Hiring Priorities and Eligibility.

~~[A-](1)~~ An LEA shall give ~~[The]~~ first priority in hiring substitute teachers ~~[shall be given]~~ to those who hold a valid license in the subject matter they will be teaching as a substitute.

~~(2)~~ An LEA shall give ~~[S]~~second priority ~~[is]~~ in hiring substitute teachers to ~~[hire]~~ persons who have a valid license in a field commonly taught in public schools.

~~(3)~~ An LEA shall give third priority in hiring substitute teachers to persons with a college degree.

~~[B-]~~ ~~It is desirable that a substitute teacher hold a valid license or a college degree[.]~~

~~(3)~~ An LEA shall evaluate ~~[persons hired as substitutes]~~ prospective substitute teachers to ensure that they are capable of managing a class and carrying out the instructional program.

~~[C-](4)~~ A ~~[Persons]~~person seeking employment as a substitute teacher shall furnish evidence as requested from the hiring LEA that ~~[they are]~~the person is physically and mentally fit to work.

~~[D-](5)(a)~~ An LEA[s] may not employ any individual as a substitute teacher whose license has been revoked or is currently suspended by the Board or ~~[whose license has been revoked or is currently suspended by]the~~ licensing entity of another ~~[state]jurisdiction.~~ ~~[Individuals whose licenses have been reinstated may be considered for employment as substitute teachers.]~~

R277-508-5. Employment Procedures.

~~[A-](1)~~ An LEA[s] shall establish policies for hiring substitute teachers, which shall include a requirement:

~~(a)~~ ~~[. An LEA's policy shall include obtaining]that the LEA's staff obtain~~ verification from CACTUS that an applicant's license has not been revoked or suspended[.]; and

~~[B-](b)~~ ~~[An LEA shall require]for~~ substitute teachers to have ~~[periodic]criminal~~ background checks consistent with ~~[an LEA's policy under]Rule R277-516[for employees that work directly with students].~~

~~[C-](2)~~ An LEA[s] shall have a policy, which includes:

~~(a)~~ ~~[to evaluate]periodic evaluation of~~ substitute teachers; and

~~(b)~~ ~~[including]a~~ salary schedule to pay substitute[s] teachers according to their training, experience, and competency.

~~[D-](3)~~ A ~~[R]~~regular teacher[s] shall have lesson plans immediately available for use by substitute teachers.

~~[E-](4)~~ A student teacher may substitute in a class[es] consistent with the instructions and policies from the higher education institution which the student attends.

~~[F-]~~ ~~[Paraprofessionals]A paraprofessional[and aids]~~ may substitute in a class[es] consistent with LEA ~~[or school]~~ policies.

KEY: teachers, professional competency, school personnel

Date of Enactment or Last Substantive Amendment: [June 7, 2013]2018

Notice of Continuation: April 8, 2013

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; [53A-1-402(1)(a)]53E-3-501(1)(a); [53A-1-401(3)]53E-3-401

Education, Administration
R277-521
National Board Certification
Reimbursement

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 42699
FILED: 03/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These rule changes provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies.

SUMMARY OF THE RULE OR CHANGE: These rule changes provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies. These rule changes provide clarity for the implementation and funding of the National Board Certification reimbursement in relation to the Teacher Salary Supplement Program (TSSP) because this reimbursement is funded through an appropriation to the TSSP program.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art X Sec 3 and Section 53F-5-202 and Subsection 53E-3-401(4)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** These rule changes are not estimated to have a fiscal impact on the state budget, because these rule changes provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies.
- ◆ **LOCAL GOVERNMENTS:** These rule changes are not estimated to have a fiscal impact on local governments, because these rule changes provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies.
- ◆ **SMALL BUSINESSES:** These rule changes are not estimated to have a fiscal impact on small businesses, because these rule changes provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These rule changes are not estimated to have a fiscal impact on persons other than small businesses, businesses, or local government entities, because these rule changes provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These rule changes are not estimated to have a fiscal impact. There are 1,226 entities with a NAICS code 611110 operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are public entities e.g. Alpine Board of Education, Canyons School District, Cache High School, etc. These

proposed rule changes are not expected to have any fiscal impact on large businesses' revenues or expenditures because it deals with National Board Certification reimbursement which is funded through a state appropriation and does not require any expenditures or generate any revenues for large businesses. These rule changes provide clarity for the implementation and funding of the National Board Certification reimbursement in relation to the TSSP because this reimbursement is funded through an appropriation to the TSSP program. These changes specify that the Superintendent shall annually determine the number of educators eligible for this reimbursement based on legislative appropriation and costs associated with obtaining National Board Certification, and that costs incurred in obtaining or renewing national board certification that were previously paid or reimbursed for an educator by a third party are not eligible for reimbursement. These rule changes provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies. These rule changes are not expected to have a fiscal impact on LEAs either as this program is funded by a state appropriation and these rule changes mainly provides technical and stylistic changes.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2018

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

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

These proposed rule changes are not expected to have any fiscal impact on large businesses' revenues or expenditures because it deals with National Board Certification reimbursement which is funded through a state appropriation and does not require any expenditures of or generate any revenues for large businesses.

The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

R277. Education, Administration.

R277-521. National Board Certification Reimbursement.

R277-521-1. Authority and Purpose.

(1) This rule is authorized by:

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

(b) Subsection ~~[53A-1-404]~~53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section ~~[53A-6-114]~~53F-5-202, which requires the Board to make rules to specify procedures and timelines for reimbursing educators for the cost to attain or renew a National Board certification.

(2) The purpose of this rule is to specify procedures and timelines for reimbursing educators for the cost to attain or renew a National Board certification.

R277-521-2. Definitions.

(1) "Eligible educator" means an educator who holds a current National Board certification attained or renewed:

- (a) after July 1, 2016; and
 - (b) while employed as an educator by an LEA in Utah.
- (2) "Local education agency" or "LEA" means:
- (a) a school district;
 - (b) a charter school; or
 - (c) the Utah Schools for the Deaf and the Blind.

(3) "National Board certification" means the same as that term is defined in Section ~~[53A-6-103]~~ 53E-6-102.

R277-521-3. Application Procedures.

(1) The Superintendent shall establish and maintain an online application system for National Board certification reimbursements.

(2) To receive reimbursement for the costs an eligible educator paid to attain or renew a National Board certification, an eligible educator shall submit an application through the application system established under Subsection (1).

~~[(3)(a) For fiscal year 2017, the Superintendent shall publicize the date on which applications may be submitted.~~

~~(b) For fiscal year 2018 and each succeeding fiscal year, the application window is July 1 to June 30.~~

~~(4)(a) Subject to legislative appropriations, the Superintendent shall reimburse eligible educators on a first come, first served basis until funds appropriated for National Board certification reimbursements are exhausted for that fiscal year.~~

~~(b) The amount appropriated for National Board certification reimbursements is \$88,300.~~

~~(c) If funds are insufficient to reimburse all eligible educators who apply in any given fiscal year, subject to legislative appropriations, the Superintendent shall reimburse eligible educators who did not receive reimbursement the previous fiscal year on a first come, first served basis.~~

~~(d) The Superintendent may only reimburse an eligible educator for costs the eligible educator paid to attain or renew a National Board certification.]~~(3)(a) The Superintendent shall annually determine the number of eligible educators based on legislative appropriations and costs associated with obtaining national board certification.

~~(b) The Superintendent shall reimburse eligible educators on a first come, first served basis.~~

~~(4) The Superintendent may not reimburse an eligible educator for costs incurred in obtaining or renewing national board certification that were previously paid or reimbursed to the educator by a third party.~~

KEY: eligible educators, National Board certification

Date of Enactment or Last Substantive Amendment: ~~[February 7, 2017]~~2018

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; ~~[53A-1-401]~~53E-3-401(4); ~~[53A-6-114]~~53F-5-202

Education, Administration
R277-532
Local Board Policies for Evaluation of
Non-Licensed Public Education
Employees (Classified Employees)

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 42700
 FILED: 03/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These rule changes provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies.

SUMMARY OF THE RULE OR CHANGE: This rule was due for its five-year review and continuation. The Utah State Board of Education (USBE) has reviewed this rule and determined that it continues to be necessary. These rule changes provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art X Sec 3 and Section 53G-11-504 and Subsection 53E-3-401(4)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** These rule changes are not estimated to have a fiscal impact on the state budget because it deals with local board policies for evaluation of non-licensed public education employees and does not require any expenditures.
- ◆ **LOCAL GOVERNMENTS:** These rule changes are not estimated to have a fiscal impact on local governments, because it deals with local board policies for evaluation of non-licensed public education employees and does not require any expenditures.
- ◆ **SMALL BUSINESSES:** These rule changes are not estimated to have a fiscal impact on small businesses, because it deals with local board policies for evaluation of non-licensed public education employees and does not require any expenditures.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These rule changes are not estimated to have a fiscal impact on persons other than small businesses, businesses, or local government entities, because it deals with local board policies for evaluation of non-licensed public education employees and does not require any expenditures.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These rule changes are not estimated to have a fiscal impact. There are 1,226 entities with a NAICS code 611110 operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are public entities e.g. Alpine Board of Education, Canyons School District, Cache High School, etc. These proposed rule changes are not expected to have any fiscal impact on large businesses' revenues or expenditures because it deals with local board policies for evaluation of non-licensed public education employees and does not require any expenditures or generate any revenues for large businesses. This rule was due for its five-year review and continuation. The Utah State Board of Education (USBE) has reviewed this rule and determined that it continues to be necessary. These rule changes provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies. These rule changes are not expected to have a fiscal impact on LEAs either as it mainly provides technical and stylistic changes; the policy remains the same with school districts adopting policies in line with the standards set by the USBE for non-licensed public education employees as they do currently.

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

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2018

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

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

These proposed rule changes are not expected to have any fiscal impact on large businesses' revenues or expenditures because it deals with local board policies for evaluation of non-licensed public education employees and does not require any expenditures of or generate any revenues for large businesses.

The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

R277. Education, Administration.

R277-532. Local Board Policies for Evaluation of Non-Licensed Public Education Employees (Classified Employees).

R277-532-[2]1. Authority and Purpose.

[A-](1) This [R]rule is authorized by:
 (a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board[;];[by Section 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities, and by]

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Section [53A-8a-301]53G-11-504, which directs the Board to develop rules requiring that school districts evaluate non-licensed public education employees.

[B-](2) The purpose of this rule is to direct public school districts to adopt policies for the evaluation, dismissal and compensation of non-licensed public education employees, [that satisfy the minimum standards of Sections 53A-8a-301 and 302, 53A-8a-501 through 506, and 53A-8a-601. The school district

~~evaluation policies for non-licensed public education employees shall be consistent with Section 53A-8a-301 and in place no later than the 2014-2015 school year.]~~

R277-532-[4]2. Definitions.

[A. "Board" means the Utah State Board of Education.
 B.]"Non-licensed public education employee" or "classified employee" means a school district employee who is working [for a public education employer]in a position that does not require a Utah educator license.[School districts typically refer to non-licensed public education employees as classified employees.]

R277--532-3. School District Policies.

[A-](1) A [S]school district[s] shall adopt policies for non-licensed public education employees, including:

(a) policies for evaluation and dismissal consistent with minimum standards of:

(i) Sections [53A-8a-301]53G-11-504 [and]through [302]53G-11-505; and

(ii) Sections [53A-8a-501]53G-11-512 through [506]53G-11-517; and

(b) policies for due process and the termination of non-licensed public education employees consistent with Sections [53a-8a-501] 53G-11-512 through [504][;] 53G-11-515;

[B. School district non-licensed public education employee evaluation policies shall]

(c) evaluation procedures [include]with the following components:

([1]i) the annual evaluation of non-licensed public education employees;

([2]ii) the use of appropriate tools for non-licensed public education employee evaluations;

([3]iii) non-licensed public education employee evaluation criteria tied to specific non-licensed job descriptions or assignments;

([4]iv) the administration of the evaluation by the school principal, an appropriate administrator or the principal's or administrator's designee; and

([5]v) an appeals process that allows non-licensed public education employees to appeal procedural violations of the evaluation process.

[C-](2) School district evaluation policies for non-licensed public education employees may include additional components beyond those specified in Subsection (1).

[D. School district non-licensed public education employee termination policies shall be developed as directed in Section 53A-8a-501 through 506.

E. School district non-licensed public education employee termination policies shall be consistent with Sections 53A-8a-501 through 504 and may include other components as determined locally.

F-](3) A [S]school district's policies may exclude temporary or part-time non-licensed public education employees from performance evaluations, as provided in Subsection [53A-8a-301(2)(a)]53G-11-504(2).

[G. School districts shall fully implement evaluation policies for non-licensed public education employees that include

components of Section 53A-8a-601(2) no later than the 2016-2017 school year.]

KEY: policies, evaluations, non-licensed public education employees

Date of Enactment or Last Substantive Amendment: [~~October 9, 2014~~]**2018**

Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; [~~53A-1-401(3)~~]**53E-3-401**; [~~53A-8a-301~~]**53G-11-504**

Education, Administration

R277-609

Standards for LEA Discipline Plans and Emergency Safety Interventions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42701

FILED: 03/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These rule changes provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies.

SUMMARY OF THE RULE OR CHANGE: These rule changes provide clarity on student behavior including adding a restorative justice program as it is defined in statute, a definition for student with a qualifying offense, and clarifying that methods for correcting student behavior should be equitable.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art X Sec 3 and Section 53E-3-509 and Section 53G-8-202 and Section 53G-8-702

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** These rule changes are not estimated to have a fiscal impact on the state budget because it deals with student behavior and discipline and does not require any expenditures or generate any revenues.

◆ **LOCAL GOVERNMENTS:** These rule changes are not estimated to have a fiscal impact on local governments because it deals with student behavior and discipline and does not require any expenditures or generate any revenues.

◆ **SMALL BUSINESSES:** These rule changes are not estimated to have a fiscal impact on small businesses because it deals with student behavior and discipline and does not require any expenditures or generate any revenues.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These rule changes are not estimated to have a fiscal impact on persons other than small businesses, businesses, or local government entities because it deals with student behavior

and discipline and does not require any expenditures or generate any revenues.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These rule changes are not estimated to have a fiscal impact. There are 1,226 entities with a NAICS code 611110 operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are public entities e.g. Alpine Board of Education, Canyons School District, Cache High School, etc. These proposed rule changes are not expected to have any fiscal impact on large businesses' revenues or expenditures because it deals with student behavior and discipline and does not require any expenditures or generate any revenues for large businesses. These rule changes provide clarity on student behavior including adding a restorative justice program as it is defined in statute, a definition for student with a qualifying offense, and clarifying that methods for correcting student behavior should be equitable. These rule changes bring the rule in line with the changes made with the passage of H.B. 239, Juvenile Justice Amendments, during the 2017 General Session. These changes also state that local education agencies (LEAs) shall submit all required UTREx discipline data elements as part of the LEA's daily UTREx submission. LEAs should be submitting this data as part of their daily submission so this change in the rule should just ensure it gets done, but does not change current policy. These rule changes provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies. It is not expected to have a fiscal impact on LEAs either as these changes exist either in current statute or policy.

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

EDUCATION

ADMINISTRATION

250 E 500 S

SALT LAKE CITY, UT 84111-3272

or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2018

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

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

These proposed rule changes are not expected to have any fiscal impact on large businesses' revenues or expenditures because it deals with student behavior and discipline and does not require any expenditures of or generate any revenues for large businesses.

The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

R277. Education, Administration.

R277-609. Standards for LEA Discipline Plans and Emergency Safety Interventions.

R277-609-1. Authority and Purpose.

(1) This rule is authorized by:

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

(b) Subsection ~~[53A-1-401]~~53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Subsection ~~[53A-1-402(1)(b)]~~53E-3-501(1)(b)(v), which requires the Board to establish rules concerning discipline and control;

(d) Section ~~[53A-15-603]~~53E-3-509, which requires the Board to adopt rules that require a local school board or governing board of a charter school to enact gang prevention and intervention policies for all schools within the board's jurisdiction;

(e) Section ~~[53A-11-1603]~~53G-8-702, which requires the Board to adopt rules regarding training programs for school principals and school resource officers; and

(f) Section ~~[53A-11-901]~~53G-8-202, which directs local school boards and charter school governing boards to adopt conduct and discipline policies and directs the Board to develop model policies to assist local school boards and charter school governing boards.

(2)(a) The purpose of this rule is to outline requirements for school discipline plans and policies.

(b) An LEA's written policies shall include provisions to develop, implement, and monitor the policies for the use of emergency safety interventions in all schools and for all students within each LEA's jurisdiction.

R277-609-2. Definitions.

(1) "Discipline" includes:

(a) imposed discipline; and

(b) self-discipline.

(2) "Disruptive student behavior" includes:

(a) the grounds for suspension or expulsion described in Section ~~[53A-11-904]~~53G-8-205; and

(b) the conduct described in Subsection ~~[53A-11-908(2)(b)]~~53G-8-209(2)(b).

(3)(a) "Emergency safety intervention" means the use of seclusionary time out or physical restraint when a student presents an immediate danger to self or others.

(b) An "emergency safety intervention" is not for disciplinary purposes.

(4) "Functional Behavior Assessment" or "FBA" means a systematic process of identifying problem behaviors and the events that reliably predict occurrence and non-occurrence of those behaviors and maintain the behaviors across time.

(5) "Immediate danger" means the imminent danger of physical violence or aggression towards self or others, which is likely to cause serious physical harm.

(6) "Imposed discipline" means a code of conduct prescribed for the highest welfare of the individual and of the society in which the individual lives.

(7) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

(8) "Physical restraint" means personal restriction that immobilizes or reduces the ability of an individual to move the individual's arms, legs, body, or head freely.

(9) "Plan" means an LEA and school-wide written model for prevention and intervention addressing student behavior management and discipline procedures for students.

(10) "Program" means an instructional or behavioral program, including a program:

(a) provided by contract private providers under the direct supervision of public school staff;

(b) that receives public funding; or

(c) for which the Board has regulatory authority.

(11) "Policy" means standards and procedures that include:

(a) the provisions of Section ~~[53A-11-901]~~ 53G-8-202 and additional standards, procedures, and training adopted in an open meeting by a local board of education or charter school board that:

(i) defines hazing, bullying, and cyber-bullying~~[-and harassment];~~

(ii) prohibits hazing and bullying;

(iii) requires annual discussion and training designed to prevent hazing, bullying, cyber-bullying, discipline, and emergency safety interventions, ~~[and harassment]~~ among school employees and students; and

(iv) provides for enforcement through employment action or student discipline.

(12) "Qualifying minor" means a school-age minor who:

(a) is at least nine years old; or

(b) turns nine years old at any time during the school year.

(13) "Restorative justice program" means the same as that term is defined in Section 53G-8-211.

~~(1[3]4)~~ "School" means any public elementary or secondary school or charter school.

~~(1[4]5)~~ "School board" means:

(a) a local school board; or

(b) a local charter board.

~~(1[5]6)~~ "School employee" means:

(a) a school teacher;

(b) a school staff member;

(c) a school administrator; or

(d) any other person employed, directly or indirectly, by an LEA.

~~(1[6]7)~~ "Seclusionary time out" means that a student is:

(a) placed in a safe enclosed area by school personnel in accordance with the requirements of Rules R392-200 and R710-4;

(b) purposefully isolated from adults and peers; and

(c) prevented from leaving, or reasonably believes that the student will be prevented from leaving, the enclosed area.

~~(1[7]8)~~ "Section 504 accommodation plan," required by Section 504 of the Rehabilitation Act of 1973, means a plan designed to accommodate an individual who has been determined, as a result of an evaluation, to have a physical or mental impairment that substantially limits one or more major life activities.

~~(1[8]9)~~ "Self-Discipline" means a personal system of organized behavior designed to promote self-interest while contributing to the welfare of others.

(20) "Student with a qualifying offense" means a qualifying minor who committed an alleged class C misdemeanor, infraction, status offense on school property, or truancy.

R277-609-3. Incorporation of Least Restricted Behavioral Interventions (LRBI) Technical Assistance Manual by Reference.

(1) This rule incorporates by reference the LRBI Technical Assistance Manual, dated September 2015, which provides guidance and information in creating successful behavioral systems and supports within Utah's public schools that:

(a) promote positive behaviors while preventing negative or risky behaviors; and

(b) create a safe learning environment that enhances all student outcomes.

(2) A copy of the manual is located at:

(a)

~~[<http://www.schools.utah.gov/sars/Behavior.aspx>]~~ <https://www.schools.utah.gov/file/d6715b0b-9125-4132-86d3-179d8629a895>; and

(b) the Utah State Board of Education.

R277-609-4. LEA Responsibility to Develop Plans.

(1) An LEA or school shall develop and implement a board approved comprehensive LEA plan or policy for student and classroom management, and school discipline.

(2) An LEA shall include administration, instruction and support staff, students, parents, community council, and other community members in policy development, training, and prevention implementation so as to create a community sense of participation, ownership, support, and responsibility.

(3) A plan described in Subsection (1) shall include:

(a) the definitions of Section ~~[53A-11-910]~~ 53G-8-210;

(b) written standards for student behavior expectations, including school and classroom management;

(c) effective instructional practices for teaching student expectations, including:

(i) self-discipline;

(ii) citizenship;

(iii) civic skills; and

(iv) social skills;

(d) systematic methods for reinforcement of expected behaviors;

(e) uniform and equitable methods for correction of student behavior;

(f) uniform and equitable methods for at least annual school level data-based evaluations of efficiency and effectiveness;

(g) an ongoing staff development program related to development of:

(i) student behavior expectations;

(ii) effective instructional practices for teaching and reinforcing behavior expectations;

(iii) effective intervention strategies; and

(iv) effective strategies for evaluation of the efficiency and effectiveness of interventions;

(h) procedures for ongoing training of appropriate school personnel in:

(i) crisis intervention training;

(ii) emergency safety intervention professional development; and

(iii) LEA policies related to emergency safety interventions consistent with evidence-based practice;

(i) policies and procedures relating to the use and abuse of alcohol and controlled substances by students;

(j) policies and procedures, consistent with requirements of Rule R277-613, related to:

(i) bullying;

(ii) cyber-bullying;

~~[(iii) harassment];~~

(iv) hazing; and

(v) retaliation;

(k) policies and procedures for the use of emergency safety interventions for all students consistent with evidence-based practices including prohibition of:

(i) physical restraint, subject to the requirements of Section R277-609-5, except when the physical restraint is allowed as described in Subsection ~~[53A-11-802(2)]~~53G-8-302(2);

(ii) prone, or face-down, physical restraint;

(iii) supine, or face-up, physical restraint;

(iv) physical restraint that obstructs the airway of a student or adversely affects a student's primary mode of communication;

(v) mechanical restraint, except:

(A) protective or stabilizing restraints;

(B) restraints required by law, including seatbelts or any other safety equipment when used to secure students during transportation; and

(C) any device used by a law enforcement officer in carrying out law enforcement duties;

(vi) chemical restraint, except as:

(A) prescribed by a licensed physician, or other qualified health professional acting under the scope of the professional's authority under State law, for the standard treatment of a student's medical or psychiatric condition; and

(B) administered as prescribed by the licensed physician or other qualified health professional acting under the scope of the professional's authority under state law;

(vii) seclusionary time out, subject to the requirements of Section R277-609-5, except when a student presents an immediate danger of serious physical harm to self or others; and

(viii) for a student with a disability, emergency safety interventions written into a student's IEP, as a planned intervention, unless:

(A) school personnel, the family, and the IEP team agree less restrictive means which meet circumstances described in Section R277-608-5 have been attempted;

(B) a FBA has been conducted; and

(C) a positive behavior intervention plan based on data analysis has been written into the plan and implemented.

(l) direction for dealing with bullying and disruptive students;

(m) direction for schools to determine the range of behaviors and establish the continuum of administrative procedures that may be used by school personnel to address ~~[the] student behavior [of habitually disruptive students]~~, including students who engage in disruptive student behaviors as described in Section 53G-8-210;

(n) identification, by position, of an individual designated to issue notices of disruptive and bullying student behavior;

(o) identification of individuals who shall receive notices of disruptive and bullying student behavior;

(p) a requirement to provide for documentation of ~~[disruptive student behavior]~~ an alleged class B misdemeanor or a nonperson class A misdemeanor prior to referral of ~~[disruptive]~~ students with an alleged class B misdemeanor or a nonperson class A misdemeanor to juvenile court;

(q) strategies to provide for necessary adult supervision;

(R) a requirement that policies be clearly written and consistently enforced;

(s) notice to employees that violation of this rule may result in employee discipline or action;

(t) gang prevention and intervention policies in accordance with Subsection ~~[53A-15-603(4)]~~53E-3-509(1); ~~and~~

(u) provisions that account for an individual LEA's or school's unique needs or circumstances, including:

(i) the role of law enforcement; ~~and~~

(ii) emergency medical services; and

(iii) a provision for publication of notice to parents and school employees of policies by reasonable means; ~~and~~

~~_____~~ (iv) a plan for referral for a student with a qualifying office to alternative school-related interventions, including:

~~_____~~ (A) a mobile crisis outreach team, as defined in Section 78A-6-105;

~~_____~~ (B) a receiving center operated by the Division of Juvenile Justice Services in accordance with Section 62A-7-104;

~~_____~~ (C) a youth court; or

~~_____~~ (v) a comparable restorative justice program.

(4) A plan described in Subsection (1) may include:

(a) the provisions of Subsection ~~[53A-15-603(2)]~~53E-3-509(2); and

(b) a plan for training administrators and school resource officers in accordance with Section ~~[53A-11-1603]~~ 53G-8-702.

R277-609-5. Physical Restraint and Seclusionary Time Out.

(1) When used consistently with an LEA plan under Subsection R277-609-4(1);

(a) a physical restraint must be immediately terminated when:

(i) a student is no longer an immediate danger to self or others; or

(ii) a student is in severe distress; and

(b) the use of physical restraint shall be for the minimum time necessary to ensure safety and a release criteria, as outlined in LEA policies, must be implemented.

(2) If a public education employee physically restrains a student, the school or the public education employee shall immediately notify:

(a) the student's parent or guardian; and

(b) school administration.

(3) A public education employee may not use physical restraint on a student for more than 30 minutes.

(4) In addition to the notice described in Subsection (2), if a public education employee physically restrains a student for more than fifteen minutes, the school or the public education employee shall immediately notify:

(a) the student's parent or guardian; and

(b) school administration.

(5) An LEA may not use physical restraint as a means of discipline or punishment.

(6) If a public education employee uses seclusionary time out, the public education employee shall:

- (a) use the minimum time necessary to ensure safety;
- (b) use release criteria as outlined in LEA policies;
- (c) ensure that any door remains unlocked;
- (d) maintain the student within line of sight of the public education employee;

(e) use the seclusionary time out consistent with the LEA's plan described in Section R277-609-4; and

(f) ensure that the enclosed area meets the fire and public safety requirements described in R392-200 and R710-4.

(7) If a student is placed in seclusionary time out, the school or the public education employee shall immediately notify:

- (a) the student's parent or guardian; and
- (b) school administration.

(8) A public education employee may not place a student in a seclusionary time out for more than 30 minutes.

(9) In addition to the notice described in Subsection (7), if a public education employee places a student in seclusionary time out for more than fifteen minutes, the school or the public education employee shall immediately notify:

- (a) the student's parent or guardian; and
- (b) school administration.

(10) Seclusionary time out may only be used for maintaining safety.

(11) A public education employee may not use seclusionary time out as a means of discipline or punishment.

R277-609-6. Implementation.

(1) An LEA shall implement strategies and policies consistent with the LEA's plan required in Section R277-609-4.

(2) An LEA shall develop, use and monitor a continuum of intervention strategies to assist students, including students whose behavior in school falls repeatedly short of reasonable expectations, by teaching student behavior expectations, reinforcing student behavior expectations, re-teaching behavior expectations, followed by effective, evidence-based interventions matched to student needs prior to administrative referral.

(3) An LEA shall implement positive behavior interventions and supports as part of the LEA's continuum of behavior interventions strategies.

~~[(4)(a) An LEA shall provide a formal written assessment of a habitually disruptive student as part of a student's suspension or expulsion process that results in court involvement, once an LEA receives information from the court that disruptive student behavior will result in court action.~~

~~_____ (b) An LEA shall use assessment information to connect parents and students with supportive school and community resources.~~

~~_____](5)4 Nothing in state law or this rule restricts an LEA from implementing policies to allow for suspension of students of any age consistent with due process requirements and consistent with all requirements of the Individuals with Disabilities Education Act 2004.~~

R277-609-7. LEA Emergency Safety Intervention (ESI) Committees.

~~[(6)1] An LEA shall establish an Emergency Safety Intervention (ESI) Committee before September 1, 2015.~~

~~[(7)2] The LEA ESI Committee:~~

- (a) shall include:
 - (i) at least two administrators;
 - (ii) at least one parent or guardian of a student enrolled in the LEA, appointed by the LEA; and
 - (iii) at least two certified educational professionals with behavior training and knowledge in both state rules and LEA discipline policies;

(b) shall meet often enough to monitor the use of emergency safety intervention in the LEA;

(c) shall determine and recommend professional development needs; and

(d) shall develop policies for local dispute resolution processes to address concerns regarding disciplinary actions.

R277-609-8. LEA Reporting.

~~[(8)1] An LEA shall have procedures for the collection, maintenance, and periodic review of documentation or records of the use of emergency safety interventions at schools within the LEA.~~

~~[(9)2] The Superintendent shall define the procedures for the collection, maintenance, and review of records described in Subsection [(8)1].~~

~~[(10)3] An LEA shall provide documentation of any school, program or LEA's use of emergency safety interventions to the Superintendent annually.~~

~~_____ (4)(a) An LEA shall submit all required UTREx discipline incident data elements to the Superintendent no later than June 30, 2018.~~

~~_____ (b) Beginning in the 2018-19 school year, an LEA shall submit all required UTREx discipline incident data elements as part of the LEA's daily UTREx submission.~~

R277-609-[7]9. Special Education Exception(s) to this Rule.

(1) An LEA shall have in place, as part of its LEA special education policies, procedures, or practices, criteria and steps for using emergency safety interventions consistent with state and federal law.

(2) The Superintendent shall periodically review:

(a) all LEA special education behavior intervention plans, procedures, or manuals; and

(b) emergency safety intervention data as related to IDEA eligible students in accordance with Utah's Program Improvement and Planning System.

R277-609-[8]10. Parent/Guardian Notification and Court Referral.

~~(1) [Through school administrative and juvenile court referral consequences,] LEA policies shall provide procedures for qualifying minors and their parents to participate in decisions regarding consequences for disruptive student behavior.~~

(2) An LEA shall establish policies that:

(a) provide notice to parents and information about resources available to assist a parent in resolving the parent's school-age minors' disruptive behavior;

(b) provide for notices of disruptive behavior to be issued by schools to qualifying minors and parents consistent with:

(i) numbers of disruptions and timelines in accordance with Section ~~[53A-11-910]~~53G-8-210;

(ii) school resources available;

(iii) cooperation from the appropriate juvenile court in accessing student school records, including:

(A) attendance;

(B) grades;

(C) behavioral reports; and

(D) other available student school data; and

(iv) provide due process procedures for minors and parents to contest allegations and citations of disruptive student behavior.

(3)(a) When a crisis situation occurs that requires the use of an emergency safety intervention to protect the student or others from harm, a school shall notify the LEA and the student's parent or guardian as soon as possible and no later than the end of the school day.

(b) In addition to the notice described in Subsection (3)(a), if a crisis situation occurs for more than fifteen minutes, the school shall immediately notify:

(i) the student's parent or guardian; and

(ii) school administration.

(d) A notice described in Subsection (3)(a) shall be documented within student information systems (SIS) records.

(4)(a) A school shall provide a parent or guardian with a copy of any notes or additional documentation taken during a crisis situation upon request of the parent or guardian.

(b) Within 24 hours of a crisis situation, a school shall notify a parent or guardian that the parent or guardian may request a copy of any notes or additional documentation taken during a crisis situation.

(c) A parent or guardian may request a time to meet with school staff and administration to discuss a crisis situation.

R277-609-~~9~~11. Model Policies.

(1) The Superintendent shall develop, review regularly, and provide to LEA boards model policies to address disruptive student behavior and appropriate consequences.

(2) The Superintendent shall provide technical assistance to LEAs in developing and implementing policies and training employees in the appropriate use of physical force and emergency safety interventions to the extent of resources available.

R277-609-~~10~~2. LEA Compliance.

If an LEA fails to comply with this rule, the Superintendent may withhold funds in accordance with Rule R277-114 or impose any other sanction authorized by law.

KEY: disciplinary actions, disruptive students, emergency safety interventions

Date of Enactment or Last Substantive Amendment: ~~August 7, 2017~~2018

Notice of Continuation: October 14, 2016

Authorizing, and Implemented or Interpreted Law: Art X Sec

3; ~~[53A-1-401]~~53E-3-401(4); ~~[53A-1-402(1)]~~53E-3-501(1)(b)(v); ~~[53A-15-603]~~53E-3-509; ~~[53A-11-901]~~53G-8-202; ~~[53A-11-1603]~~53G-8-702

Education, Administration **R277-746** Driver Education Programs for Utah Schools

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42702

FILED: 03/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These rule changes strike the section on standards and procedures, and incorporates by reference the USBE's Driver Education Manual. These rule changes provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies.

SUMMARY OF THE RULE OR CHANGE: These rule changes strike the section on standards and procedures, and incorporates by reference the USBE's Driver Education Manual. Currently the manual is a draft version being updated for recodification changes. The manual is anticipated to be approved and finalized at the May Board meeting. These rule changes provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies. This rule was due for its five-year review and continuation. The Utah State Board of Education (USBE) has reviewed this rule and determined that it continues to be necessary.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art X Sec 3 and Subsection 53E-3-401(4) and Subsection 53G-10-502(4)

MATERIALS INCORPORATED BY REFERENCE:

- ◆ Adds Utah Driver Education Law and Policy, published by Utah State Board of Education, 2018

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** These rule changes are not estimated to have a fiscal impact on the state budget because it deals with driver education programs in Utah public schools and does not require any expenditures.

◆ **LOCAL GOVERNMENTS:** These rule changes are not estimated to have a fiscal impact on local governments because it deals with driver education programs in Utah public schools and does not require any expenditures.

◆ **SMALL BUSINESSES:** These rule changes are not estimated to have a fiscal impact on small businesses

because it deals with driver education programs in Utah public schools and does not require any expenditures.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These rule changes are not estimated to have a fiscal impact on persons other than small businesses, businesses, or local government entities because it deals with driver education programs in Utah public schools and does not require any expenditures.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These rule changes are not estimated to have a fiscal impact. There are 1,226 entities with a NAICS code 611110 operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are public entities e.g. Alpine Board of Education, Canyons School District, Cache High School, etc. These proposed rule changes are not expected to have any fiscal impact on large businesses' revenues or expenditures because it deals with driver education programs in Utah public schools and does not require any expenditures or generate any revenues for large businesses. This rule was due for its five-year review and continuation. The Utah State Board of Education (USBE) has reviewed this rule and determined that it continues to be necessary. These rule changes strike the section on standards and procedures, and incorporates by reference the USBE's Driver Education Manual. Currently, the manual is a draft version being updated for recodification changes. The manual is anticipated to be approved and finalized at the May Board meeting. These rule changes provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies. These rule changes are not expected to have a fiscal impact on LEAs either as it mainly provides technical and stylistic changes.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2018

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

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

These proposed rule changes are not expected to have any fiscal impact on large businesses' revenues or expenditures because it deals with driver education programs in Utah public schools and does not require any expenditures of or generate any revenues for large businesses.

The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

R277. Education, Administration.

R277-746. Driver Education Programs for Utah Schools.

[R277-746-1. Definitions.

- A. "Board" means the Utah State Board of Education.
- B. "USOE" means the Utah State Office of Education.

]

R277-746-[2]1. Authority and Purpose.

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

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

~~(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and~~

~~(c) Subsection [53A-13-201(4)]53G-10-502(4), which directs the Board to prescribe rules for driver education classes in the public schools[and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities].~~

~~[B-](2)~~ The purpose of this rule is to incorporate by reference the Board's Driver Education manual, which [specify]specifies standards and procedures for local school districts conducting automobile driver education.

R277-746-2. Incorporation by Reference of Driver Education Manual.

(1) This rule incorporates by reference Driver Education for Utah High Schools - Organization, Administration and Standards, Revised February 2018, which outlines statutory requirements and Board procedures for administering an automobile driver education program.

(2) A copy of the manual is located at:

(a) <https://www.schools.utah.gov/curr/drivered>; and

(b) the offices of the Utah State Board of Education.

R277-746-3. Standards and Procedures.

~~A. Local school boards and school districts shall comply with DRIVER EDUCATION FOR UTAH HIGH SCHOOLS ORGANIZATION, ADMINISTRATION, AND STANDARDS, Revised, August, 2011, as required by R277-100-5C, and available from the USOE Driver Education Specialist and at all school district offices.~~

~~B. The Board shall act in accordance with DRIVER EDUCATION FOR UTAH HIGH SCHOOLS ORGANIZATION, ADMINISTRATION, AND STANDARDS, Utah State Office of Education, Revised, August, 2011, to determine and evaluate standards and operating procedures for automobile driver education programs conducted by local school districts.]~~

KEY: driver education

Date of Enactment or Last Substantive Amendment:
[November 8, 2011]2018

Notice of Continuation: April 8, 2013

Authorizing, and Implemented, or Interpreted Law: [53A-13-201(4)]53G-10-502(4); [53A-1-401(3)]53E-3-401(4)

Education, Administration

R277-751

Special Education Extended School
Year (ESY)

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42703

FILED: 03/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These rule changes provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies. These rule changes add that a free, appropriate public education may include post-secondary education in Utah.

SUMMARY OF THE RULE OR CHANGE: These rule changes provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies. These rule changes add that a free, appropriate public education may include post-secondary education in Utah. It also clarifies that extended school year (ESY) eligibility decisions and written prior notice of ESY services shall be provided to parents in sufficient time to permit accessing dispute resolution options of the Procedural Safeguards, in the event of a dispute.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art X, Sec 3 and Subsection 53E-3-401(4) and Subsection 53E-3-501(1)(c)(vi)(A)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** These rule changes are not estimated to have a fiscal impact on the state budget because it deals with extended school year for special education and does not require any expenditures.

♦ **LOCAL GOVERNMENTS:** These rule changes are not estimated to have a fiscal impact on local governments because it deals with extended school year for special education and does not require any expenditures.

♦ **SMALL BUSINESSES:** These rule changes are not estimated to have a fiscal impact on small businesses because it deals with extended school year for special education and does not require any expenditures.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These rule changes are not estimated to have a fiscal impact on persons other than small businesses, businesses, or local government entities because it deals with extended school year for special education and does not require any expenditures.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These rule changes are not estimated to have a fiscal impact.

There are 1,226 entities with a NAICS code 611110 operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are public entities e.g. Alpine Board of Education, Canyons School District, Cache High School, etc. These proposed rule changes are not expected to have any fiscal impact on large businesses' revenues or expenditures because it deals with extended school year for special education and does not require any expenditures or generate any revenues for large businesses. This rule was due for its five-year review and continuation. The Utah State Board of Education (USBE) has reviewed this rule and determined that it continues to be necessary. These rule changes add that a free, appropriate public education may include post-secondary education in Utah. It also clarifies that extended school year (ESY) eligibility decisions and written prior notice of ESY services shall be provided to parents in sufficient time to permit accessing dispute resolution options of the Procedural Safeguards, in the event of a dispute. These rule changes provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies. These rule changes are not expected to have a fiscal impact on LEAs either as it mainly provides technical and stylistic changes and does not alter existing practice.

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

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

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2018

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

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

These proposed rule changes are not expected to have any fiscal impact on large businesses' revenues or expenditures because it deals with extended school year for special education and does not require any expenditures of or generate any revenues for large businesses.

The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

R277. Education, Administration.

R277-751. Special Education Extended School Year (ESY).

R277-751-[2]1. Authority and Purpose.

[A-](1) This rule is authorized [under]by:
 (a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board[;];
 (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;
 (c) Subsection [53A-1-402(1)(e)]53E-3-501(1)(c)(vi)(A), which directs the Board to adopt rules regarding services to students with disabilities[-and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities].

[B-](2) The purpose of this rule is to specify the standards for the special education ESY.

R277-751-[1]2. Definitions.

[A-] "Board" means the Utah State Board of Education.
 [B-](1)(a) "Extended school year" or "[ESY]" means an extension of the school district or charter school traditional

school year to provide special education and related services to a student with a disability, in accordance with the student's IEP, and at no cost to the student's parents.

~~(b)~~ ESY services shall meet the standards of Part B of the ~~[Individuals with Disabilities Education Act (IDEA)], 20 U.S.C. 1401(3)]~~ and ~~[the State] Board [of Education]~~ ~~[S]special [E]education [R]rules.~~

~~(c)~~ "ESY services" means the individualized education program provided by the school to a student with a disability during the ESY.

~~(d)~~ "FAPE" means a free appropriate public education, which:

~~(a)~~ includes special education and related services that are provided at public expense, under public supervision and direction, and without charge;

~~(b)~~ meets the standards of the ~~[USOE] Board~~ and Part B of the ~~[Individuals with Disabilities Education Act (IDEA)], 20 U.S.C. 1401(3)]~~;

~~(c)~~ includes preschool, elementary school, ~~[and]~~ secondary school, and may include post-secondary education in Utah; and

~~(d)~~ ~~[are]~~is provided in conformity with an IEP that meets the requirements of Part B of the IDEA and ~~[Utah State] Board [of Education]~~ ~~[S]special [E]education [R]rules.~~

~~(e)~~ "IEP" means a written statement of an individualized education program by an IEP team and developed, reviewed, and revised in accordance with Utah State Board of Education Special Education Rules and the Part B of the IDEA.

~~(f)~~ "IEP team" means a group of individuals that is responsible for developing, reviewing, and revising an IEP for a student with a disability.

~~(g)~~ "LEA" ~~[means a local education agency which includes school boards/public school districts, charter schools, and]~~includes, for the purposes of this rule, the Utah Schools for the Deaf and the Blind.

~~(h)~~ ~~(6)(a)~~ "Procedural ~~[S]~~safeguards" means the procedural rights designed to protect the rights of students with disabilities and their parents.

~~(b)~~ ~~[Requirements]~~ "Procedural safeguards" are defined in IDEA and ~~[Utah State] Board [of Education]~~ ~~[S]special [E]education [R]rules~~, and include ~~[the]~~a parent's right to:

~~(i)~~ participate in meetings~~;~~;

~~(ii)~~ review educational records~~;~~;

~~(iii)~~ request an independent educational evaluation~~;~~;

~~(iv)~~ receive written prior notice of actions proposed or refused by ~~[the]~~an LEA~~;~~; and

~~(v)~~ consent to evaluations and special education services.

~~(c)~~ "Procedural ~~[S]~~safeguards" also ~~[describe]~~include dispute resolution options.

~~(7)~~ "Recoupment means recover of basic behavioral or academic patterns, or both, or skills, specified in an IEP, to a level demonstrated prior to the interruption of educational programming.

~~(f)~~ ~~(8)~~ "Regression" means reversion to a lower level of functioning, evidenced by a decrease in the level of basic behavioral or academic patterns, or both, or skills, specified in an IEP, which occurs as a result of an interruption in educational programming. ~~[These behaviors or skills are specified on a student's current IEP.]~~

~~(j)~~ "Recoupment" means recovery of basic behavioral or academic patterns, or both, or skills, specified on the IEP, to a level

demonstrated prior to the interruption of educational programming.
~~(k)~~ ~~(9)~~ "Student with a disability" means a student who meets eligibility criteria for special education and related services, as defined in the ~~[Utah State] Board [of Education]~~ ~~[S]special [E]education [R]rules.~~

~~(l)~~ "USOE" means the Utah State Office of Education.

R277-751-3. Determining Eligibility.

~~(a)~~ ~~(1)~~ A student is eligible for ESY if the student's IEP team has determined, based upon a review of multiple data sources and factors that the student [is]:

~~(1)~~ ~~(a)~~ ~~[a student who has been determined as]~~is eligible under ~~[Utah State] Board [of Education]~~ ~~[S]special [E]education [R]rules~~ and Part B of the IDEA; and

~~(2)~~ ~~(b)~~ ~~[a student whose IEP team has determined, based upon a review of multiple data sources and factors, on an individual basis, an ESY is required]~~requires an ESY to receive a FAPE.

~~(b)~~ ~~(2)~~ ~~[The]~~A student's IEP shall reflect the student's IEP team's decision regarding need for ESY services.

~~(1)~~ ~~(a)~~ An LEA shall provide a student's [P]parents [shall be provided] with written prior notice of the LEA's proposal or refusal to provide ESY services.

~~(2)~~ ~~(b)~~ [If determined as eligible for ESY services, the]A student's IEP team shall determine the appropriate ESY services for an eligible student, based on the student's individual needs.

~~(3)~~ ESY eligibility decisions and written prior notice of ESY services shall be provided to parents in sufficient time to permit accessing dispute resolution options of the Procedural Safeguards, in the event of a dispute.

R277-751-4. ESY Program Standards.

~~(a)~~ ~~(1)~~ The primary goal for a student requiring ESY services is to maintain the current level of the student's academic and functional skills and behavior in areas identified by the student's IEP in order to provide FAPE.

~~(b)~~ ~~(2)~~ LEAs may not~~[-~~

~~(1)~~ limit ESY to:

~~(a)~~ particular categories of disabilities; ~~[or]~~

~~(b)~~ particular ages; or

~~(c)~~ particular grade levels of students.

~~(2)~~ ~~(3)~~ An LEA may not unilaterally limit the type, amount, or duration of ESY services provided for students.

~~(3)~~ ~~(4)~~ An LEA may not limit data consideration by IEP teams exclusively to ~~[only]~~an analysis of regression and recoupment.

~~(c)~~ ~~(5)~~ An LEA~~[s]~~ shall ensure that:

~~(1)~~ ~~(a)~~ an ESY student receives services ~~[are provided]~~ in the least restrictive environment~~[-];~~ and

~~(2)~~ ~~(b)~~ ESY teachers and paraprofessionals meet ~~[IDEA's highly qualified requirements]~~Board licensing rules.

R277-751-5. Division of Responsibilities.

~~(a)~~ ~~(1)~~ The ~~[duties of the Utah State Office of Education]~~Superintendent shall~~[-include]:~~

~~(1)~~ ~~(1)~~ ~~[monitoring ESY compliance through:]~~

~~(a)~~ conduct LEA program administrative reviews, such as Utah Program Improvement Planning System or ~~[("UPIPS")]~~ monitoring;

(b) ~~[requiring]~~require student attendance and membership accountability[-];

([2]c) ~~[providing]~~provide technical assistance to LEAs;

([3]d) ~~[collecting]~~collect data on:

([a]i) the number, disabilities, and levels of students served;

([b]ii) the types of program delivery models used;

([e]iii) costs of the ESY services in LEAs; and

([d]iv) program effectiveness.

([4]e) ~~[developing]~~develop guidelines for LEAs.

~~[B](2) [The duties of LEAs shall include]~~An LEA shall:

([1]a) ~~[establishing]~~establish LEA procedures which are in accordance with Board rules;

([2]b) ~~[providing]~~provide professional development and on-site visits to assure that Board and LEA procedures are appropriately understood and implemented;

([3]c) ~~[establishing]~~establish timelines to accomplish the purposes of this rule;

([4]d) ~~[analyzing]~~analyze LEA needs, reported by professionals, for ESY services for individual, eligible students;

([5]e) ~~[determining]~~determine LEA ESY services parameters based upon data received from educators on individual, eligible students, including[-]: ~~[The parameters shall include]~~

_____ (i) the personnel required to provide special education and related services[-];

_____ (ii) location of services[-]; and

_____ (iii) budget specifications;

([6]f) ~~[ensuring]~~ensure parents and professionals have received information about dispute resolution procedures for the appeal of ESY eligibility decisions and ESY services parameters; and

([7]g) ~~[implementing]~~implement processes to collect program effectiveness data.

KEY: exceptional children, extended school year
Date of Enactment or Last Substantive Amendment: ~~[June 7, 2013]~~2018
Notice of Continuation: April 8, 2013
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; ~~[53A-1-402(1)(e); 53A-1-401(3); 53A-17a-112(3)]~~53-3-401(4); 53E-3-501(1)(c)(vi)(A)

Environmental Quality, Air Quality
R307-101-2
Definitions

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 42676
 FILED: 03/12/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to update the

definition of "PM2.5 Precursor", adding ammonia to the list of scientific PM2.5 precursors, and accommodating provisions in the federal PM Implementation Rule (40 CFR 51, Subpart Z).

SUMMARY OF THE RULE OR CHANGE: This rule currently excludes ammonia as a precursor to PM2.5. This amendment updates the rule to conform with federal rules by adding ammonia as a precursor, except where a demonstration satisfying 40 CFR 51.1006(a)(3) has determined otherwise.

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

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: This proposed rule amendment could have a fiscal impact on state government revenues or expenditures, but any fiscal cost or benefit is inestimable at this time because further studies and analysis must be completed.
- ◆ LOCAL GOVERNMENTS: This proposed rule amendment is not expected to have any fiscal impact on local governments' revenues or expenditures, but any fiscal cost or benefit is inestimable at this time because further studies and analysis must be completed.
- ◆ SMALL BUSINESSES: This proposed rule amendment is not expected to have any fiscal impact on small businesses' revenues or expenditures, but any fiscal cost or benefit is inestimable at this time because further studies and analysis must be completed.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This proposed rule amendment could have a fiscal impact on other individual's revenues or expenditures, but any fiscal cost or benefit is inestimable at this time because further studies and analysis must be completed.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This proposed rule amendment is not expected to have any fiscal impact on individual persons. However, any fiscal cost or benefit is inestimable at this time because further studies and analysis regarding ammonia emission must be completed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Due to further research and analysis regarding ammonia emissions and PM2.5 precursors, the fiscal impact on businesses is currently inestimable. Upon completion of ongoing ammonia models and a thorough Best Available Control Technology analysis, the Division of Air Quality will be able to provide an accurate fiscal impact analysis on businesses.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Thomas Gunter by phone at 801-536-4419, or by Internet
 E-mail at thomasgunter@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON
 THIS RULE BY SUBMITTING WRITTEN COMMENTS NO
 LATER THAN AT 5:00 PM ON 05/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 06/07/2018

AUTHORIZED BY: Bryce Bird, Director

***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

For a complete listing of NAICS codes used in this analysis, please contact the agency. It is possible that these businesses could experience a fiscal cost associated with the inclusion of ammonia as a precursor to PM_{2.5}. The full impact to these non-small businesses cannot be estimated because: the data necessary to determine how emission sources contribute to ammonia levels is still being studied. It is unclear at this time what controls would be required in the future, what the costs of those controls would be, or what sources would be affected.

The costs and benefits related to State, Local budgets, as well as small business and individuals are inestimable for the same reasons identified above.

The Executive Director of the Department of Environmental Quality, Alan Matheson, has reviewed and approved this fiscal analysis.

Publications Editor 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

R307. Environmental Quality, Air Quality.

R307-101. General Requirements.

R307-101-2. Definitions.

Except where specified in individual rules, definitions in R307-101-2 are applicable to all rules adopted by the Air Quality Board.

"Actual Emissions" means the actual rate of emissions of a pollutant from an emissions unit determined as follows:

(1) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operations. The director shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(2) The director may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(3) For any emission unit, other than an electric utility steam generating unit specified in (4), which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

(4) For an electric utility steam generating unit (other than a new unit or the replacement of an existing unit) actual emissions of the unit following the physical or operational change shall equal the representative actual annual emissions of the unit, provided the source owner or operator maintains and submits to the director, on an annual basis for a period of 5 years from the date the unit resumes regular operation, information demonstrating that the physical or operational change did not result in an emissions increase. A longer period, not to exceed 10 years, may be required by the director if the director determines such a period to be more representative of normal source post-change operations.

"Acute Hazardous Air Pollutant" means any noncarcinogenic hazardous air pollutant for which a threshold limit value - ceiling (TLV-C) has been adopted by the American Conference of Governmental Industrial Hygienists (ACGIH) in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, (2009)."

"Air pollutant" means a substance that qualifies as an air pollutant as defined in 42 U.S.C. Sec. 7602.

"Air Pollutant Source" means private and public sources of emissions of air pollutants.

"Air Pollution" means the presence of an air pollutant in the ambient air in such quantities and duration and under conditions and circumstances, that are injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or use of property as determined by the standards, rules and regulations adopted by the Air Quality Board (Section 19-2-104).

"Allowable Emissions" means the emission rate of a source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the emission limitation established pursuant to R307-401-8.

"Ambient Air" means that portion of the atmosphere, external to buildings, to which the general public has access. (Section 19-2-102(4)).

"Appropriate Authority" means the governing body of any city, town or county.

"Atmosphere" means the air that envelops or surrounds the earth and includes all space outside of buildings, stacks or exterior ducts.

"Authorized Local Authority" means a city, county, city-county or district health department; a city, county or combination fire department; or other local agency duly designated by appropriate authority, with approval of the state Department of Health; and other lawfully adopted ordinances, codes or regulations not in conflict therewith.

"Board" means Air Quality Board. See Section 19-2-102(8) (a).

"Breakdown" means any malfunction or procedural error, to include but not limited to any malfunction or procedural error during start-up and shutdown, which will result in the inoperability or sudden loss of performance of the control equipment or process equipment causing emissions in excess of those allowed by approval order or Title R307.

"BTU" means British Thermal Unit, the quantity of heat necessary to raise the temperature of one pound of water one degree Fahrenheit.

"Calibration Drift" means the change in the instrument meter readout over a stated period of time of normal continuous operation when the VOC concentration at the time of measurement is the same known upscale value.

"Carbon Adsorption System" means a device containing adsorbent material (e.g., activated carbon, aluminum, silica gel), an inlet and outlet for exhaust gases, and a system for the proper disposal or reuse of all VOC adsorbed.

"Carcinogenic Hazardous Air Pollutant" means any hazardous air pollutant that is classified as a known human carcinogen (A1) or suspected human carcinogen (A2) by the American Conference of Governmental Industrial Hygienists (ACGIH) in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, (2009)."

"Chargeable Pollutant" means any regulated air pollutant except the following:

(1) Carbon monoxide;

(2) Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated or established by Title VI of the Act, Stratospheric Ozone Protection;

(3) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under Section 112(r) of the Act, Prevention of Accidental Releases.

"Chronic Hazardous Air Pollutant" means any noncarcinogenic hazardous air pollutant for which a threshold limit value - time weighted average (TLV-TWA) having no threshold limit value - ceiling (TLV-C) has been adopted by the American Conference of Governmental Industrial Hygienists (ACGIH) in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, (2009)."

"Clean Air Act" means federal Clean Air Act as found in 42 U.S.C. Chapter 85.

"Clean Coal Technology" means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

"Clean Coal Technology Demonstration Project" means a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology," up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency. The Federal contribution for a qualifying project shall be at least 20 percent of the total cost of the demonstration project.

"Clearing Index" means an indicator of the predicted rate of clearance of ground level pollutants from a given area. This number is provided by the National Weather Service.

"Coating" means a material that can be applied to a substrate and which cures to form a continuous solid film for protective, decorative, or functional purposes. Such materials include, but are not limited to, paints, varnishes, sealants, adhesives, caulks, maskants, inks, and temporary protective coatings.

"Commence" as applied to construction of a major source or major modification means that the owner or operator has all necessary pre-construction approvals or permits and either has:

(1) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(2) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

"Composite vapor pressure" means the sum of the partial pressures of the compounds defined as VOCs.

"Condensable PM_{2.5}" means material that is vapor phase at stack conditions, but which condenses and/or reacts upon cooling and dilution in the ambient air to form solid or liquid particulate matter immediately after discharge from the stack.

"Compliance Schedule" means a schedule of events, by date, which will result in compliance with these regulations.

"Construction" means any physical change or change in the method of operation including fabrication, erection, installation, demolition, or modification of a source which would result in a change in actual emissions.

"Control Apparatus" means any device which prevents or controls the emission of any air pollutant directly or indirectly into the outdoor atmosphere.

"Department" means Utah State Department of Environmental Quality. See Section 19-1-103(1).

"Director" means the Director of the Division of Air Quality. See Section 19-1-103(1).

"Division" means the Division of Air Quality.

"Electric Utility Steam Generating Unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

"Emission" means the act of discharge into the atmosphere of an air pollutant or an effluent which contains or may contain an air pollutant; or the effluent so discharged into the atmosphere.

"Emissions Information" means, with reference to any source operation, equipment or control apparatus:

(1) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics related to air quality of any air pollutant which has been emitted by the source operation, equipment, or control apparatus;

(2) Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any air pollutant which, under an applicable standard or limitation, the source operation was authorized to emit (including, to the extent necessary for such purposes, a description of the manner or rate of operation of the source operation), or any combination of the foregoing; and

(3) A general description of the location and/or nature of the source operation to the extent necessary to identify the source operation and to distinguish it from other source operations (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source operation).

"Emission Limitation" means a requirement established by the Board, the director or the Administrator, EPA, which limits the quantity, rate or concentration of emission of air pollutants on a continuous emission reduction including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction (Section 302(k)).

"Emissions Unit" means any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under the Clean Air Act.

"Enforceable" means all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within the State Implementation Plan and R307, any permit requirements established pursuant to 40 CFR 52.21 or R307-401.

"EPA" means Environmental Protection Agency.

"EPA Method 9" means 40 CFR Part 60, Appendix A, Method 9, "Visual Determination of Opacity of Emissions from Stationary Sources," and Alternate 1, "Determination of the opacity of emissions from stationary sources remotely by LIDAR."

"Executive Director" means the Executive Director of the Utah Department of Environmental Quality. See Section 19-1-103(2).

"Existing Installation" means an installation, construction of which began prior to the effective date of any regulation having application to it.

"Facility" means machinery, equipment, structures of any part or accessories thereof, installed or acquired for the primary purpose of controlling or disposing of air pollution. It does not include an air conditioner, fan or other similar device for the comfort of personnel.

"Filterable PM2.5" means particles with an aerodynamic diameter equal to or less than 2.5 micrometers that are directly emitted by a source as a solid or liquid at stack or release conditions and can be captured on the filter of a stack test train.

"Fireplace" means all devices both masonry or factory built units (free standing fireplaces) with a hearth, fire chamber or similarly prepared device connected to a chimney which provides the operator with little control of combustion air, leaving its fire chamber fully or at least partially open to the room. Fireplaces include those devices with circulating systems, heat exchangers, or draft reducing doors with a net thermal efficiency of no greater than twenty percent and are used for aesthetic purposes.

"Fugitive Dust" means particulate, composed of soil and/or industrial particulates such as ash, coal, minerals, etc., which becomes airborne because of wind or mechanical disturbance of surfaces. Natural sources of dust and fugitive emissions are not fugitive dust within the meaning of this definition.

"Fugitive Emissions" means emissions from an installation or facility which are neither passed through an air cleaning device nor vented through a stack or could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"Garbage" means all putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food, including wastes attendant thereto.

"Gasoline" means any petroleum distillate, used as a fuel for internal combustion engines, having a Reid vapor pressure of 4 pounds or greater.

"Hazardous Air Pollutant (HAP)" means any pollutant listed by the EPA as a hazardous air pollutant in conformance with Section 112(b) of the Clean Air Act. A list of these pollutants is available at the Division of Air Quality.

"Household Waste" means any solid or liquid material normally generated by the family in a residence in the course of ordinary day-to-day living, including but not limited to garbage, paper products, rags, leaves and garden trash.

"Incinerator" means a combustion apparatus designed for high temperature operation in which solid, semisolid, liquid, or gaseous combustible wastes are ignited and burned efficiently and from which the solid and gaseous residues contain little or no combustible material.

"Installation" means a discrete process with identifiable emissions which may be part of a larger industrial plant. Pollution equipment shall not be considered a separate installation or installations.

"LPG" means liquified petroleum gas such as propane or butane.

"Maintenance Area" means an area that is subject to the provisions of a maintenance plan that is included in the Utah state implementation plan, and that has been redesignated by EPA from nonattainment to attainment of any National Ambient Air Quality Standard.

(a) The following areas are considered maintenance areas for ozone:

- (i) Salt Lake County, effective August 18, 1997; and
- (ii) Davis County, effective August 18, 1997.

(b) The following areas are considered maintenance areas for carbon monoxide:

- (i) Salt Lake City, effective March 22, 1999;
- (ii) Ogden City, effective May 8, 2001; and
- (iii) Provo City, effective January 3, 2006.

(c) The following areas are considered maintenance areas for PM10:

(i) Salt Lake County, effective on the date that EPA approves the maintenance plan that was adopted by the Board on December 2, 2015; and

(ii) Utah County, effective on the date that EPA approves the maintenance plan that was adopted by the Board on December 2, 2015; and

(iii) Ogden City, effective on the date that EPA approves the maintenance plan that was adopted by the Board on December 2, 2015.

(d) The following area is considered a maintenance area for sulfur dioxide: all of Salt Lake County and the eastern portion of Tooele County above 5600 feet, effective on the date that EPA approves the maintenance plan that was adopted by the Board on January 5, 2005.

"Major Modification" means any physical change in or change in the method of operation of a major source that would result in a significant net emissions increase of any pollutant. A net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone. Within Salt Lake and Davis Counties or any nonattainment area for ozone, a net emissions increase that is significant for nitrogen oxides shall be considered significant for ozone. Within areas of nonattainment for PM10, a significant net emission increase for any PM10 precursor is also a significant net emission increase for PM10. A physical change or change in the method of operation shall not include:

(1) routine maintenance, repair and replacement;

(2) use of an alternative fuel or raw material by reason of an order under section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(3) use of an alternative fuel by reason of an order or rule under section 125 of the federal Clean Air Act;

(4) use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(5) use of an alternative fuel or raw material by a source:

(a) which the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any enforceable permit condition; or

(b) which the source is otherwise approved to use;

(6) an increase in the hours of operation or in the production rate unless such change would be prohibited under any enforceable permit condition;

(7) any change in ownership at a source

(8) the addition, replacement or use of a pollution control project at an existing electric utility steam generating unit, unless the director determines that such addition, replacement, or use renders the unit less environmentally beneficial, or except:

(a) when the director has reason to believe that the pollution control project would result in a significant net increase in representative actual annual emissions of any criteria pollutant over levels used for that source in the most recent air quality impact analysis in the area conducted for the purpose of Title I of the Clean Air Act, if any, and

(b) the director determines that the increase will cause or contribute to a violation of any national ambient air quality standard or PSD increment, or visibility limitation.

(9) the installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

(a) the Utah State Implementation Plan; and

(b) other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

"Major Source" means, to the extent provided by the federal Clean Air Act as applicable to R307:

(1) any stationary source of air pollutants which emits, or has the potential to emit, one hundred tons per year or more of any pollutant subject to regulation under the Clean Air Act; or

(a) any source located in a nonattainment area for carbon monoxide which emits, or has the potential to emit, carbon monoxide in the amounts outlined in Section 187 of the federal Clean Air Act with respect to the severity of the nonattainment area as outlined in Section 187 of the federal Clean Air Act; or

(b) any source located in Salt Lake or Davis Counties or in a nonattainment area for ozone which emits, or has the potential to emit, VOC or nitrogen oxides in the amounts outlined in Section 182 of the federal Clean Air Act with respect to the severity of the nonattainment area as outlined in Section 182 of the federal Clean Air Act; or

(c) any source located in a nonattainment area for PM10 which emits, or has the potential to emit, PM10 or any PM10 precursor in the amounts outlined in Section 189 of the federal Clean Air Act with respect to the severity of the nonattainment area as outlined in Section 189 of the federal Clean Air Act.

(2) any physical change that would occur at a source not qualifying under subpart 1 as a major source, if the change would constitute a major source by itself;

(3) the fugitive emissions and fugitive dust of a stationary source shall not be included in determining for any of the purposes of these R307 rules whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

(a) Coal cleaning plants (with thermal dryers);

(b) Kraft pulp mills;

(c) Portland cement plants;

(d) Primary zinc smelters;

(e) Iron and steel mills;

(f) Primary aluminum or reduction plants;

(g) Primary copper smelters;

(h) Municipal incinerators capable of charging more than 250 tons of refuse per day;

(i) Hydrofluoric, sulfuric, or nitric acid plants;

(j) Petroleum refineries;

(k) Lime plants;

(l) Phosphate rock processing plants;

(m) Coke oven batteries;

(n) Sulfur recovery plants;

- (o) Carbon black plants (furnace process);
- (p) Primary lead smelters;
- (q) Fuel conversion plants;
- (r) Sintering plants;
- (s) Secondary metal production plants;
- (t) Chemical process plants;
- (u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British Thermal Units per hour heat input;
- (v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (w) Taconite ore processing plants;
- (x) Glass fiber processing plants;
- (y) Charcoal production plants;
- (z) Fossil fuel-fired steam electric plants of more than 250 million British Thermal Units per hour heat input;
- (aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the federal Clean Air Act.

"Modification" means any planned change in a source which results in a potential increase of emission.

"National Ambient Air Quality Standards (NAAQS)" means the allowable concentrations of air pollutants in the ambient air specified by the Federal Government (Title 40, Code of Federal Regulations, Part 50).

"Net Emissions Increase" means the amount by which the sum of the following exceeds zero:

- (1) any increase in actual emissions from a particular physical change or change in method of operation at a source; and
- (2) any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable. For purposes of determining a "net emissions increase":

(a) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date five years before construction on the particular change commences; and the date that the increase from the particular change occurs.

(b) An increase or decrease in actual emissions is creditable only if it has not been relied on in issuing a prior approval for the source which approval is in effect when the increase in actual emissions for the particular change occurs.

(c) An increase or decrease in actual emission of sulfur dioxide, nitrogen oxides or particulate matter which occurs before an applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available. With respect to particulate matter, only PM10 emissions will be used to evaluate this increase or decrease.

(d) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(e) A decrease in actual emissions is creditable only to the extent that:

(i) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) It is enforceable at and after the time that actual construction on the particular change begins; and

(iii) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(iv) It has not been relied on in issuing any permit under R307-401 nor has it been relied on in demonstrating attainment or reasonable further progress.

(f) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

"New Installation" means an installation, construction of which began after the effective date of any regulation having application to it.

"Nonattainment Area" means an area designated by the Environmental Protection Agency as nonattainment under Section 107, Clean Air Act for any National Ambient Air Quality Standard. The designations for Utah are listed in 40 CFR 81.345.

"Offset" means an amount of emission reduction, by a source, greater than the emission limitation imposed on such source by these regulations and/or the State Implementation Plan.

"Opacity" means the capacity to obstruct the transmission of light, expressed as percent.

"Open Burning" means any burning of combustible materials resulting in emission of products of combustion into ambient air without passage through a chimney or stack.

"Owner or Operator" means any person who owns, leases, controls, operates or supervises a facility, an emission source, or air pollution control equipment.

"PSD" Area means an area designated as attainment or unclassifiable under section 107(d)(1)(D) or (E) of the federal Clean Air Act.

"PM2.5" means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by an EPA reference or equivalent method.

"PM2.5 Precursor" means any chemical compound or substance which, after it has been emitted into the atmosphere, undergoes chemical or physical changes that convert it into particulate matter, specifically PM2.5, ~~and has been identified in the applicable implementation plan for PM2.5 as significant for the purpose of developing control measures. Specifically, PM2.5 precursors include SO2, NOx, and VOC].~~

(1) Specifically, Sulfur dioxide, Nitrogen oxides, Volatile organic compounds and Ammonia are precursors to PM2.5 in any PM2.5 nonattainment area, except where a demonstration satisfying 40 CFR 51.1006(a)(3) has, for a particular PM2.5 nonattainment area, determined otherwise.

(2) The following subparagraphs denote specific nonattainment areas (as defined in the July 1, 2017 version of 40 CFR 81.345), within which certain pollutants identified in paragraph (1) are exempted from the definition of PM2.5 precursor for the purposes of 40 CFR 51.165

(a) In the Logan UT-ID PM2.5 nonattainment area - Ammonia is exempted.

"PM10" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by an EPA reference or equivalent method.

"PM10 Precursor" means any chemical compound or substance which, after it has been emitted into the atmosphere, undergoes chemical or physical changes that convert it into particulate matter, specifically PM10.

"Part 70 Source" means any source subject to the permitting requirements of R307-415.

"Person" means an individual, trust, firm, estate, company, corporation, partnership, association, state, state or federal agency or entity, municipality, commission, or political subdivision of a state. (Subsection 19-2-103(4)).

"Pollution Control Project" means any activity or project at an existing electric utility steam generating unit for purposes of reducing emissions from such unit. Such activities or projects are limited to:

(1) The installation of conventional or innovative pollution control technology, including but not limited to advanced flue gas desulfurization, sorbent injection for sulfur dioxide and nitrogen oxides controls and electrostatic precipitators;

(2) An activity or project to accommodate switching to a fuel which is less polluting than the fuel used prior to the activity or project, including, but not limited to natural gas or coal reburning, or the cofiring of natural gas and other fuels for the purpose of controlling emissions;

(3) A permanent clean coal technology demonstration project conducted under Title II, sec. 101(d) of the Further Continuing Appropriations Act of 1985 (sec. 5903(d) of title 42 of the United States Code), or subsequent appropriations, up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency; or

(4) A permanent clean coal technology demonstration project that constitutes a repowering project.

"Potential to Emit" means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

"Primary PM2.5" means the sum of filterable PM2.5 and condensable PM2.5.

"Process Level" means the operation of a source, specific to the kind or type of fuel, input material, or mode of operation.

"Process Rate" means the quantity per unit of time of any raw material or process intermediate consumed, or product generated, through the use of any equipment, source operation, or control apparatus. For a stationary internal combustion unit or any other fuel burning equipment, this term may be expressed as the quantity of fuel burned per unit of time.

"Reactivation of a Very Clean Coal-Fired Electric Utility Steam Generating Unit" means any physical change or change in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation where the unit:

(1) Has not been in operation for the two-year period prior to the enactment of the Clean Air Act Amendments of 1990, and the emissions from such unit continue to be carried in the emission inventory at the time of enactment;

(2) Was equipped prior to shutdown with a continuous system of emissions control that achieves a removal efficiency for

sulfur dioxide of no less than 85 percent and a removal efficiency for particulates of no less than 98 percent;

(3) Is equipped with low-NOx burners prior to the time of commencement of operations following reactivation; and

(4) Is otherwise in compliance with the requirements of the Clean Air Act.

"Reasonable Further Progress" means annual incremental reductions in emission of an air pollutant which are sufficient to provide for attainment of the NAAQS by the date identified in the State Implementation Plan.

"Refuse" means solid wastes, such as garbage and trash.

"Regulated air pollutant" means any of the following:

(a) Nitrogen oxides or any volatile organic compound;

(b) Any pollutant for which a national ambient air quality standard has been promulgated;

(c) Any pollutant that is subject to any standard promulgated under Section 111 of the Act, Standards of Performance for New Stationary Sources;

(d) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act, Stratospheric Ozone Protection;

(e) Any pollutant subject to a standard promulgated under Section 112, Hazardous Air Pollutants, or other requirements established under Section 112 of the Act, including Sections 112(g), (j), and (r) of the Act, including any of the following:

(i) Any pollutant subject to requirements under Section 112(j) of the Act, Equivalent Emission Limitation by Permit. If the Administrator fails to promulgate a standard by the date established pursuant to Section 112(e) of the Act, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to Section 112(e) of the Act;

(ii) Any pollutant for which the requirements of Section 112(g)(2) of the Act (Construction, Reconstruction and Modification) have been met, but only with respect to the individual source subject to Section 112(g)(2) requirement.

"Repowering" means replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the Administrator, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

(1) Repowering shall also include any oil and/or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.

(2) The director shall give expedited consideration to permit applications for any source that satisfies the requirements of this definition and is granted an extension under section 409 of the Clean Air Act.

"Representative Actual Annual Emissions" means the average rate, in tons per year, at which the source is projected to emit a pollutant for the two-year period after a physical change or change in the method of operation of unit, (or a different consecutive two-year period within 10 years after that change, where the director determines

that such period is more representative of source operations), considering the effect any such change will have on increasing or decreasing the hourly emissions rate and on projected capacity utilization. In projecting future emissions the director shall:

(1) Consider all relevant information, including but not limited to, historical operational data, the company's own representations, filings with the State of Federal regulatory authorities, and compliance plans under title IV of the Clean Air Act; and

(2) Exclude, in calculating any increase in emissions that results from the particular physical change or change in the method of operation at an electric utility steam generating unit, that portion of the unit's emissions following the change that could have been accommodated during the representative baseline period and is attributable to an increase in projected capacity utilization at the unit that is unrelated to the particular change, including any increased utilization due to the rate of electricity demand growth for the utility system as a whole.

"Residence" means a dwelling in which people live, including all ancillary buildings.

"Residential Solid Fuel Burning" device means any residential burning device except a fireplace connected to a chimney that burns solid fuel and is capable of, and intended for use as a space heater, domestic water heater, or indoor cooking appliance, and has an air-to-fuel ratio less than 35-to-1 as determined by the test procedures prescribed in 40 CFR 60.534. It must also have a useable firebox volume of less than 6.10 cubic meters or 20 cubic feet, a minimum burn rate less than 5 kilograms per hour or 11 pounds per hour as determined by test procedures prescribed in 40 CFR 60.534, and weigh less than 800 kilograms or 362.9 pounds. Appliances that are described as prefabricated fireplaces and are designed to accommodate doors or other accessories that would create the air starved operating conditions of a residential solid fuel burning device shall be considered as such. Fireplaces are not included in this definition for solid fuel burning devices.

"Road" means any public or private road.

"Salvage Operation" means any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, including but not limited to metals, chemicals, shipping containers or drums.

"Secondary Emissions" means emissions which would occur as a result of the construction or operation of a major source or major modification, but do not come from the major source or major modification itself.

Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the source or modification which causes the secondary emissions. Secondary emissions include emissions from any off-site support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

Fugitive emissions and fugitive dust from the source or modification are not considered secondary emissions.

"Secondary PM2.5" means particles that form or grow in mass through chemical reactions in the ambient air well after dilution and condensation have occurred. Secondary PM2.5 is usually formed at some distance downwind from the source.

"Significant" means:

(1) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Carbon monoxide: 100 ton per year (tpy);

Nitrogen oxides: 40 tpy;

Sulfur dioxide: 40 tpy;

PM10: 15 tpy;

PM2.5: 10 tpy;

Particulate matter: 25 tpy;

Ozone: 40 tpy of volatile organic compounds;

Lead: 0.6 tpy.

"Solid Fuel" means wood, coal, and other similar organic material or combination of these materials.

"Solvent" means organic materials which are liquid at standard conditions (Standard Temperature and Pressure) and which are used as solvents, viscosity reducers, or cleaning agents.

"Source" means any structure, building, facility, or installation which emits or may emit any air pollutant subject to regulation under the Clean Air Act and which is located on one or more continuous or adjacent properties and which is under the control of the same person or persons under common control. A building, structure, facility, or installation means all of the pollutant-emitting activities which belong to the same industrial grouping. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e. which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (US Government Printing Office stock numbers 4101-0065 and 003-005-00176-0, respectively).

"Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

"Standards of Performance for New Stationary Sources" means the Federally established requirements for performance and record keeping (Title 40 Code of Federal Regulations, Part 60).

"State" means Utah State.

"Temporary" means not more than 180 calendar days.

"Temporary Clean Coal Technology Demonstration Project" means a clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the Utah State Implementation Plan and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

"Threshold Limit Value - Ceiling (TLV-C)" means the airborne concentration of a substance which may not be exceeded, as adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, (2009)."

"Threshold Limit Value - Time Weighted Average (TLV-TWA)" means the time-weighted airborne concentration of a substance adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, (2009)."

"Total Suspended Particulate (TSP)" means minute separate particles of matter, collected by high volume sampler.

"Toxic Screening Level" means an ambient concentration of an air pollutant equal to a threshold limit value - ceiling (TLV-C) or threshold limit value -time weighted average (TLV-TWA) divided by a safety factor.

"Trash" means solids not considered to be highly flammable or explosive including, but not limited to clothing, rags, leather, plastic, rubber, floor coverings, excelsior, tree leaves, yard trimmings and other similar materials.

"VOC content" means the weight of VOC per volume of material and is calculated by the following equation in gram/liter (or alternately in pound/gallon, or pound/pound):

$$\text{Grams of VOC per Liter of Material} = \frac{W_s - W_w - W_{es}}{V_m}$$

Where:

W_s = weight of volatile organic compounds

W_w = weight of water

W_{es} = weight of exempt compounds

V_m = volume of material

"Volatile Organic Compound (VOC)" means VOC as defined in 40 CFR 51.100(s), effective as of the date referenced in R307-101-3, is hereby adopted and incorporated by reference.

"Waste" means all solid, liquid or gaseous material, including, but not limited to, garbage, trash, household refuse, construction or demolition debris, or other refuse including that resulting from the prosecution of any business, trade or industry.

"Zero Drift" means the change in the instrument meter readout over a stated period of time of normal continuous operation when the VOC concentration at the time of measurement is zero.

KEY: air pollution, definitions

Date of Enactment or Last Substantive Amendment: [December 6, 2017] 2018

Notice of Continuation: May 8, 2014

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

Environmental Quality, Air Quality
R307-110-12
Section IX, Control Measures for Area
and Point Sources, Part C, Carbon
Monoxide

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42673

FILED: 03/09/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Incorporate changes to the Utah State Implementation Plan, Section IX, Part C, Carbon Monoxide into Air Quality rules.

SUMMARY OF THE RULE OR CHANGE: The purpose of this revision to the Provo Area CO Attainment-Maintenance Plan is to: 1) show continued attainment of the CO NAAQS for a second 10-year term, as required by the Clean Air Act; and 2) to adopt an alternative CO monitoring method that does not utilize the traditional gaseous analyzer to determine

compliance with the NAAQS. The alternative monitoring method will utilize an annual review of the traffic volume near the current location of the North Provo monitoring station.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-2-104

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This rule change may have a direct fiscal benefit on the state budget. The Division of the Air Quality will no-longer maintain a carbon monoxide air quality monitor in North Provo, and will, instead, rely on already existing Utah Department of Transportation traffic counter equipment.

◆ **LOCAL GOVERNMENTS:** This rule change will not have an impact on local governments. These proposed changes do not alter previously existing requirements. The proposed changes are related to the method of monitoring carbon monoxide in Provo City.

◆ **SMALL BUSINESSES:** This rule change will not have an impact on the small businesses. These proposed changes do not alter previously existing requirements. The proposed changes are related to the method of monitoring carbon monoxide in Provo City.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule change will not have an impact on persons other than small businesses, businesses, or local government entities. These proposed changes do not alter previously existing requirements. The proposed changes are related to the method of monitoring carbon monoxide in Provo City.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule change will not have an impact on compliance costs for affected persons. These proposed changes do not alter previously existing requirements. The proposed changes are related to the method of monitoring carbon monoxide in Provo City.

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 06/06/2018

AUTHORIZED BY: Bryce Bird, 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	\$32,500	\$32,500	\$32,500
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$32,500	\$32,500	\$32,500
Net Fiscal Benefits:	\$32,500	\$32,500	\$32,500

*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 rule will not financially affect any businesses in Utah, large or small. Additionally, local government and persons will not be affected. There will be an annual benefit to the State budget of approximately \$32,500.00. By removing the monitoring site, the state eliminates 610 operator hours (\$29,300.00 for and Environmental Scientist II) and \$3,200.00 of operation costs.

The Executive Director, Alan Matheson, has reviewed and approved this fiscal analysis.

R307. Environmental Quality, Air Quality.

R307-110. General Requirements: State Implementation Plan.

R307-110-12. Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide.

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide, as most recently amended by the Utah Air Quality Board on ~~November 3, 2004~~ **June 6, 2018**, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

KEY: air pollution, PM10, PM2.5, ozone

Date of Enactment or Last Substantive Amendment: ~~December 8, 2016~~ 2018

Notice of Continuation: January 27, 2017

Authorizing, and Implemented or Interpreted Law: 19-2-104

Environmental Quality, Air Quality
R307-403
Permits: New and Modified Sources in
Nonattainment Areas and Maintenance
Areas

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 42675
 FILED: 03/12/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R307-403 has been amended to address potential deficiencies in the Utah nonattainment new source review (NNSR) permitting.

SUMMARY OF THE RULE OR CHANGE: Rule R307-403 has been amended to allow for regulation of PM2.5. The proposed changes include updates to definitions, clarifications concerning Lowest Achievable Emission Rate (LAER) requirements, and applicable offset requirements. Additionally, ammonia has been exempted as a PM2.5 precursor only in the Logan nonattainment area, where demonstration supporting that conclusion has been submitted to EPA. Ammonia is a precursor to PM2.5 in the Salt Lake and Provo nonattainment areas.

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

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** This proposed rule amendment could have a fiscal impact on state government revenues or expenditures, but any fiscal cost or benefit is inestimable at

this time because further studies and analysis must be completed.

◆ LOCAL GOVERNMENTS: This proposed rule amendment is not expected to have any fiscal impact on local governments revenues or expenditures, but any fiscal cost or benefit is inestimable at this time because further studies and analysis must be completed.

◆ SMALL BUSINESSES: This proposed rule amendment is not expected to have any fiscal impact on small businesses' revenues or expenditures, but any fiscal cost or benefit is inestimable at this time because further studies and analysis must be completed.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This proposed rule amendment could have fiscal impact on other individual's revenues or expenditures, but any fiscal cost or benefit is inestimable at this time because further studies and analysis must be completed.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This proposed rule amendment is not expected to have any fiscal impact on individual persons because this rule focuses on emissions from point sources. However, any fiscal cost or benefit is inestimable at this time because further studies and analysis must be completed.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:
 I. WHETHER A FISCAL IMPACT TO BUSINESS IS EXPECTED AS A RESULT OF THE PROPOSED RULE AND, IF SO, A DESCRIPTION OF WHY: This proposed rule amendment may result in a fiscal impact to some businesses because the rule amendment adds ammonia to the emissions regulated under PM2.5. At this time, it is unknown how the change will affect businesses or which industries will be affected. II. AN ESTIMATE OF THE TOTAL NUMBER OF BUSINESS ESTABLISHMENTS IN UTAH EXPECTED TO BE IMPACTED: The number of businesses that are impacted by this rule amendment is inestimable at this time. Over ten NAICS code industries could be affected by this rule. III. AN ESTIMATE OF THE SMALL BUSINESS ESTABLISHMENTS IN UTAH EXPECTED TO BE IMPACTED: The amendments to this rule will likely only have a fiscal impact on small businesses, however, all affects are inestimable at this time. IV. A DESCRIPTION OF THE SOURCES OF COST OR SAVINGS AS WELL AS THE EXPECTED NET SAVINGS OR COST TO BUSINESS ESTABLISHMENTS AND SMALL BUSINESS ESTABLISHMENTS AS A RESULT OF THE PROPOSED RULE OVER A ONE-YEAR PERIOD, IDENTIFYING ONE-TIME AND ONGOING COSTS: This rule amendment potentially impacts businesses that emit ammonia into areas where ammonia is determined to be a precursor to PM2.5. At this time, it is inestimable to determine source costs or savings to small businesses. V. DEPARTMENT HEAD'S COMMENTS ON THE ANALYSIS: The above analysis represents the Division of Air Quality's best estimate as to the fiscal impact this rule amendment will have on businesses. Further studies and analysis are being conducted to determine the affects of ammonia as a

precursor, and how levels will affect industries within precursor areas.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 06/07/2018

AUTHORIZED BY: Bryce Bird, 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

For a complete listing of NAICS codes used in this analysis, please contact the agency. It is possible that these businesses could experience a fiscal cost associated with increased emission controls. The full impact to these non-small businesses cannot be estimated because: the data necessary to determine how emission sources contribute to ammonia levels is still being studied. It is unclear at this time what controls would be required in the future, what the costs of those controls would be, or what sources would be affected.

The costs and benefits related to state, local governments, as well as small business and individuals are inestimable for the same reasons identified above.

The Executive Director of the Department of Environmental Quality, Alan Matheson, has reviewed and approved this fiscal analysis.

R307. Environmental Quality, Air Quality.

R307-403. Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas.

R307-403-1. Purpose and Definitions.

(1) Purpose. This rule implements the federal nonattainment area permitting program for major sources as required by 40 CFR 51.165. In addition, the rule contains new source review provisions for some non-major sources in PM₁₀ nonattainment areas. This rule supplements, but does not replace, the permitting requirements of R307-401.

(2) Unless otherwise specified, all references to 40 CFR in R307-403 shall mean the version that is in effect on July 1, 2012.

(3) Except as provided in R307-403-1(4), the definitions in 40 CFR 51.165(a)(1) are hereby incorporated by reference. The definition of PAL, or plant wide applicability limitation, in 40 CFR 51.165(f)(2)(v) is also incorporated by reference.

(4)(a) "Reviewing authority" means the director.

(b) In the definition of "significant" in 40 CFR 51.165(a)(1) (x) add the following text at the end of [the pollutant emission rate for PM_{2.5}: "; and in the Logan, Salt Lake City, and Provo PM_{2.5} nonattainment areas as defined in the July 1, 2010 version of 40 CFR 81.345, 40 tpy of volatile organic compounds] paragraph (F): "The following subparagraphs specify, for certain nonattainment areas, emission rates that are "significant" for Ammonia: (1) In the Provo, UT nonattainment area (as defined in the July 1, 2017 version of 40 CFR 81.345) - 70 tons per year or more (2) In the Salt Lake City, UT nonattainment area (as defined in the July 1, 2017 version of 40 CFR 81.345) - 70 tons per year or more."

(c) In the definition of "regulated NSR pollutant" in 40 CFR 51.165(a)(1)(xxvii) [the following subparagraph is added to 51.165(a)(1)(xxvii)(4): "(i) Volatile organic compounds are precursors to PM_{2.5} and ammonia is not a precursor to PM_{2.5} in the Logan, Salt Lake City, and Provo PM_{2.5} nonattainment areas as defined in the July 1, 2010 version of 40 CFR 81.345], paragraph (C)(2) is amended to

read: "(2) Except as specified in R307-101-2 and where a demonstration satisfying 40 CFR 51.1006(a)(3) has, for a particular PM_{2.5} nonattainment area, determined otherwise; Sulfur dioxide, Nitrogen oxides, Volatile organic compounds and Ammonia are precursors to PM_{2.5} in any PM_{2.5} nonattainment area."

(d) The following definitions or portions of definitions that apply to the equipment repair and replacement provisions are not incorporated because these provisions were vacated by the DC Circuit Court of Appeals on March 17, 2006:

(i) in the definition of "major modification" in 40 CFR 51.165(a)(1)(v)(C), the second sentence in subparagraph (1);

(ii) the definition of "process unit" in 40 CFR 51.165(a)(1)(xliii);

(iii) the definition of "functionally equivalent component" in 40 CFR 51.165(a)(1)(xliv);

(iv) the definition of "fixed capital cost" in 40 CFR 51.165(a)(1)(xlv); and

(v) the definition of "total capital investment" in 40 CFR 51.165(a)(1)(xlvi).

R307-403-2. Applicability.

(1) R307-403 applies to any new major stationary source or major modification that is major for the pollutant or precursor pollutant for which the area is designated nonattainment under section 107(d)(1)(A)(i) of the Clean Air Act, if the stationary source or modification would locate anywhere in the designated nonattainment area.

(a) Except as otherwise provided in paragraph R307-403-2(2), and consistent with the definition of major modification contained in 40 CFR 51.165(a)(1)(v)(A), a project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases—a significant emissions increase (as defined in 40 CFR 51.165(a)(1)(xxvii)), and a significant net emissions increase (as defined in 40 CFR 51.165(a)(1)(vi) and (x)). The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

(b) The procedure for calculating (before beginning actual construction) whether a significant emissions increase (i.e., the first step of the process) will occur depends upon the type of emissions units being modified, according to paragraphs R307-403-2(c) through (e). The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source (i.e., the second step of the process) is contained in the definition in 40 CFR 51.165(a)(1)(vi). Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

(c) Actual-to-projected-actual applicability test for projects that only involve existing emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions (as defined in 40 CFR 51.165(a)(1)(xxviii)) and the baseline actual emissions (as defined in 40 CFR 51.165(a)(1)(xxxv)(A) and (B), as applicable), for each existing emissions unit, equals or exceeds the significant amount for that pollutant (as defined in 40 CFR 51.165(a)(1)(x)).

(d) Actual-to-potential test for projects that only involve construction of a new emissions unit(s). A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum

of the difference between the potential to emit (as defined in 40 CFR 51.165(a)(1)(iii)) from each new emissions unit following completion of the project and the baseline actual emissions (as defined in 40 CFR 51.165(a)(1)(xxv)(C)) of these units before the project equals or exceeds the significant amount for that pollutant (as defined in 40 CFR 51.165(a)(1)(x)).

(e) Reserved.

(f) Hybrid test for projects that involve multiple types of emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in R307-403-2(1)(c) through (d) as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant (as defined in 40 CFR 51.165(a)(1)(x)).

(2) For any major stationary source for a PAL for a regulated NSR pollutant, the major stationary source shall comply with requirements under R307-403-11.

(3) Reserved.

(4) Reserved.

(5)(a) Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provision of the state implementation plan and any other requirements under local, state or federal law.

(b) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforcement limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of R307-403 shall apply to the source or modification as though construction had not yet commenced on the source or modification;

(6) The provisions of R307-403-2(6)(a) through (f) apply to projects at existing emissions units at a major stationary source (other than projects at a source with a PAL) in circumstances where there is a reasonable possibility that a project that is not a part of a major modification may result in a significant emissions increase and the owner or operator elects to use the method specified in paragraphs 40 CFR 51.165(a)(1)(xxviii)(B)(1) through (3) for calculating projected actual emissions.

(a) Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:

(i) A description of the project;

(ii) Identification of the emissions unit(s) whose emissions of a regulated NSR pollutant could be affected by the project; and

(iii) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under 40 CFR 51.165(a)(1)(xxviii)(B)(3) and an explanation for why such amount was excluded, and any netting calculations, if applicable.

(b) If the emissions unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in R307-403-2(6)(a) to the reviewing authority. Nothing in this paragraph shall be construed to require the owner or operator of such a unit to obtain any determination from the reviewing authority before beginning actual construction.

(c) The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions units identified in paragraph R307-403-2(6)(a)(ii); and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated NSR pollutant at such emissions unit.

(d) If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the reviewing authority within 60 days after the end of each year during which records must be generated under paragraph R307-403-2(6)(c) setting out the unit's annual emissions during the year that preceded submission of the report.

(e) If the unit is an existing unit other than an electric utility steam generating unit, the owner or operator shall submit a report to the reviewing authority if the annual emissions, in tons per year, from the project identified in paragraph R307-403-2(6)(a), exceed the baseline actual emissions (as documented and maintained pursuant to paragraph R307-403-2(6)(c), by a significant amount (as defined in 40 CFR 51.165(a)(1)(x)) for that regulated NSR pollutant, and if such emissions differ from the preconstruction projection as documented and maintained pursuant to paragraph R307-403-2(6)(c). Such report shall be submitted to the reviewing authority within 60 days after the end of such year. The report shall contain the following:

(i) The name, address and telephone number of the major stationary source;

(ii) The annual emissions as calculated pursuant to paragraph R307-403-2(6)(c); and

(iii) Any other information that the owner or operator wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection).

(f) A "reasonable possibility" under (R307-403-2(6) occurs when the owner or operator calculates the project to result in either:

(i) A projected actual emissions increase of at least 50 percent of the amount that is a "significant emissions increase," as defined in 40 CFR 51.165(a)(1)(xxvii)(without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant; or

(ii) A projected actual emissions increase that, added to the amount of emissions excluded under 40 CFR 51.165(a)(1)(xxviii)(B)(3), sums to at least 50 percent of the amount that is a "significant emissions increase," as defined under paragraph 40 CFR 51.165(a)(1)(xxvii) without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant. For a project for which a reasonable possibility occurs only within the meaning of this paragraph, and not also within the meaning of paragraph R307-403-2(6)(f)(i), then provisions R307-403-2(6)(b) through (e) do not apply to the project.

(7) The owner or operator of the source shall make the information required to be documented and maintained pursuant to paragraph R307-403-2(6) above available for review upon a request for inspection by the director or the general public pursuant to the requirements contained in 40 CFR 70.4(b)(3)(viii).

(8) The requirements of R307-403 applicable to major stationary sources and major modifications of volatile organic compounds shall apply to nitrogen oxides emissions from major

stationary sources and major modifications of nitrogen oxides in an ozone transport region or in any ozone nonattainment area, except in ozone nonattainment areas or in portions of an ozone transport region where the EPA Administrator has granted a nitrogen oxides waiver applying the standards set forth under section 182(f) of the Clean Air Act and the waiver continues to apply.

(9) Reserved.

(10) ~~The requirements of R307-403 [applicable to major stationary sources and major modifications of PM₁₀ shall also apply to major stationary sources and major modifications of PM₁₀ precursors, except where the Administrator determines that such sources do not contribute significantly to PM₁₀ levels that exceed the PM₁₀ ambient standards in the area] apply to new major sources and major modifications to existing sources. Such sources or modifications located in or impacting areas of nonattainment for ozone, PM₁₀, or PM_{2.5} shall also consider each precursor to ozone, PM₁₀ or PM_{2.5} respectively. Sources or modifications determined to be major for any of these precursors shall, for offsetting requirements, also be regarded as major for that pollutant for which the area is designated nonattainment.~~

(a) In areas of ozone nonattainment, a new stationary source that is major for nitrogen oxides or for volatile organic compounds shall be considered major for ozone. Similarly, a major modification to an existing source that is major for nitrogen oxides or for volatile organic compounds shall be considered major for ozone.

(b) In areas of PM₁₀ nonattainment, a new stationary source that is major for nitrogen oxides or for sulfur dioxide shall trigger offset requirements for PM₁₀. Similarly, a major modification to an existing source that is major for nitrogen oxides or for sulfur dioxide shall trigger offset requirements for PM₁₀.

(c) In areas of PM_{2.5} nonattainment, a new stationary source that is major for any individual PM_{2.5} precursor, as defined in R307-403-1(4)(c), shall trigger offset requirements for PM_{2.5}. Similarly, a major modification to an existing source that is major for any individual PM_{2.5} precursor, as defined in R307-403-1(4)(c), shall trigger offset requirements for PM_{2.5}.

(11) Reserved.

(12) R307-403 applies to any major source or major modification that is located outside a nonattainment area and is major for the pollutant for which the area is designated nonattainment under section 107(d)(1)(A)(i) of the Clean Air Act and that causes the significant increments in R307-403-3(1) to be exceeded in the nonattainment area.

(13) R307-403-5 applies to any new or modified source in a PM₁₀ or PM_{2.5} nonattainment area.

R307-403-3. Review of Major Sources of Air Quality Impact.

Every major new source or major modification must be reviewed by the director to determine if a source will cause or contribute to a violation of the NAAQS. ~~[The determination of whether a source will cause or contribute to a violation of the NAAQS will be made by the director as of the new source's projected start-up date. He will make an analysis of the proposed new source's operation data using the best information and analytical techniques available.]~~

(1) If the owner or operator of a source proposes to locate the source outside an area of nonattainment where the source will not

cause an increase greater than the following increments in actual areas of nonattainment or in the Salt Lake City and Ogden maintenance areas for carbon monoxide and the source otherwise meets the requirements of these regulations, such source shall be approved.

TABLE

Pollutant	MAXIMUM ALLOWABLE MICROGRAM/CUBIC METER IMPACT BY AVERAGING TIME				
	Annual	24-Hr	8-Hr	3-Hr	1-Hr
SULFUR DIOXIDE	1.0	5		25	
PM _{2.5}	0.3	1.2			
NO _x	1.0				
PM ₁₀	1.0	3			
CO			500		2000

(2) If the director finds that the emissions from a proposed source would cause a new violation of the NAAQS but would not contribute to an existing violation, the director shall approve the proposed source if and only if:

(a) the new source is required to meet a more stringent emission limitation, sufficient to avoid a new violation of the NAAQS and

(b) the new source has acquired sufficient offset to avoid a new violation of the NAAQS and

(c) the new emission limitations for the proposed source and for any affected existing sources are enforceable.

~~(3) [If the director finds that the emissions from a proposed source in a nonattainment area would contribute to an existing violation of a national ambient air quality standard at the time of the source's proposed start-up date] For a proposed new major stationary source or major modification that is major for a pollutant for which an area is designated nonattainment, approval shall be granted if and only if:~~

(a) the new major source or major modification meets an emission limitation which is the Lowest Achievable Emission Rate (LAER) for such source for the relevant pollutant(s) in the respective nonattainment area; [and]

(b) the applicant has certified that all existing major sources in the State, owned or controlled by the owner or operator (or by any entity controlling, controlled by or under common control with such owner or operator) of the proposed source, are in compliance with all applicable rules in R307, including the Utah Implementation Plan requirements or are in compliance with an approved schedule and timetable for compliance under the Utah Implementation Plan, R307, or an enforcement order, and that the source is complying with all requirements and limitations as expeditiously as practicable[.];

(c) emission offsets to the extent provided in R307-403-4, R307-403-5, and R307-403-6 are sufficient such that there will be reasonable further progress toward attainment of the applicable NAAQS[.];

(d) the emission offsets provide a positive net air quality benefit in the affected area of nonattainment[.]; and,

(e) there is an approved implementation plan in effect for the pollutant to be emitted by the proposed source.

(4) A source which is locating outside a nonattainment area or the Salt Lake City and Ogden maintenance areas for carbon monoxide and which causes the significant increments in R307-403-3(1) ~~[above]~~ to be exceeded in the nonattainment or maintenance area is subject to the requirements of R307-403-3(3) ~~[above]~~.

R307-403-4. Offsets: General Requirements.

(1) All general offset permitting requirements apply for all offsets regardless of the pollutant at issue. General offset permitting requirements shall be imposed immediately and directly on all new major stationary sources or major modifications located in a nonattainment area that are major for the pollutant for which the area is designated nonattainment.

([+2]) Emission offsets must be obtained from the same source or other sources in the same nonattainment area except that the owner or operator of a source may obtain emission offsets in another nonattainment area if:

(a) the other area has an equal or higher nonattainment classification than the area in which the source is located; and

(b) emissions from such other area contribute to a violation of the national ambient air quality standard in the nonattainment area in which the source is located or which is impacted by the source.

([2]3) Any emission offsets required for a new or modified source shall be in effect and enforceable [by the time] before a new or modified source commences construction[;], and, by the time a new or modified source commences operation, any emission offsets shall be in effect and enforceable and The new or modified source shall assure that the total tonnage of increased emissions of the air pollutant from the new or modified source shall be offset by an equal or greater reduction, as applicable, in the actual emissions of such air pollutant from the same or other sources in the area.

([3]4) Emission reductions otherwise required by the federal Clean Air Act or R307, including the State Implementation Plan shall not be creditable as emission reductions for purposes of any offset requirement. Incidental emission reductions which are not otherwise required by federal or state law shall be creditable as emission reductions if such emission reductions meet the requirements of R307-403-4([+2]) and R307-403-4([2]3)[above].

([4]5) Sources shall be allowed to offset, by alternative or innovative means, emission increases from rocket engine and motor firing, and cleaning related to such firing, at an existing or modified major source that tests rocket engines or motors under the conditions outlined in 42 U.S.C. 7503(e) (Section 173(e)(1) through Section 173(e)(4) of the federal Clean Air Act as amended in 1990).

R307-403-5. Offsets: ~~[PM10]~~Particulate Matter Nonattainment Areas.

(1) PM₁₀ Nonattainment Areas. New sources which have a potential to emit, or modified sources which would produce an emission increase equal to or exceeding the tonnage total of combined PM~~[+0]~~₁₀, sulfur dioxide, and oxides of nitrogen listed below which are located in or impact a PM~~[+0]~~₁₀ Nonattainment Area as defined in R307-403-5(1)(a)[below], shall obtain an enforceable offset as defined in R307-403-5(1)(b) and R307-403-5(1)(c)[below].

(a) For the purpose of determining whether the owner or operator which proposes to locate a source outside a nonattainment area is required to obtain offsets, the maximum allowable impact on any nonattainment area is 1.0 microgram/cubic meter for a one-year averaging period and 3.0 micrograms/cubic meter for a 24-hour averaging period for any combination of PM~~[+0]~~₁₀, sulfur dioxide and nitrogen dioxide.

(b) For a total of 50 tons/year or greater, an offset of 1.2:1 of the emission increase is required.

(c) For a total of 25 tons/year but less than 50 tons/year, an offset of 1:1 of the emission increase is required.

([2]d) For the offset determinations required in R307-403-5(1)(b) or R307-403-5(1)(c), PM~~[+0]~~₁₀, sulfur dioxide, and oxides of nitrogen shall be considered on an equal basis. In areas where offsets are required for[both] PM~~[+0]~~₁₀, PM_{2.5}, and ozone, the most stringent emission offset ratio for oxides of nitrogen required by R307-403 or R307-420 shall apply.

(2) PM_{2.5} Nonattainment Areas. For the purposes of PM_{2.5} nonattainment areas a major source is:

(a) in a moderate nonattainment area, any stationary source of air pollutants which emits or has the potential to emit 100 tons per year or more of direct PM_{2.5} or any individual PM_{2.5} precursor as defined in R307-403-1(4)(c).

(b) in a serious nonattainment area, any stationary source of air pollutants which emits or has the potential to emit 70 tons per year or more of direct PM_{2.5} or any individual PM_{2.5} precursor as defined in R307-403-1(4)(c).

(c) any physical change that would occur at a source not qualifying under R307-403-5(2)(a) or R307-403-5(2)(b) as a major source, if the change would constitute a major source by itself.

(d) in PM_{2.5} nonattainment areas, a new stationary source that is major for any individual PM_{2.5} precursor as defined in R307-403-1(4)(c) shall be considered major for PM_{2.5}. Similarly, a major modification to an existing source that is major for any individual PM_{2.5} precursor as defined in R307-403-1(4)(c) shall be considered major for PM_{2.5}.

(4) New major sources or major modifications to existing sources which are located in, or would impact a PM_{2.5} Nonattainment area as defined in R307-403-5(4)(b), shall obtain an enforceable offset as defined in R307-403-5(4)(c) through R307-403-5(4)(e).

(a) For the purposes of determining what is a significant emission increase or a significant net emission increase and therefore a major modification, significant means a rate of emissions that would equal or exceed 10 tons per year (tpy) of direct PM_{2.5}, 40 tpy of sulfur dioxide, 40 tpy of nitrogen oxides, or 40 tpy of volatile organic compounds (VOC). In PM_{2.5} nonattainment areas where ammonia has not been exempted as a PM_{2.5} precursor, the rate of emissions that is significant is specified in R307-403-1(4)(b).

(b) For the purpose of determining whether the owner or operator which proposes to locate a source outside a nonattainment area is required to obtain offsets, the maximum allowable impact on any PM_{2.5} nonattainment area is 0.3 microgram/cubic meter for a one-year averaging period and 1.2 micrograms/cubic meter for a 24-hour averaging period for direct PM_{2.5}.

(c) Any increase in emissions that has been determined to require offset shall be offset at a ratio of no less than 1:1 rounded up to the next whole number.

(d) In areas where offsets may also be required for precursors to PM₁₀ and/or ozone, the most stringent emission offset ratio required by R307-403 shall apply.

(e) Offsets may not be traded between pollutants.

R307-403-6. Offsets: Ozone Nonattainment Areas.

In any ozone nonattainment area, new sources and modifications to existing sources as defined and outlined in 42 U.S.C. 7511a (Section 182 of the Clean Air Act) shall meet the offset requirements and conditions listed in that section for the applicable classified area and for the identified pollutants.

R307-403-7. Offsets: Baseline.

The baseline to be used for determination of credit for emission and air quality offsets will be the emission limitations and/or other requirements in the applicable State Implementation Plan (SIP), revised in accordance with the Clean Air Act Section 173(c)(1) or subsequent revisions thereto in effect at the time the application to construct or modify a source is filed. The offset baseline shall be the actual emissions, as defined in R307-401-2, of the source from which offset credits are obtained.

R307-403-8. Offsets: Banking of Emission Offset Credit.

Banking of emission offset credit will be permitted to the fullest extent allowed by applicable Federal Law as identified in EPA's document "Emissions Trading Policy Statement" published in the Federal Register on December 4, 1986, and 40 CFR 51.165(a)(3)(ii)(c) as amended on June 28, 1989, and 40 CFR 51, Appendix S. To preserve banked emission reductions, the director must identify them in either the Utah SIP or an order issued pursuant to R307-401 and shall provide a registry to identify the person, private entity or governmental authority that has the right to use or allocate the banked emission reductions, and to record any transfers of, or liens on these rights.

R307-403-9. Construction in Stages.

When a source is constructed or modified in stages which individually do not have the potential to emit more than [~~100 tons per year~~]the significance level for determining a major source, the allowable emission from all such stages shall be added together in determining the applicability of R307-403.

R307-403-10. Analysis of Alternatives.

The owner or operator of a major new source or major modification to be located in a nonattainment area or which would impact a nonattainment area must, in addition to the requirements in R307-403, submit with the notice of intent an adequate analysis of alternative sites, sizes, production processes, and environmental control techniques for such proposed source which demonstrates the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification. The director shall review the analysis. The analysis and the director's comments shall be subject to public comment as required by R307-401-7. The preceding shall also apply in Salt Lake and Davis Counties for new major sources or modifications which are considered major for precursors of ozone, including volatile organic compounds and nitrogen oxides.

R307-403-11. Actuals PALS.

The provisions of 40 CFR 51.165(f)(1) through (14) are hereby incorporated by reference.

KEY: air quality, nonattainment, offset

Date of Enactment or Last Substantive Amendment: [December

5, 2013|2018

Notice of Continuation: May 15, 2017

Authorizing, and Implemented or Interpreted Law: 19-2-104; 19-2-108

Environmental Quality, Water Quality R317-1-7 TMDLs

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42692

FILED: 03/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to incorporate by reference into the rule the completed Total Maximum Daily Load (TMDL) study for the North Fork Virgin River for E. coli as approved by the Water Quality Board.

SUMMARY OF THE RULE OR CHANGE: This change incorporates by reference the completed the North Fork Virgin River TMDL for E. coli into the rule. The Water Quality Board approved initiating rulemaking to adopt this TMDL document on 02/28/2018.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-5-104 and Section 19-5-105

MATERIALS INCORPORATED BY REFERENCE:

- ◆ Adds TMDL for Escherichia coli (E. coli) in the North Fork Virgin River Watershed, published by Division of Water Quality, 05/23/2018

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There are no anticipated impacts to the state budget. The proposed amendment will be addressed using existing resources.
- ◆ **LOCAL GOVERNMENTS:** All estimated costs for implementing this TMDL are associated with strategies that are voluntary. It is not anticipated that local governments will be affected.
- ◆ **SMALL BUSINESSES:** All estimated costs for implementing this TMDL are associated with strategies that are voluntary. It is not anticipated that small businesses will be affected.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Best management practices implemented in the watershed since 2010 are resulting in improved water quality. It is anticipated that if those practices are well managed and maintained then water quality standards will be met. The study includes general recommendations for additional voluntary strategies and management options for reducing sources of bacteria loading in the watershed. It does not

identify specific projects and locations. As such, no estimated costs for implementation were calculated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: All strategies are voluntary; therefore compliance costs do not apply. There are no permitted point source discharges within the watershed. All loading is nonpoint source in origin.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impacts to businesses are anticipated as a result of the TMDL. Potential strategies and management options for reducing non-point sources of pollutants are identified, but are not specifically mandated.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/23/2018

AUTHORIZED BY: Erica Gaddis, 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 is no anticipated regulatory impact to Non-small businesses within the North Fork Virgin River watershed.

Best management practices implemented in the North Fork Virgin River watershed since 2010 are resulting in improved water quality. It is anticipated that if those practices are well managed and maintained then water quality standards will be met.

The study includes general recommendations for additional voluntary strategies and management options for reducing sources of bacteria loading in the watershed. It does not identify specific projects and locations. As such, no estimated costs for implementation were calculated.

Recreation associated with North Fork Virgin River is an important component of tourism in the communities surrounding Zion National Park. While current visitation has not been impacted by water quality concerns in the North Fork Virgin River the recommendations and findings of this Total Maximum Daily Load water quality study will help ensure protection of public health and future economic benefits associated with visitation to Zion National Park.

The following businesses may experience a fiscal benefit as a result of increased visitation in the area: 7211-Traveler Accommodation, 7221-Full-Service Restaurants, and 7139-Other Amusement and Recreation Industries.

The head of the Department of Environmental Quality, Alan Matheson, has reviewed and approved this fiscal analysis.

**R317. Environmental Quality, Water Quality.
 R317-1. Definitions and General Requirements.
 R317-1-7. TMDLs.**

The following TMDLs are approved by the Board and hereby incorporated into these rules:

- 7.1 Middle Bear River -- February 23, 2010
- 7.2 Chalk Creek -- December 23, 1997
- 7.3 Otter Creek -- December 23, 1997
- 7.4 Little Bear River -- May 23, 2000
- 7.5 Mantua Reservoir -- May 23, 2000
- 7.6 East Canyon Creek -- September 14, 2010
- 7.7 East Canyon Reservoir -- September 14, 2010
- 7.8 Kents Lake -- September 1, 2000

- 7.9 LaBaron Reservoir -- September 1, 2000
- 7.10 Minersville Reservoir -- September 1, 2000
- 7.11 Puffer Lake -- September 1, 2000
- 7.12 Scofield Reservoir -- September 1, 2000
- 7.13 Onion Creek (near Moab) -- July 25, 2002
- 7.14 Cottonwood Wash -- September 9, 2002
- 7.15 Deer Creek Reservoir -- September 9, 2002
- 7.16 Hyrum Reservoir -- September 9, 2002
- 7.17 Little Cottonwood Creek -- September 9, 2002
- 7.18 Lower Bear River -- September 9, 2002
- 7.19 Malad River -- September 9, 2002
- 7.20 Mill Creek (near Moab) -- September 9, 2002
- 7.21 Spring Creek -- September 9, 2002
- 7.22 Forsyth Reservoir -- September 27, 2002
- 7.23 Johnson Valley Reservoir -- September 27, 2002
- 7.24 Lower Fremont River -- September 27, 2002
- 7.25 Mill Meadow Reservoir -- September 27, 2002
- 7.26 UM Creek -- September 27, 2002
- 7.27 Upper Fremont River -- September 27, 2002
- 7.28 Deep Creek -- October 9, 2002
- 7.29 Uinta River -- October 9, 2002
- 7.30 Pineview Reservoir -- December 9, 2002
- 7.31 Browne Lake -- February 19, 2003
- 7.32 San Pitch River -- November 18, 2003
- 7.33 Newton Creek -- June 24, 2004
- 7.34 Panguitch Lake -- June 24, 2004
- 7.35 West Colorado -- August 4, 2004
- 7.36 Silver Creek -- August 4, 2004
- 7.37 Upper Sevier River -- August 4, 2004
- 7.38 Lower and Middle Sevier River -- August 17, 2004
- 7.39 Lower Colorado River -- September 20, 2004
- 7.40 Upper Bear River -- August 4, 2006
- 7.41 Echo Creek -- August 4, 2006
- 7.42 Soldier Creek -- August 4, 2006
- 7.43 East Fork Sevier River -- August 4, 2006
- 7.44 Koosharem Reservoir -- August 4, 2006
- 7.45 Lower Box Creek Reservoir -- August 4, 2006
- 7.46 Otter Creek Reservoir -- August 4, 2006
- 7.47 Thistle Creek -- July 9, 2007
- 7.48 Strawberry Reservoir -- July 9, 2007
- 7.49 Matt Warner Reservoir -- July 9, 2007
- 7.50 Calder Reservoir -- July 9, 2007
- 7.51 Lower Duchesne River -- July 9, 2007
- 7.52 Lake Fork River -- July 9, 2007
- 7.53 Brough Reservoir -- August 22, 2008
- 7.54 Steinaker Reservoir -- August 22, 2008
- 7.55 Red Fleet Reservoir -- August 22, 2008
- 7.56 Newcastle Reservoir -- August 22, 2008
- 7.57 Cutler Reservoir -- February 23, 2010
- 7.58 Pariette Draw -- September 28, 2010
- 7.59 Emigration Creek -- September 1, 2011
- 7.60 Jordan River -- June 27, 2012
- 7.61 Colorado River -- December 5, 2013
- 7.62 Echo Reservoir -- March 26, 2014
- 7.63 Rockport Reservoir -- March 26, 2014
- 7.64 Nine Mile Creek -- October 27, 2016
- 7.65 North Fork Virgin River -- May 23, 2018

KEY: [~~expedited, negotiations, penalty, settlement~~]TMDL, water pollution

Date of Enactment or Last Substantive Amendment: [~~January 1, 2018~~]

Notice of Continuation: August 30, 2017

Authorizing, and Implemented or Interpreted Law: 19-5

Environmental Quality, Water Quality R317-2 Standards of Quality for Waters of the State

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42691

FILED: 03/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being changed to correct errors, eliminate requirements that are unnecessary, address comments and recommendations received during the Triennial Reviews of the Water Quality Standards, and comply with Federal requirements.

SUMMARY OF THE RULE OR CHANGE: In Sections R317-2-3.3 and R317-2-11, the public notice and comment periods were extended to provide the public more time to review and comment on sometimes complicated proposals. In Section R317-2-3.5, the requirement that permitted discharges to Class 1C (potable water) waters always conduct a Level II antidegradation review is proposed to be deleted. Level II antidegradation reviews are still required for permitted discharges to Class 1C waters for new permits and for any increases in concentration or effluent loads for existing permits because of previous revisions to these rules. In Section R317-2-13, the recreation uses for Mill Creek in Grand County and Utah Lake in Utah County are proposed to be changed from infrequent primary and secondary contact recreation to frequent primary and secondary contact recreation (Class 2A) because people commonly swim in these waters. This change was requested by the local watershed group and endorsed by the federal land management agency. Descriptions of the waters with site-specific criteria in Section R317-2-14 were added to Section R317-2-13 with an asterisk identifying the affected use. These were added for the convenience of the users. This is a nonsubstantive change because no uses or criteria are revised. The Class 1C drinking water use is added to Grove and Battle Creeks in Utah County at the request of American Fork City. The affected waters are used as a source for drinking water. The aquatic life use is changed from Class 3D (waterfowl, shorebirds and their food chain) to Class 3A (cold water species of game fish, other cold water aquatic life and their food chain) based on an investigation of aquatic life

present. In Table 2.14.1, deletion of the temperature-dependent criterion for fluoride for the Class 1C potable water use is proposed to be replaced with the current USEPA drinking water maximum contaminant level. The criteria for several pollutants are proposed to be moved from Table 2.14.6 to Table 2.14.1. The criteria in Table 2.14.6 are human health criteria and these pollutants do not have current USEPA human health criteria but do have USEPA maximum contaminant levels. In Table 2.14.2, the cadmium criteria for aquatic life use Classes 3A-3D are updated. The revised criteria are more stringent for the acute and less stringent for the chronic criterion when compared to the existing Utah criteria. New criteria for carbaryl, a carbamate pesticide, are proposed. Utah does not currently have any numeric criteria for carbaryl. In footnotes for Table 2.14.1, the site-specific total dissolved solids criterion for Quitchupah Creek is revised to include tributaries that were inadvertently omitted when the standard was promulgated. The water quality in one of the tributaries was misidentified as being impaired because of the omission. The site-specific total dissolved solids criterion for the Sevier River from Gunnison Bend Reservoir to Clear Lake: 3,370 mg/l is corrected to Crafts Lake because Clear Lake is not on the Sevier River. In Table 2.14.2, corrections were made to the table values for the chronic ammonia criteria, fish early life stages absent, and the acute silver criteria. The table values are based on equations in the water quality standards are unchanged. In Table 2.14.6, the human health criteria were reviewed and updated as required by federal regulations. Most of the pollutants listed in this table are affected. Some pollutants and criteria are proposed to be moved to Table 2.14.1. Pollutants listed that do not have current USEPA-recommended human health criteria or existing Utah criteria are proposed to be deleted. Criteria with available updated USEPA human health criteria are updated. The new criteria, and most of the updated criteria, are more stringent than the existing criteria; but, some are less stringent. Informational footnotes were added to Tables 2.14.1 and 2.14.2 to alert the user that criteria in Table 2.14.6 also apply to the uses in these tables (nonsubstantive change).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 33 U.S.C. 1251 and 33 U.S.C. 1311-1317 and 33 U.S.C. 1329 and 40 CFR Part 131 and Title 19, Chapter 5

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: For impacts that were estimable, aggregate fiscal cost savings over the next three years for the state will be \$29,480. The Utah Division of Water Quality is the only constrained party for the proposed public participation revisions in Sections R317-2-3 and R317-2-11 and both the direct and indirect fiscal impacts will be neutral because the changes only extend the time required for the public comment period. The indirect fiscal impacts for other state agencies will be neutral because the length of the comment and review period should not affect the costs if these agencies choose to comment. The indirect non-fiscal impacts will inestimably be positive because the additional time provided will either have no impact or a beneficial impact

by providing additional time for review and comment. The proposed revisions to Section R317-2-3 will result in indirect positive recurring fiscal impacts to the Utah Division of Water Quality because the 26 existing UPDES permits that discharge to Class 1C waters will no longer have to submit redundant Level II antidegradation reviews every 5 years at permit renewal. These reviews are estimated to require 4 hours of staff time at \$90/hour for each review resulting in an annual average savings of \$1,872 for the first 3 years evaluated or \$9,360 over 5 years. The proposed revisions will result in direct positive fiscal impacts to the Utah Division of Wildlife Resources by avoiding the need to submit a Level II antidegradation review every 5 years at permit renewal. The cost impacts are estimated to be an annual savings of \$288 over the first 3 years based on an estimated 16 hours of staff time at \$90/hour or \$1,440 every 5 years. The proposed changes to Section R317-2-13 will have one-time and potentially recurring indirect fiscal costs to the Utah Division of Water Quality. The one-time costs will be to update the use classifications in various internal systems. The one-time indirect fiscal impacts will be \$1,400 assuming 4 hours to update each of the 4 databases at \$90/hour. The proposed change in Section R317-2-13 for Mill Creek from infrequent primary and secondary contact recreation to frequent primary and secondary contact recreation will not have direct recurring fiscal or non-fiscal impacts to the Utah Division of Water Quality because the water quality support status will be unchanged. The change in use in Section R317-2-13 for Utah Lake may cause recurring indirect fiscal impacts that are inestimable. Based on the currently available data, the water quality of Utah Lake may or may not be categorized as impaired during the next or future assessment cycles which would trigger a TMDL (total maximum daily load) investigation which would have recurring indirect fiscal impacts. These impacts are unknown because the impairment and potential sources of the impairment cannot currently be identified. The proposed addition of the Class 1C potable water use in Section R317-2-13 to Battle and Grove Creeks will have inestimable indirect non-fiscal benefits for the Division of Drinking Water because they supported the change to protect these creeks as drinking water sources. The proposed changes in Section R317-2-14 will have one-time indirect fiscal impacts to the Utah Division of Water Quality. These one-time impacts will be to update the use classifications in various internal systems. The one-time indirect fiscal impact will be \$2,800 assuming 8 hours to update each of the 4 databases at \$90/hour. The proposed change for the Quitchupah Creek site-specific total dissolved solids criterion in Table 2.14.1 will have recurring indirect fiscal benefits to the Utah Division of Water Quality. With the change, the Division will avoid the need for follow-up sampling and analyses to investigate a tributary to Quitchupah Creek that was inadvertently omitted from the previously promulgated site-specific total dissolved solids standard. Fiscal benefits will be \$10,000/yr based on 80 hours of staff time at \$90/hour and \$2,800 in direct costs for transportation lodging and laboratory analyses.

◆ LOCAL GOVERNMENTS: For impacts that were estimable, aggregate fiscal cost savings over the next three

years for local governments will be \$12,672. The indirect fiscal impacts for local governments of the proposed public participation revisions in Sections R317-2-3 and R317-2-11 will be neutral because the length of the comment and review period should not affect the costs if they choose to comment. The indirect non-fiscal impacts will be inestimably positive because the additional time provided will either have no impact or a beneficial impact by providing additional time for review and comment. The proposed revisions to Section R317-2-3.5 will result in direct cost savings by avoiding the need to submit a Level II antidegradation review every 5 years at permit renewal for 11 Utah Pollution Discharge Elimination System permits. The impacts will be an annual savings of \$384 per permit for 11 permits based on an estimated 16 hours of staff time at \$120/hour every 5 years. The annual savings is \$4,224 each year or \$12,672 for 3 years and \$21,120 over 5 years. For the City of American Fork, indirect inestimable non-fiscal savings are anticipated for the use changes to Grove and Battle Creeks because American Fork City requested the change and the changes will assist in protecting their potable water source. The proposed revisions to Table 2.14.6 are neutral because no local government currently has limits for these pollutants and this status is not expected to change. The proposed revision to Table 2.14.2 to change to less stringent chronic cadmium criteria may have indirect positive impacts to Park City but these impacts are inestimable. Cadmium concentrations will still require treatment under the new criteria but the cost of treatment may decrease. Park City is not currently meeting the cadmium treatment requirements because of economic hardship and the change in criteria will not affect treatment requirements over the next three years.

♦ **SMALL BUSINESSES:** For impacts that were estimable, aggregate fiscal cost savings over the next 3 years for small businesses will be \$3,456. For the proposed public participation revisions, small businesses are not constrained parties. The indirect fiscal impacts for small businesses will be neutral because the length of the comment and review period should not affect the costs if they choose to comment. The indirect non-fiscal impacts will be inestimably positive because the additional time provided will either have no impact or a beneficial impact by providing additional time for review and comment. The proposed revisions to Section R315-2-3.5 will result in direct positive fiscal impacts by avoiding the need to submit a Level II antidegradation review every 5 years at permit renewal for 3 permittees. The savings will be \$1,920 384 per permit based on an estimated 16 hours of staff time at \$120/hour every 5 years. Over 5 years, the 3 permittees will save \$5,760 or \$1,152 annually and \$3,456 over 3 years. For the proposed revisions to Grove, Battle, and Mill Creeks in Section R317-2-13, no small businesses will be impacted because no discharge permits are issued for these waters. For the proposed classification change for Utah Lake in Section R317-2-13, the fiscal impacts to eight publicly-owned treatment plant permittees will be neutral because the discharge requirements will not be affected because the discharges are already meeting the new numeric criteria associated with the proposed change in use.

Indirect non-fiscal impacts are possible for the three livestock operators identified in the Utah Department of Workforce Services Firm Find but these impacts are inestimable. For any impacts to occur, the water quality of Utah Lake would have to be impaired for E. coli under the changed use but not the existing use designation, a future total maximum daily load would have to conclude that these specific agricultural sources are a significant contributor to the impairment, and the owners would have to elect to voluntarily implement best management practices to address these sources. The proposed changes to Section R317-2-14 result in more stringent criteria for benzene, benzo(a)pyrene, and some phenols which are limited to one discharge permit. The proposed changes have the potential to result in indirect negative fiscal impacts but the potential and magnitude are inestimable. A waste load allocation needs to be evaluated to determine if and how much permit limits for these pollutants will change. Resulting changes to the permit limits may require different or additional water treatment but absent an engineering study, the impacts and associated costs are inestimable.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** For impacts that were estimable, aggregate fiscal cost savings over the next 3 years for these persons will be \$1,152. For the proposed public participation revisions, these persons are not constrained parties. Indirect fiscal impacts for these persons will be neutral because the length of the comment and review period will not affect the costs if they choose to comment. The indirect non-fiscal impacts will be inestimably positive because the additional time provided will either have no impact or a beneficial impact by providing additional time for review and comment. The proposed revisions to Section R317-2-3 will result in direct positive fiscal impacts by avoiding the need to submit a Level II antidegradation review every 5 years at permit renewal for Capitol Reef National Park. The impacts will be an annual savings of \$384 based on an estimated 16 hours of staff time at \$120/hour every 5 years. The savings over 3 years will be \$1,152 and \$1,920 over 5 years. The proposed revisions to Section R317-2-14 may result in inestimable indirect cost to other persons that discharge wastewater to publicly-owned treatment works. These persons may be subject to additional pretreatment requirements imposed by the treatment works or the Division of Water Quality to ensure that the treatment works comply with their permit limits. The potential indirect costs are inestimable because no readily available data regarding the specific pollutants or current or potential future pretreatment limits are available.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No additional compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impacts of these proposed revisions will result in modest cost savings for businesses.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/01/2018

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
 ♦ 04/11/2018 06:00 PM, UDEQ, 195 N 1950 W, Salt Lake City, UT
 ♦ 04/13/2018 05:00 PM, Uintah County Library, Vernal, UT
 ♦ 04/16/2018 06:00 PM, Grand County Library, Moab, UT
 ♦ 04/17/2018 06:00 PM, Washington County Library, St. George, UT

THIS RULE MAY BECOME EFFECTIVE ON: 06/01/2018

AUTHORIZED BY: Erica Gaddis, 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 Impacts

For impacts that were estimable, aggregate fiscal cost savings over the next three years for non-small businesses will be \$2,304.

The proposed revisions to the public participation requirements will result in inestimable positive non-fiscal impacts because the additional time provided will either have no impact or a beneficial impact by providing additional time for review and comment.

The changes to the antidegradation review requirements in Section R317-2-3 will result in direct positive fiscal impacts by avoiding the need to submit a Level II antidegradation review every 5 years at permit renewal for 2 permits. The impacts will be an annual savings of \$384 per permit per year based on an estimated 16 hours of staff time at \$120/hour every 5 years. Net annual savings are \$768, \$2,304 over 3 years and \$3804 over 5 years.

No constrained parties were identified that would be affected by the proposed revisions to Section R317-2-13.

The proposed revisions to Section R317-2-14 may have direct and indirect fiscal impacts that are inestimable for two permittees. One of the discharges is currently inactive but the permit does include effluent limits that could be affected by the proposed revisions to Table 2.14.6. The fiscal impacts are inestimable because current effluent data are unavailable. The other discharge permit currently has a monitoring limit for cadmium but the savings of the proposed change are inestimable until cadmium effluent concentrations are assessed at permit renewal. The revisions may result in inestimable indirect cost to non-small businesses that discharge wastewater to publically owned treatment works. These businesses may be subject to additional pretreatment requirements imposed by the treatment works or the Division of Water Quality to ensure that the treatment works comply with their permit limits. The potential indirect costs are inestimable because no readily available data regarding the specific pollutants or current or potential future pretreatment limits are available.

The head of the Department of Environmental Quality, Alan Matheson, has reviewed and approved this fiscal analysis.

Appendix 1: Regulatory Impact Summary Table*

	FY 2018	FY 2019	FY 2020
Fiscal Costs			
State Government	\$7,000	\$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:	\$7,000	\$0	\$0
Fiscal Benefits			
State Government	\$12,160	\$12,160	\$12,160
Local Government	\$4,224	\$4,224	\$4,224
Small Businesses	\$1,152	\$1,152	\$1,152
Non-Small Businesses	\$768	\$768	\$768
Other Persons	\$384	\$384	\$384
Total Fiscal Benefits:	\$18,688	\$18,688	\$18,688
Net Fiscal Benefits:	\$11,688	\$18,688	\$18,688

*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

R317. Environmental Quality, Water Quality.

R317-2. Standards of Quality for Waters of the State.

R317-2-1A. Statement of Intent.

Whereas the pollution of the waters of this state constitute a menace to public health and welfare, creates public nuisances, is harmful to wildlife, fish and aquatic life, and impairs domestic, agricultural, industrial, recreational and other legitimate beneficial uses of water, and whereas such pollution is contrary to the best interests of the state and its policy for the conservation of the water resources of the state, it is hereby declared to be the public policy of this state to conserve the waters of the state and to protect, maintain and improve the quality thereof for public water supplies, for the propagation of wildlife, fish and aquatic life, and for domestic, agricultural, industrial, recreational and other legitimate beneficial uses; to provide that no waste be discharged into any waters of the state without first being given the degree of treatment necessary to protect the legitimate beneficial uses of such waters; to provide for the prevention, abatement and control of new or existing water pollution; to place first in priority those control measures directed toward elimination of pollution which creates hazards to the public health; to insure due consideration of financial problems imposed on water polluters through pursuit of these objectives; and to cooperate with other agencies of the state, agencies of other states and the federal government in carrying out these objectives.

R317-2-1B. Authority.

These standards are promulgated pursuant to Sections 19-5-104 and 19-5-110.

R317-2-1C. Triennial Review.

The water quality standards shall be reviewed and updated, if necessary, at least once every three years. The Director will seek input through a cooperative process from stakeholders representing state and federal agencies, various interest groups, and the public to develop a preliminary draft of changes. Proposed changes will be presented to the Water Quality Board for information. Informal public meetings may be held to present preliminary proposed changes to the public for comments and suggestions. Final proposed changes will be presented to the Water Quality Board for approval and authorization to initiate formal rulemaking. Public hearings will be held to solicit formal comments from the public. The Director will incorporate appropriate changes and return to the Water Quality Board to petition for formal adoption of the proposed changes following the requirements of the Utah Rulemaking Act, Title 63G, Chapter 3.

R317-2-2. Scope.

These standards shall apply to all waters of the state and shall be assigned to specific waters through the classification procedures prescribed by Sections 19-5-104(5) and 19-5-110 and R317-2-6.

R317-2-3. Antidegradation Policy.**3.1 Maintenance of Water Quality**

Waters whose existing quality is better than the established standards for the designated uses will be maintained at high quality unless it is determined by the Director, after appropriate intergovernmental coordination and public participation in concert with the Utah continuing planning process, allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. However, existing instream water uses shall be maintained and protected. No water quality degradation is allowable which would interfere with or become injurious to existing instream water uses.

In those cases where potential water quality impairment associated with a thermal discharge is involved, the antidegradation policy and implementing method shall be consistent with Section 316 of the Federal Clean Water Act.

3.2 Category 1 Waters

Waters which have been determined by the Board to be of exceptional recreational or ecological significance or have been determined to be a State or National resource requiring protection, shall be maintained at existing high quality through designation, by the Board after public hearing, as Category 1 Waters. New point source discharges of wastewater, treated or otherwise, are prohibited in such segments after the effective date of designation. Protection of such segments from pathogens in diffuse, underground sources is covered in R317-5 and R317-7 and the rules for Individual Wastewater Disposal Systems (R317-501 through R317-515). Other diffuse sources (nonpoint sources) of wastes shall be controlled to the extent feasible through implementation of best management practices or regulatory programs.

Discharges may be allowed where pollution will be temporary and limited after consideration of the factors in R317-2-3.5.b.4., and where best management practices will be employed to minimize pollution effects.

Waters of the state designated as Category 1 Waters are listed in R317-2-12.1.

3.3 Category 2 Waters

Category 2 Waters are designated surface water segments which are treated as Category 1 Waters except that a point source discharge may be permitted provided that the discharge does not degrade existing water quality. Discharges may be allowed where pollution will be temporary and limited after consideration of the factors in R317-2-3.5.b.4., and where best management practices will be employed to minimize pollution effects. Waters of the state designated as Category 2 Waters are listed in R317-2-12.2.

3.4 Category 3 Waters

For all other waters of the state, point source discharges are allowed and degradation may occur, pursuant to the conditions and review procedures outlined in Section 3.5.

3.5 Antidegradation Review (ADR)

An antidegradation review will determine whether the proposed activity complies with the applicable antidegradation requirements for receiving waters that may be affected.

An antidegradation review (ADR) may consist of two parts or levels. A Level I review is conducted to insure that existing uses will be maintained and protected.

Both Level I and Level II reviews will be conducted on a parameter-by-parameter basis. A decision to move to a Level II review for one parameter does not require a Level II review for other parameters. Discussion of parameters of concern is those expected to be affected by the proposed activity.

Antidegradation reviews shall include opportunities for public participation, as described in Section 3.5e.

a. Activities Subject to Antidegradation Review (ADR)

1. For all State waters, antidegradation reviews will be conducted for proposed federally regulated activities, such as those under Clean Water Act Sections 401 (FERC and other Federal actions), 402 (UPDES permits), and 404 (Army Corps of Engineers permits). The Director may conduct an ADR on any projects with the potential for major impact on the quality of waters of the state. The review will determine whether the proposed activity complies with the applicable antidegradation requirements for the particular receiving waters that may be affected.

2. For Category 1 Waters and Category 2 Waters, reviews shall be consistent with the requirement established in Sections 3.2 and 3.3, respectively.

3. For Category 3 Waters, reviews shall be consistent with the requirements established in this section

b. An Anti-degradation Level II review is not required where any of the following conditions apply:

1. Water quality will not be lowered by the proposed activity or for existing permitted facilities, water quality will not be further lowered by the proposed activity, examples include situations where:

(a) the proposed concentration-based effluent limit is less than or equal to the ambient concentration in the receiving water during critical conditions; or

(b) a UPDES permit is being renewed and the proposed effluent concentration and loading limits are equal to or less than the concentration and loading limits in the previous permit; or

(c) a UPDES permit is being renewed and new effluent limits are to be added to the permit, but the new effluent limits are based on maintaining or improving upon effluent concentrations and loads that have been observed, including variability; or

2. Assimilative capacity (based upon concentration) is not available or has previously been allocated, as indicated by water

quality monitoring or modeling information. This includes situations where:

- (a) the water body is included on the current 303(d) list for the parameter of concern; or
- (b) existing water quality for the parameter of concern does not satisfy applicable numeric or narrative water quality criteria; or
- (c) discharge limits are established in an approved TMDL that is consistent with the current water quality standards for the receiving water (i.e., where TMDLs are established, and changes in effluent limits that are consistent with the existing load allocation would not trigger an antidegradation review).

Under conditions (a) or (b) the effluent limit in an UPDES permit may be equal to the water quality numeric criterion for the parameter of concern.

3. Water quality impacts will be temporary and related only to sediment or turbidity and fish spawning will not be impaired,

4. The water quality effects of the proposed activity are expected to be temporary and limited. As general guidance, CWA Section 402 general discharge permits, CWA Section 404 general permits, or activities of short duration, will be deemed to have a temporary and limited effect on water quality where there is a reasonable factual basis to support such a conclusion. Factors to be considered in determining whether water quality effects will be temporary and limited may include the following:

- (a) Length of time during which water quality will be lowered.
- (b) Percent change in ambient concentrations of pollutants of concern
- (c) Pollutants affected
- (d) Likelihood for long-term water quality benefits to the segment (e.g., dredging of contaminated sediments)
- (e) Potential for any residual long-term influences on existing uses.
- (f) Impairment of the fish spawning, survival and development of aquatic fauna excluding fish removal efforts.

c. Anti-degradation Review Process

For all activities requiring a Level II review, the Division will notify affected agencies and the public with regards to the requested proposed activity and discussions with stakeholders may be held. In the case of Section 402 discharge permits, if it is determined that a discharge will be allowed, the Director will develop any needed UPDES permits for public notice following the normal permit issuance process.

The ADR will cover the following requirements or determinations:

- 1. Will all Statutory and regulatory requirements be met?

The Director will review to determine that there will be achieved all statutory and regulatory requirements for all new and existing point sources and all required cost-effective and reasonable best management practices for nonpoint source control in the area of the discharge. If point sources exist in the area that have not achieved all statutory and regulatory requirements, the Director will consider whether schedules of compliance or other plans have been established when evaluating whether compliance has been assured. Generally, the "area of the discharge" will be determined based on the parameters of concern associated with the proposed activity and the portion of the receiving water that would be affected.

- 2. Are there any reasonable less-degrading alternatives?

There will be an evaluation of whether there are any reasonable non-degrading or less degrading alternatives for the proposed activity. This question will be addressed by the Division based on information provided by the project proponent. Control alternatives for a proposed activity will be evaluated in an effort to avoid or minimize degradation of the receiving water. Alternatives to be considered, evaluated, and implemented to the extent feasible, could include pollutant trading, water conservation, water recycling and reuse, land application, total containment, etc.

For proposed UPDES permitted discharges, the following list of alternatives should be considered, evaluated and implemented to the extent feasible:

- (a) innovative or alternative treatment options
- (b) more effective treatment options or higher treatment levels
- (c) connection to other wastewater treatment facilities
- (d) process changes or product or raw material substitution
- (e) seasonal or controlled discharge options to minimize discharging during critical water quality periods
- (f) pollutant trading
- (g) water conservation
- (h) water recycle and reuse
- (i) alternative discharge locations or alternative receiving waters
- (j) land application
- (k) total containment
- (l) improved operation and maintenance of existing treatment systems
- (m) other appropriate alternatives

An option more costly than the cheapest alternative may have to be implemented if a substantial benefit to the stream can be realized. Alternatives would generally be considered feasible where costs are no more than 20% higher than the cost of the discharging alternative, and (for POTWs) where the projected per connection service fees are not greater than 1.4% of MAGHI (median adjusted gross household income), the current affordability criterion now being used by the Water Quality Board in the wastewater revolving loan program. Alternatives within these cost ranges should be carefully considered by the discharger. Where State financing is appropriate, a financial assistance package may be influenced by this evaluation, i.e., a less polluting alternative may receive a more favorable funding arrangement in order to make it a more financially attractive alternative.

It must also be recognized in relationship to evaluating options that would avoid or reduce discharges to the stream, that in some situations it may be more beneficial to leave the water in the stream for instream flow purposes than to remove the discharge to the stream.

- 3. Does the proposed activity have economic and social importance?

Although it is recognized that any activity resulting in a discharge to surface waters will have positive and negative aspects, information must be submitted by the applicant that any discharge or increased discharge will be of economic or social importance in the area.

The factors addressed in such a demonstration may include, but are not limited to, the following:

- (a) employment (i.e., increasing, maintaining, or avoiding a reduction in employment);

- (b) increased production;
- (c) improved community tax base;
- (d) housing;
- (e) correction of an environmental or public health problem;

and

(f) other information that may be necessary to determine the social and economic importance of the proposed surface water discharge.

4. The applicant may submit a proposal to mitigate any adverse environmental effects of the proposed activity (e.g., instream habitat improvement, bank stabilization). Such mitigation plans should describe the proposed mitigation measures and the costs of such mitigation. Mitigation plans will not have any effect on effluent limits or conditions included in a permit (except possibly where a previously completed mitigation project has resulted in an improvement in background water quality that affects a water quality-based limit). Such mitigation plans will be developed and implemented by the applicant as a means to further minimize the environmental effects of the proposed activity and to increase its socio-economic importance. An effective mitigation plan may, in some cases, allow the Director to authorize proposed activities that would otherwise not be authorized.

5. Will water quality standards be violated by the discharge?

Proposed activities that will affect the quality of waters of the state will be allowed only where the proposed activity will not violate water quality standards.

6. Will existing uses be maintained and protected?

Proposed activities can only be allowed if "existing uses" will be maintained and protected. No UPDES permit will be allowed which will permit numeric water quality standards to be exceeded in a receiving water outside the mixing zone. In the case of nonpoint pollution sources, the non-regulatory Section 319 program now in place will address these sources through application of best management practices to ensure that numeric water quality standards are not exceeded.

7. If a situation is found where there is an existing use which is a higher use (i.e., more stringent protection requirements) than that current designated use, the Director will apply the water quality standards and anti-degradation policy to protect the existing use. Narrative criteria may be used as a basis to protect existing uses for parameters where numeric criteria have not been adopted. Procedures to change the stream use designation to recognize the existing use as the designated use would be initiated.

d. Special Procedures for Drinking Water Sources

~~An Antidegradation Level II Review will be required by the Director for discharges to waters with a Class 1C drinking water use assigned.~~

Depending upon the locations of the discharge and its proximity to downstream drinking water diversions, additional treatment or more stringent effluent limits or additional monitoring, beyond that which may otherwise be required to meet minimum technology standards or in stream water quality standards, may be required by the Director in order to adequately protect public health and the environment. Such additional treatment may include additional disinfection, suspended solids removal to make the disinfection process more effective, removal of any specific contaminants for which drinking water maximum contaminant levels (MCLs) exists, and/or nutrient removal to reduce the organic content of raw water used as a source for domestic water systems.

Additional monitoring may include analyses for viruses, Giardia, Cryptosporidium, other pathogenic organisms, and/or any contaminant for which drinking water MCLs exist. Depending on the results of such monitoring, more stringent treatment may then be required.

The additional treatment/effluent limits/monitoring which may be required will be determined by the Director after consultation with the Division of Drinking Water and the downstream drinking water users.

e. Public Notice

The public will be provided notice and an opportunity to comment on the conclusions of all completed antidegradation reviews. When possible, public notice on the antidegradation review permitting or certifying action. In the case of UPDES permits, public notice will be provided through the normal permitting process, as all draft permits are public noticed for 30 days, and public comment solicited, before being issued as a final permit. The Statement of Basis for the draft UPDES permit will contain information on how the ADR was addressed including results of the Level I and Level II reviews. In the case of Section 404 permits from the Corps of Engineers, the Division of Water Quality will develop any needed 401 Certifications and the public notice may be published in conjunction with the US Corps of Engineers public notice procedures. Other permits requiring a Level II review will receive a separate public notice according to the normal State public notice procedures. The public will be provided notice and an opportunity to comment whenever substantive changes are made to the implementation procedures referenced in Subsection R317-2-3.5.f.

f. Implementation Procedures

The Director shall establish reasonable protocols and guidelines (1) for completing technical, social, and economic need demonstrations, (2) for review and determination of adequacy of Level II ADRs and (3) for determination of additional treatment requirements. Protocols and guidelines will consider federal guidance and will include input from local governments, the regulated community, and the general public. The Director will inform the Water Quality Board of any protocols or guidelines that are developed.

R317-2-4. Colorado River Salinity Standards.

In addition to quality protection afforded by these rules to waters of the Colorado River and its tributaries, such waters shall be protected also by requirements of "Proposed Water Quality Standards for Salinity including Numeric Criteria and Plan of Implementation for Salinity Control, Colorado River System, June 1975" and a supplement dated August 26, 1975, entitled "Supplement, including Modifications to Proposed Water Quality Standards for Salinity Control, Colorado River System, June 1975", as approved by the seven Colorado River Basin States and the U.S. Environmental Protection Agency, as updated by the 1978 Revision and the 1981, 1984, 1987, 1990, 1993, 1996, 1999, 2002, 2005, 2008, and 2011 reviews of the above documents.

R317-2-5. Mixing Zones.

A mixing zone is a limited portion of a body of water, contiguous to a discharge, where dilution is in progress but has not yet resulted in concentrations which will meet certain standards for all pollutants. At no time, however, shall concentrations within the

mixing zone be allowed which are acutely lethal as determined by bioassay or other approved procedure. Mixing zones may be delineated for the purpose of guiding sample collection procedures and to determine permitted effluent limits. The size of the chronic mixing zone in rivers and streams shall not to exceed 2500 feet and the size of an acute mixing zone shall not exceed 50% of stream width nor have a residency time of greater than 15 minutes. Streams with a flow equal to or less than twice the flow of a point source discharge may be considered to be totally mixed. The size of the chronic mixing zone in lakes and reservoirs shall not exceed 200 feet and the size of an acute mixing zone shall not exceed 35 feet. Domestic wastewater effluents discharged to mixing zones shall meet effluent requirements specified in R317-1-3.

5.1 Individual Mixing Zones. Individual mixing zones may be further limited or disallowed in consideration of the following factors in the area affected by the discharge:

- a. Bioaccumulation in fish tissues or wildlife,
- b. Biologically important areas such as fish spawning/nursery areas or segments with occurrences of federally listed threatened or endangered species,
- c. Potential human exposure to pollutants resulting from drinking water or recreational activities,
- d. Attraction of aquatic life to the effluent plume, where toxicity to the aquatic life is occurring.
- e. Toxicity of the substance discharged,
- f. Zone of passage for migrating fish or other species (including access to tributaries), or
- g. Accumulative effects of multiple discharges and mixing zones.

R317-2-6. Use Designations.

The Board as required by Section 19-5-110, shall group the waters of the state into classes so as to protect against controllable pollution the beneficial uses designated within each class as set forth below. Surface waters of the state are hereby classified as shown in R317-2-13.

6.1 Class 1 -- Protected for use as a raw water source for domestic water systems.

- a. Class 1A -- Reserved.
- b. Class 1B -- Reserved.
- c. Class 1C -- Protected for domestic purposes with prior treatment by treatment processes as required by the Utah Division of Drinking Water

6.2 Class 2 -- Protected for recreational use and aesthetics.

- a. Class 2A -- Protected for frequent primary contact recreation where there is a high likelihood of ingestion of water or a high degree of bodily contact with the water. Examples include, but are not limited to, swimming, rafting, kayaking, diving, and water skiing.
- b. Class 2B -- Protected for infrequent primary contact recreation. Also protected for secondary contact recreation where there is a low likelihood of ingestion of water or a low degree of bodily contact with the water. Examples include, but are not limited to, wading, hunting, and fishing.

6.3 Class 3 -- Protected for use by aquatic wildlife.

- a. Class 3A -- Protected for cold water species of game fish and other cold water aquatic life, including the necessary aquatic organisms in their food chain.

b. Class 3B -- Protected for warm water species of game fish and other warm water aquatic life, including the necessary aquatic organisms in their food chain.

c. Class 3C -- Protected for nongame fish and other aquatic life, including the necessary aquatic organisms in their food chain.

d. Class 3D -- Protected for waterfowl, shore birds and other water-oriented wildlife not included in Classes 3A, 3B, or 3C, including the necessary aquatic organisms in their food chain.

e. Class 3E -- Severely habitat-limited waters. Narrative standards will be applied to protect these waters for aquatic wildlife.

6.4 Class 4 -- Protected for agricultural uses including irrigation of crops and stock watering.

6.5 Class 5 -- The Great Salt Lake.

a. Class 5A Gilbert Bay

Geographical Boundary -- All open waters at or below approximately 4,208-foot elevation south of the Union Pacific Causeway, excluding all of the Farmington Bay south of the Antelope Island Causeway and salt evaporation ponds.

Beneficial Uses -- Protected for frequent primary and secondary contact recreation, waterfowl, shore birds and other water-oriented wildlife including their necessary food chain.

b. Class 5B Gunnison Bay

Geographical Boundary -- All open waters at or below approximately 4,208-foot elevation north of the Union Pacific Causeway and west of the Promontory Mountains, excluding salt evaporation ponds.

Beneficial Uses -- Protected for infrequent primary and secondary contact recreation, waterfowl, shore birds and other water-oriented wildlife including their necessary food chain.

c. Class 5C Bear River Bay

Geographical Boundary -- All open waters at or below approximately 4,208-foot elevation north of the Union Pacific Causeway and east of the Promontory Mountains, excluding salt evaporation ponds.

Beneficial Uses -- Protected for infrequent primary and secondary contact recreation, waterfowl, shore birds and other water-oriented wildlife including their necessary food chain.

d. Class 5D Farmington Bay

Geographical Boundary -- All open waters at or below approximately 4,208-foot elevation east of Antelope Island and south of the Antelope Island Causeway, excluding salt evaporation ponds.

Beneficial Uses -- Protected for infrequent primary and secondary contact recreation, waterfowl, shore birds and other water-oriented wildlife including their necessary food chain.

e. Class 5E Transitional Waters along the Shoreline of the Great Salt Lake Geographical Boundary -- All waters below approximately 4,208-foot elevation to the current lake elevation of the open water of the Great Salt Lake receiving their source water from naturally occurring springs and streams, impounded wetlands, or facilities requiring a UPDES permit. The geographical areas of these transitional waters change corresponding to the fluctuation of open water elevation.

Beneficial Uses -- Protected for infrequent primary and secondary contact recreation, waterfowl, shore birds and other water-oriented wildlife including their necessary food chain.

R317-2-7. Water Quality Standards.

7.1 Application of Standards

a. The numeric criteria listed in R317-2-14 shall apply to each of the classes assigned to waters of the State as specified in R317-2-6. It shall be unlawful and a violation of these rules for any person to discharge or place any wastes or other substances in such manner as may interfere with designated uses protected by assigned classes or to cause any of the applicable standards to be violated, except as provided in R317-1-3.1.

b. At a minimum, assessment of the beneficial use support for waters of the state will be conducted biennially and available for a 30-day period of public comment and review. Monitoring locations and target indicators of water quality standards shall be prioritized and published yearly. For water quality assessment purposes, up to 10 percent of the representative samples may exceed the minimum or maximum criteria for dissolved oxygen, pH, E. coli, total dissolved solids, and temperature, including situations where such criteria have been adopted on a site-specific basis.

c. Site-specific standards may be adopted by rulemaking where biomonitoring data, bioassays, or other scientific analyses indicate that the statewide criterion is over or under protective of the designated uses or where natural or un-alterable conditions or other factors as defined in 40 CFR 131.10(g) prevent the attainment of the statewide criteria as prescribed in Subsections R317-2-7.2, and R317-2-7.3, and Section R317-2-14.

7.2 Narrative Standards

It shall be unlawful, and a violation of these rules, for any person to discharge or place any waste or other substance in such a way as will be or may become offensive such as unnatural deposits, floating debris, oil, scum or other nuisances such as color, odor or taste; or cause conditions which produce undesirable aquatic life or which produce objectionable tastes in edible aquatic organisms; or result in concentrations or combinations of substances which produce undesirable physiological responses in desirable resident fish, or other desirable aquatic life, or undesirable human health effects, as determined by bioassay or other tests performed in accordance with standard procedures; or determined by biological assessments in Subsection R317-2-7.3.

7.3 Biological Water Quality Assessment and Criteria

Waters of the State shall be free from human-induced stressors which will degrade the beneficial uses as prescribed by the biological assessment processes and biological criteria set forth below:

a. Quantitative biological assessments may be used to assess whether the purposes and designated uses identified in R317-2-6 are supported.

b. The results of the quantitative biological assessments may be used for purposes of water quality assessment, including, but not limited to, those assessments required by 303(d) and 305(b) of the federal Clean Water Act (33 U.S.C. 1313(d) and 1315(b)).

c. Quantitative biological assessments shall use documented methods that have been subject to technical review and produce consistent, objective and repeatable results that account for methodological uncertainty and natural environmental variability.

d. If biological assessments reveal a biologically degraded water body, specific pollutants responsible for the degradation will not be formally published (i.e., Biennial Integrated Report, TMDL) until a thorough evaluation of potential causes, including nonchemical stressors (e.g., habitat degradation or hydrological modification or criteria described in 40 CFR 131.10 (g)(1 - 6) as defined by the Use Attainability Analysis process), has been conducted.

R317-2-8. Protection of Downstream Uses.

All actions to control waste discharges under these rules shall be modified as necessary to protect downstream designated uses.

R317-2-9. Intermittent Waters.

Failure of a stream to meet water quality standards when stream flow is either unusually high or less than the 7-day, 10-year minimum flow shall not be cause for action against persons discharging wastes which meet both the requirements of R317-1 and the requirements of applicable permits.

R317-2-10. Laboratory and Field Analyses.

10.1 Laboratory Analyses

All laboratory examinations of samples collected to determine compliance with these regulations shall be performed in accordance with standard procedures as approved by the Director by the Utah Office of State Health Laboratory or by a laboratory certified by the Utah Department of Health.

10.2 Field Analyses

All field analyses to determine compliance with these rules shall be conducted in accordance with standard procedures specified by the Utah Division of Water Quality.

R317-2-11. Public Participation.

Public notices and public hearings will be held for the consideration, adoption, or amendment of the classifications of waters and standards of purity and quality. Public notices shall be published at least twice in a newspaper of general circulation in the area affected at least 30 days prior to any public hearing. The notice will be posted on a State public notice website at least 45 days before any hearing and a notice will be mailed at least 30 days before any hearing to the chief executive of each political subdivision and other potentially affected persons. ~~[to review all proposed revisions of water quality standards, designations and classifications, and public meetings may be held for consideration of discharge requirements set to protect water uses under assigned classifications.]~~

R317-2-12. Category 1 and Category 2 Waters.

12.1 Category 1 Waters.

In addition to assigned use classes, the following surface waters of the State are hereby designated as Category 1 Waters:

a. All surface waters geographically located within the outer boundaries of U.S. National Forests whether on public or private lands with the following exceptions:

1. Category 2 Waters as listed in R317-2-12.2.

2. Weber River, a tributary to the Great Salt Lake, in the Weber River Drainage from Uintah to Mountain Green.

b. Other surface waters, which may include segments within U.S. National Forests as follows:

1. Colorado River Drainage

Calf Creek and tributaries, from confluence with Escalante River to headwaters.

Sand Creek and tributaries, from confluence with Escalante River to headwaters.

Mamie Creek and tributaries, from confluence with Escalante River to headwaters.

Deer Creek and tributaries, from confluence with Boulder Creek to headwaters (Garfield County).

Indian Creek and tributaries, through Newspaper Rock State Park to headwaters.

2. Green River Drainage

Price River (Lower Fish Creek from confluence with White River to Scofield Dam.

Range Creek and tributaries, from confluence with Green River to headwaters.

Strawberry River and tributaries, from confluence with Red Creek to headwaters.

Ashley Creek and tributaries, from Steinaker diversion to headwaters.

Jones Hole Creek and tributaries, from confluence with Green River to headwaters.

Green River, from state line to Flaming Gorge Dam.

Tollivers Creek, from confluence with Green River to headwaters.

Allen Creek, from confluence with Green River to headwaters.

3. Virgin River Drainage

North Fork Virgin River and tributaries, from confluence with East Fork Virgin River to headwaters.

East Fork Virgin River and tributaries from confluence with North Fork Virgin River to headwaters.

4. Kanab Creek Drainage

Kanab Creek and tributaries, from irrigation diversion at confluence with Reservoir Canyon to headwaters.

5. Bear River Drainage

Swan Creek and tributaries, from Bear Lake to headwaters.

North Eden Creek, from Upper North Eden Reservoir to headwaters.

Big Creek and tributaries, from Big Ditch diversion to headwaters.

Woodruff Creek and tributaries, from Woodruff diversion to headwaters.

6. Weber River Drainage

Burch Creek and tributaries, from Harrison Boulevard in Ogden to headwaters.

Hardscrabble Creek and tributaries, from confluence with East Canyon Creek to headwaters.

Chalk Creek and tributaries, from Main Street in Coalville to headwaters.

Weber River and tributaries, from Utah State Route 32 near Oakley to headwaters.

7. Jordan River Drainage

City Creek and tributaries, from City Creek Water Treatment Plant to headwaters (Salt Lake County).

Emigration Creek and tributaries, from Hogle Zoo to headwaters (Salt Lake County).

Red Butte Creek and tributaries, from Foothill Boulevard in Salt Lake City to headwaters.

Parley's Creek and tributaries, from 13th East in Salt Lake City to headwaters.

Mill Creek and tributaries, from Wasatch Boulevard in Salt Lake City to headwaters.

Big Cottonwood Creek and tributaries, from Wasatch Boulevard in Salt Lake City to headwaters.

Little Willow Creek and tributaries, from diversion to headwaters (Salt Lake County.)

Bell Canyon Creek and tributaries, from Lower Bells Canyon Reservoir to headwaters (Salt Lake County).

South Fork of Dry Creek and tributaries, from Draper Irrigation Company diversion to headwaters (Salt Lake County).

8. Provo River Drainage

Upper Falls drainage above Provo City diversion (Utah County).

Bridal Veil Falls drainage above Provo City diversion (Utah County).

Lost Creek and tributaries, above Provo City diversion (Utah County).

9. Sevier River Drainage

Chicken Creek and tributaries, from diversion at canyon mouth to headwaters.

Pigeon Creek and tributaries, from diversion to headwaters.

East Fork of Sevier River and tributaries, from Kingston diversion to headwaters.

Parowan Creek and tributaries, from Parowan City to headwaters.

Summit Creek and tributaries, from Summit City to headwaters.

Braffits Creek and tributaries, from canyon mouth to headwaters.

Right Hand Creek and tributaries, from confluence with Coal Creek to headwaters.

10. Raft River Drainage

Clear Creek and tributaries, from state line to headwaters (Box Elder County).

Birch Creek (Box Elder County), from state line to headwaters.

Cotton Thomas Creek from confluence with South Junction Creek to headwaters.

11. Western Great Salt Lake Drainage

All streams on the south slope of the Raft River Mountains above 7000' mean sea level.

Donner Creek (Box Elder County), from irrigation diversion to Utah-Nevada state line.

Bettridge Creek (Box Elder County), from irrigation diversion to Utah-Nevada state line.

Clover Creek, from diversion to headwaters.

All surface waters on public land on the Deep Creek Mountains.

12. Farmington Bay Drainage

Holmes Creek and tributaries, from Highway US-89 to headwaters (Davis County).

Shepard Creek and tributaries, from Haight Bench diversion to headwaters (Davis County).

Farmington Creek and tributaries, from Haight Bench Canal diversion to headwaters (Davis County).

Steed Creek and tributaries, from Highway US-89 to headwaters (Davis County).

12.2 Category 2 Waters.

In addition to assigned use classes, the following surface waters of the State are hereby designated as Category 2 Waters:

a. Green River Drainage

Deer Creek, a tributary of Huntington Creek, from the forest boundary to 4800 feet upstream.

Electric Lake.

R317-2-13. Classification of Waters of the State (see R317-2-6).

a. Colorado River Drainage

13.1 Upper Colorado River Basin

TABLE

[Paria River and tributaries, from state line to headwaters	2B	3C	4
]Paria River and tributaries, from state line to headwaters	2B	3C	4
[All tributaries to Lake Powell, except as listed below	2B	3B	4
]All tributaries to Lake Powell except as listed below:	2B	3B	4
[Tributaries to Escalante River from confluence with Boulder Creek to headwaters, including Boulder Creek	2B	3A	4
] Tributaries to Escalante River from confluence with Boulder Creek to headwaters, including Boulder Creek	2B	3A	4
[Dirty Devil River and tributaries, from Lake Powell to Fremont River	2B	3C	4
] Dirty Devil River and tributaries, from Lake Powell to Fremont River	2B	3C	4
[Deer Creek and tributaries, from confluence with Boulder Creek to headwaters	2B	3A	4
] Deer Creek and tributaries, from confluence with Boulder Creek to headwaters	2B	3A	4
[Fremont River and tributaries, from confluence with Muddy Creek to Capitol Reef National Park, except as listed below	1C	2B	3C
]Fremont River and tributaries from confluence with Muddy Creek to Capitol Reef National Park, except as listed below:	1C	2B	3C
[Pleasant Creek and tributaries, from confluence with Fremont River to East boundary of Capitol Reef National Park	2B	3C	4
] Pleasant Creek and tributaries, from confluence with Fremont River to East boundary of Capitol Reef National Park	2B	3C	4
[Pleasant Creek and tributaries, from East boundary of Capitol Reef National Park to headwaters	1C	2B	3A
] Pleasant Creek and tributaries, from East boundary of Capitol Reef National Park to headwaters	1C	2B	3A
[Fremont River and tributaries, through Capitol Reef National Park to headwaters	1C	2A	3A
]Fremont River and tributaries, through Capitol Reef National Park to headwaters	1C	2A	3A

[Muddy Creek and tributaries, from confluence with Fremont River to Highway U-10 crossing, except as listed below	2B	3C	4
]Muddy Creek and tributaries, from Confluence with Fremont River to Highway U-10 crossing, except as listed below	2B	3C	4
 Muddy Creek from confluence with Fremont River to confluence with Ivie Creek	2B	3C	4*
 Muddy Creek and tributaries from the confluence with Ivie Creek to U-10	2B	3C	4*
 Ivie Creek and its tributaries from the confluence with Muddy Creek to the confluence with Quitchapah Creek	2B	3C	4*
 Ivie Creek and its tributaries from the confluence with Quitchapah Creek to U-10, except as listed below:	2B	3C	4*
 Quitchapah Creek from the confluence with Ivie Creek to U-10	2B	3C	4*
 Quitchapah Creek and tributaries, from Highway U-10 crossing to headwaters	2B	3A	4
 Ivie Creek and tributaries, from Highway U-10 to headwaters	2B	3A	4
[Quitchapah Creek and tributaries, from Highway U-10 crossing to headwaters	2B	3A	4
 Ivie Creek and tributaries, from Highway U-10 to headwaters	2B	3A	4
Muddy Creek and tributaries, from Highway U-10 crossing to headwaters	1C	2B	3A
]Muddy Creek and tributaries, from Highway U-10 crossing to headwaters	1C	2B	3A
[San Juan River and tributaries, from Lake Powell to state line except as listed below:	1C	2A	3B
]San Juan River and tributaries from Lake Powell to state line except as listed below:	1C	2A	3B
[Johnson Creek and tributaries, from confluence with Recapture Creek to headwaters	1C	2B	3A
] Johnson Creek and tributaries, from confluence with Recapture Creek to headwaters	1C	2B	3A
[Verdure Creek and tributaries, from Highway US-191 crossing to headwaters	2B	3A	4
] Verdure Creek and tributaries, from Highway US-191 crossing to headwaters	2B	3A	4

[North Creek and tributaries, from confluence with Montezuma Creek to headwaters	1C	2B 3A	4
] <u> North Creek and tributaries, from confluence with Montezuma Creek to headwaters</u>	1C	2B 3A	4
[South Creek and tributaries, from confluence with Montezuma Creek to headwaters	1C	2B 3A	4
] <u> South Creek and tributaries, from confluence with Montezuma Creek to headwaters</u>	1C	2B 3A	4
[Spring Creek and tributaries, from confluence with Vega Creek to headwaters	2B 3A	4	
] <u> Spring Creek and tributaries, from confluence with Vega Creek to headwaters</u>		2B 3A	4
[Montezuma Creek and tributaries, from U.S. Highway 191 to headwaters	1C	2B 3A	4
] <u> Montezuma Creek and tributaries, from U.S. Highway 191 to headwaters</u>	1C	2B 3A	4
[Colorado River and tributaries, from Lake Powell to state line except as listed below	1C 2A	3B	4
] <u> Colorado River and tributaries, from Lake Powell to state line except as listed below:</u>	1C 2A	3B	4
[Indian Creek and tributaries, through Newspaper Rock State Park to headwaters	1C	2B 3A	4
] <u> Indian Creek and tributaries, through Newspaper Rock State Park to headwaters</u>	1C	2B 3A	4
[Kane Canyon Creek and tributaries, from confluence with Colorado River to headwaters	2B	3C	4
] <u> Kane Canyon Creek and tributaries, from confluence with Colorado River to headwaters</u>		2B 3C	4
[Mill Creek and tributaries, from confluence with Colorado River to headwaters	1C	2B 3A	4
] <u> Mill Creek and tributaries, from confluence with Colorado River to headwaters</u>	1C	2A 3A	4
<u> Castle Creek from confluence with the Colorado River to Seventh Day Adventist Diversion</u>	1C 2A	3B	4*
<u> Onion Creek from the confluence with Colorado River to road crossing above Stinking Springs</u>	1C 2A	3B	4*
[Dolores River and tributaries, from confluence with Colorado River to state line	2B	3C	4
] <u> Dolores River and tributaries, from confluence with Colorado River to state line</u>	2B	3C	4
[Roc Creek and tributaries, from confluence with Dolores River to headwaters	2B 3A	4	

] <u> Roc Creek and tributaries, from confluence with Dolores River to headwaters</u>	2B 3A	4	
[LaSal Creek and tributaries, from state line to headwaters	2B 3A	4	
] <u> LaSal Creek and tributaries from state line to headwaters</u>	2B 3A	4	
[Lion Canyon Creek and tributaries, from state line to headwaters	2B 3A	4	
] <u> Lion Canyon Creek and tributaries, from state line to headwaters</u>	2B 3A	4	
[Little Dolores River and tributaries, from confluence with Colorado River to state line	2B	3C	4
] <u> Little Dolores River and tributaries, from confluence with Colorado River to state line</u>	2B	3C	4
[Bitter Creek and tributaries, from confluence with Colorado River to headwaters	2B	3C	4
] <u> Bitter Creek and tributaries, from confluence with Colorado River to headwaters</u>	2B	3C	4

(*) Site-specific criteria are associated with this use.

b. Green River Drainage

TABLE

Green River and tributaries, from confluence with Colorado River to state line, except as listed below: [-]	1C 2A	3B	4
[Thompson Creek and tributaries from Interstate Highway 70 to headwaters	2B	3C	4
] <u> Thompson Creek and tributaries from Interstate 70 to headwaters</u>	2B	3C	4
[San Rafael River and tributaries, from confluence with Green River to confluence with Ferron Creek	2B	3C	4
] <u> San Rafael River and tributaries from confluence with Green River to confluence with Ferron Creek, except as listed below:</u>	2B	3C	
<u> San Rafael River from the confluence with the Green River to Buckhorn Crossing</u>	2B	3C	4*
<u> San Rafael River from Buckhorn Crossing to the confluence with Huntington Creek and Cottonwood Creek</u>	2B	3C	4*
[Ferron Creek and tributaries, from confluence with San Rafael River to Millsite Reservoir	2B	3C	4
[Ferron Creek and tributaries, from Millsite Reservoir to headwaters	1C	2B 3A	4
] <u> Ferron Creek and tributaries,</u>			

from confluence with San Rafael River to Millsite Reservoir, except as listed below:	2B	3C	4	
Ferron Creek from the confluence with San Rafael River to Highway 10	2B	3C	4*	
Ferron Creek and tributaries, from Millsite Reservoir to headwaters	1C	2B	3A	4
[Huntington Creek and tributaries, from confluence with Cottonwood Creek to Highway U-10 crossing	2B	3C	4	
] Huntington Creek and tributaries, from confluence with Cottonwood Creek to Highway U-10 crossing	2B	3C	4*	
[Huntington Creek and tributaries, from Highway U-10 crossing to headwaters	1C	2B	3A	4
] Huntington Creek and tributaries from Highway U-10 crossing to headwaters	1C	2B	3A	4
[Cottonwood Creek and tributaries, from confluence with Huntington Creek to Highway U-57 crossing	2B	3C	4	
] Cottonwood Creek and tributaries from confluence with Huntington Creek to Highway U-57 crossing, except as listed below:	2B	3C	4	
Cottonwood Creek from the confluence with Huntington Creek to U-57	2B	3C	4*	
Rock Canyon Creek from the confluence with Cottonwood Creek to headwaters	2B	3C	4*	
[Cottonwood Creek and tributaries, from Highway U-57 crossing to headwaters	1C	2B	3A	4
] Cottonwood Creek and tributaries from Highway U-57 crossing to headwaters	1C	2B	3A	4
[Cottonwood Canal, Emery County	1C	2B	3E	4
] Cottonwood Canal, Emery County	1C	2B	3E	4
[Price River and tributaries, from confluence with Green River to Carbon Canal Diversion at Price City Golf Course	2B	3C	4	
Except as listed below				
] Price River and tributaries, from confluence with Green River to Carbon Canal Diversion at Price City Golf Course, except as listed below	2B	3C	4	
Price River and tributaries from confluence with Green River to confluence with Soldier Creek	2B	3C	4*	
Price River and tributaries from the confluence with Soldier Creek to Carbon Canal Diversion	2B	3C	4*	

[Grassy Trail Creek and tributaries, from Grassy Trail Creek Reservoir to headwaters	1C	2B	3A	4
] Grassy Trail Creek and tributaries, from Grassy Trail Creek Reservoir to headwaters	1C	2B	3A	4
[Price River and tributaries, from Carbon Canal Diversion at Price City Golf Course to Price City Water Treatment Plant intake.	2B	3A	4	
] Price River and tributaries, from Carbon Canal Diversion at Price City Golf Course to Price City Water Treatment Plant intake	2B	3A	4	
[Price River and tributaries, from Price City Water Treatment Plant intake to headwaters	1C	2B	3A	4
] Price River and tributaries, from Price City Water Treatment Plant intake to headwaters	1C	2B	3A	4
[Range Creek and tributaries, from confluence with Green River to Range Creek Ranch	2B	3A	4	
] Range Creek and tributaries, from confluence with Green River to Range Creek Ranch	2B	3A	4	
[Range Creek and tributaries, from Range Creek Ranch to headwaters	1C	2B	3A	4
] Range Creek and tributaries, from Range Creek Ranch to headwaters	1C	2B	3A	4
[Rock Creek and tributaries, from confluence with Green River to headwaters	2B	3A	4	
] Rock Creek and tributaries, from confluence with Green River to headwaters	2B	3A	4	
[Nine Mile Creek and tributaries, from confluence with Green River to headwaters	2B	3A	4	
] Nine Mile Creek and tributaries, from confluence with Green River to headwaters	2B	3A	4	
[Pariette Draw and tributaries, from confluence with Green River to headwaters	2B	3B	3D	4
] Pariette Draw and tributaries, from confluence with Green River to headwaters	2B	3B	3D	4
[Willow Creek and tributaries (Uintah County), from confluence with Green River to headwaters	2B	3A	4	
] Willow Creek and tributaries (Uintah County), from confluence with Green River to headwaters	2B	3A	4	
[White River and tributaries, from confluence with Green River to state line, except as listed below	2B	3B	4	
] White River and tributaries, from confluence with Green River to state line, except as listed below:	2B	3B	4	

[Bitter Creek and Tributaries	from White River to Headwaters	2B 3A	4	with Green River to	Steinaker diversion	2B 3B	4
]	Bitter Creek and tributaries	from White River to headwaters	2B 3A	4	]	Ashley Creek and tributaries, from	confluence with Green River to
						Steinaker diversion	2B 3B 4
[Duchesne River and tributaries,	from confluence with Green			[Ashley Creek and tributaries,	from Steinaker diversion to		
]	River to Myton Water Treatment			]	headwaters	1C 2B 3A	4
	Plant intake, except as listed				]	Ashley Creek and tributaries, from	Steinaker diversion to headwaters
	below	2B 3B	4			1C 2B 3A	4
[Duchesne River and tributaries,	from confluence with Green			[Big Brush Creek and	tributaries, from confluence		
]	to Myton Water Treatment Plant			]	with Green River to Tyzack		
	intake, except as listed below	2B 3B	4		(Red Fleet) Dam	2B 3B	4
[Uinta River and tributaries,	From confluence with Duchesne			[Big Brush Creek and tributaries	from confluence with Green River		
]	River to Highway US 40 crossing	2B 3B	4	]	to Tyzack (Red Fleet) Dam	2B 3B	4
	Uinta River and tributaries			[Big Brush Creek and	tributaries, from Tyzack		
	from confluence with Duchesne			]	(Red Fleet) Dam to		
	River to U.S. Highway 40 crossing	2B 3B	4		headwaters	1C 2B 3A	4
[Uinta River and tributaries,	From Highway US 4 crossing			[Big Brush Creek and tributaries,	from Tyzack (Red Fleet) Dam to		
]	to headwaters	2B 3A	4	]	headwaters	1C 2B 3A	4
	Uinta River and tributaries,				]	headwaters	1C 2B 3A 4
	from U.S. Highway 40 crossing	2B 3A	4	[Jones Hole Creek and	tributaries, from confluence		
[Power House Canal from	Confluence with Uinta River			]	with Green River to		
]	to headwaters	2B 3A	4		headwaters	2B 3A	
	Power House Canal from			[Jones Hole Creek and tributaries	from confluence with Green River		
	confluence with Uinta River			]	to headwaters	2B 3A	
	to headwaters	2B 3A	4	[Diamond Gulch Creek and	tributaries, from confluence		
[Whiterocks River and Canal,	From Tridell Water			]	with Green River to		
]	Treatment Plant to				headwaters	2B 3A	4
	Headwaters	1C 2B 3A	4	[Diamond Gulch Creek and	tributaries, from confluence		
	Whiterocks River and Canal,			]	with Green River to headwaters	2B 3A	4
	from Tridell Water Treatment			[Pot Creek and tributaries,	from Crouse Reservoir to		
	Plant to headwaters	1C 2B 3A	4	]	headwaters	2B 3A	4
[Duchesne River and	tributaries, from Myton				]	Pot Creek and tributaries, from	Crouse Reservoir to headwaters
]	Water Treatment Plant intake					2B 3A	4
	to headwaters	1C 2B 3A	4			2B 3A	4
[Duchesne River and tributaries,	from Myton Water Treatment Plant			[Green River and tributaries, from	Utah-Colorado state line to Flaming Gorge		
]	intake to headwaters	1C 2B 3A	4	]	Dam except as listed below:	2A 3A	4
[Lake Fork River and	tributaries, from confluence				]	Green River and tributaries, from	Utah-Colorado state line to Flaming
]	with Duchesne River to					Gorge Dam, except as listed below:	2A 3A 4
	headwaters	1C 2B 3A	4	[Sears Creek and tributaries,	Daggett County	2B 3A	
[Lake Fork River and tributaries,	from confluence with Duchesne			]	Sears Creek and tributaries,	Daggett County	2B 3A
]	River to headwaters	1C 2B 3A	4			2B 3A	
[Lake Fork Canal from Dry	Gulch Canal Diversion to			[Tolivers Creek and	tributaries, Daggett County	2B 3A	
]	Moon Lake	1C 2B	3E 4	]	Tolivers Creek and tributaries,	Daggett County	2B 3A
	Lake Fork Canal from Dry Gulch					2B 3C	4
	Canal Diversion to Moon Lake	1C 2B	3E 4	[Red Creek and tributaries,	from confluence with Green		
[Dry Gulch Canal, from	Myton Water Treatment			]	River to state line	2B 3C	4
]	Plant to Lake Fork Canal	1C 2B	3E 4		]	Red Creek and tributaries, from	confluence with Green River to
	Dry Gulch Canal, from Myton					state line	2B 3C 4
	Water Treatment Plant to Lake			[Jackson Creek and			
	Fork Canal	1C 2B	3E 4				
[Ashley Creek and	tributaries, from confluence						

tributaries, Daggett County	2B	3A	
] <u>Jackson Creek and tributaries, Daggett County</u>	2B	3A	
[Davenport Creek and tributaries, Daggett County	2B	3A	
] <u>Davenport Creek and tributaries, Daggett County</u>	2B	3A	
[Goslin Creek and tributaries, Daggett County	2B	3A	
] <u>Goslin Creek and tributaries, Daggett County</u>	2B	3A	
[Gorge Creek and tributaries, Daggett County	2B	3A	
] <u>Gorge Creek and tributaries, Daggett County</u>	2B	3A	
[Beaver Creek and tributaries, Daggett County	2B	3A	
] <u>Beaver Creek and tributaries, Daggett County</u>	2B	3A	
[O-Wi-Yu-Kuts Creek and tributaries, Daggett County	2B	3A	
] <u>O-Wi-Yu-Kuts Creek and tributaries, Daggett County</u>	2B	3A	
Tributaries to Flaming Gorge Reservoir, except as listed below	2B	3A	4
[Birch Spring Draw and tributaries, from Flaming Gorge Reservoir to headwaters	2B	3C	4
] <u>Birch Spring Draw and tributaries, from Flaming Gorge Reservoir to headwaters</u>	2B	3C	4
[Spring Creek and tributaries, from Flaming Gorge Reservoir to headwaters	2B	3A	
] <u>Spring Creek and tributaries, from Flaming Gorge Reservoir to headwaters</u>	2B	3A	
[All Tributaries of Flaming Gorge Reservoir from Utah-Wyoming state line to headwaters	2B	3A	4
] <u>All tributaries of Flaming Gorge Reservoir from Utah-Wyoming state line to headwaters</u>	2B	3A	4

(*) Site-specific criteria are associated with this use.

13.2 Lower Colorado River Basin
a. Virgin River Drainage

TABLE

Beaver Dam Wash and tributaries, from Motoqua to headwaters	2B	3B	4
[Virgin River and tributaries from state line to Quail Creek diversion except as listed below	2B	3B	4
] <u>Virgin River and tributaries, from state line to Quail Creek diversion, except as listed below:</u>	2B	3B	4

<u>Virgin River from the Utah-Arizona border to Pah Tempe Springs</u>	2B	3B	4*
[Virgin River from the Utah-Arizona border to Pah Tempe Springs	2B	3B	4*
[Santa Clara River from confluence with Virgin River to Gunlock Reservoir	1C	2B	3B
] <u>Santa Clara River from confluence with Virgin River to Gunlock Reservoir</u>	1C	2B	3B
[Santa Clara River and tributaries, from Gunlock Reservoir to headwaters	2B	3A	4
] <u>Santa Clara River and tributaries, from Gunlock Reservoir to headwaters</u>	2B	3A	4
[Leeds Creek, from confluence with Quail Creek to headwaters	2B	3A	4
] <u>Leeds Creek from confluence with Quail Creek to headwaters</u>	2B	3A	4
[Quail Creek from Quail Creek Reservoir to headwaters	1C	2B	3A
] <u>Quail Creek from Quail Creek Reservoir to headwaters</u>	1C	2B	3A
[Ash Creek and tributaries, from confluence with Virgin River to Ash Creek Reservoir	2B	3A	4
] <u>Ash Creek and tributaries, from confluence with Virgin River to Ash Creek Reservoir</u>	2B	3A	4
[Ash Creek and tributaries, from Ash Creek Reservoir to headwaters	2B	3A	4
] <u>Ash Creek and tributaries, from Ash Creek Reservoir to headwaters</u>	2B	3A	4
[Virgin River and tributaries, from the Quail Creek diversion to headwaters, except as listed below	1C	2B	3C
] <u>Virgin River and tributaries, from the Quail Creek diversion to headwaters, except as listed below:</u>	1C	2B	3C

<u>North Creek, from the confluence with Virgin River to headwaters</u>	1C	2B	3C	4*
[North Fork Virgin River and tributaries	1C	2A	3A	4
] <u>North Fork Virgin River and tributaries</u>	1C	2A	3A	4

<u>Kolob Creek, from confluence with Virgin River to headwaters</u>	2B	3A	4
[East Fork Virgin River, from town of Glendale to headwaters	2B	3A	4
] <u>East Fork Virgin River, from town of Glendale to headwaters</u>	2B	3A	4
[Kolob Creek, from confluence with Virgin River to headwaters	2B	3A	4

(*) Site-specific criteria are associated with this use.

b. Kanab Creek Drainage

TABLE

[Kanab Creek and tributaries, from state line to irrigation diversion at confluence with Reservoir Canyon	2B	3C	4
<u>Kanab Creek and tributaries, from state line to irrigation diversion at confluence with Reservoir Canyon</u>	2B	3C	4
[Kanab Creek and tributaries, from irrigation diversion at confluence with Reservoir Canyon to headwaters	2B	3A	4
<u>Kanab Creek and tributaries, from irrigation diversion at confluence with Reservoir Canyon to headwaters</u>	2B	3A	4
Johnson Wash and tributaries, from state line to confluence with Skutumpah Canyon	2B	3C	4
[Johnson Wash and tributaries, from confluence with Skutumpah Canyon to headwaters	2B	3A	4
<u>Johnson Wash and tributaries, from confluence with Skutumpah Canyon to headwaters</u>	2B	3A	4

13.3 Bear River Basin
a. Bear River Drainage

TABLE

Bear River and tributaries, from Great Salt Lake to Utah-Idaho border, except as listed below:	2B	3B	3D	4
[Perry Canyon Creek from U.S. Forest boundary to headwaters	2B	3A	4	
<u>Perry Canyon Creek from U.S. Forest boundary to headwaters</u>	2B	3A	4	
[Box Elder Creek from confluence with Black Slough to Brigham City Reservoir (the Mayor's Pond)	2B	3C	4	
<u>Box Elder Creek from confluence with Black Slough to Brigham City Reservoir (Mayor's Pond)</u>	2B	3C	4	
[Box Elder Creek, from Brigham City Reservoir (the Mayor's Pond) to headwaters	2B	3A	4	
<u>Box Elder Creek, from Brigham City Reservoir (Mayor's Pond) to headwaters</u>	2B	3A	4	
[Salt Creek, from confluence with Bear River to Crystal Hot Springs	2B	3B	3D	
<u>Salt Creek from confluence with Bear River to Crystal Hot Springs</u>	2B	3B	3D	
[Malad River and tributaries, from confluence with Bear River to state line	2B	3C		
<u>Malad River and tributaries, from confluence with Bear River to state line</u>	2B	3C		
[Little Bear River and tributaries, from Cutler				

Reservoir to headwaters	2B	3A	3D	4
<u>Little Bear River and tributaries, from Cutler Reservoir to headwaters, except as listed below:</u>	2B	3A	3D	4
<u>South Fork Spring Creek from confluence with Pelican Pond Slough Stream to U.S. Highway 89</u>	2B	3A	3D	4*
[Logan River and tributaries, from Cutler Reservoir to headwaters	2B	3A	3D	4
<u>Logan River and tributaries, from Cutler Reservoir to headwaters</u>	2B	3A	3D	4
[Blacksmith Fork and tributaries, from confluence with Logan River to headwaters	2B	3A	4	
<u>Blacksmith Fork and tributaries, from confluence with Logan River to headwaters</u>	2B	3A	4	
[Newton Creek and tributaries, from Cutler Reservoir to Newton Reservoir	2B	3A	4	
<u>Newton Creek and tributaries, from Cutler Reservoir to Newton Reservoir</u>	2B	3A	4	
[Clarkston Creek and tributaries, from Newton Reservoir to headwaters	2B	3A	4	
<u>Clarkston Creek and tributaries, from Newton Reservoir to headwaters</u>	2B	3A	4	
[Birch Creek and tributaries, from confluence with Clarkston Creek to headwaters	2B	3A	4	
<u>Birch Creek and tributaries, from confluence with Clarkston Creek to headwaters</u>	2B	3A	4	
[Summit Creek and tributaries, from confluence with Bear River to headwaters	2B	3A	4	
<u>Summit Creek and tributaries, from confluence with Bear River to headwaters</u>	2B	3A	4	
[Cub River and tributaries, from confluence with Bear River to state line, except as listed below:	2B	3B	4	
<u>Cub River and tributaries, from confluence with Bear River to state line, except as listed below:</u>	2B	3B	4	
[High Creek and tributaries, from confluence with Cub River to headwaters	2B	3A	4	
<u>High Creek and tributaries from confluence with Cub River to headwaters</u>	2B	3A	4	
All tributaries to Bear Lake from Bear Lake to headwaters, except as listed below	2B	3A	4	
Swan Springs tributary to Swan Creek	1C	2B	3A	
Bear River and tributaries in Rich County	2B	3A	4	

Bear River and tributaries, from Utah-Wyoming state line to headwaters (Summit County) 2B 3A 4

Mill Creek and tributaries, from state line to headwaters (Summit County) 2B 3A 4

(*) Site-specific criteria are associated with this use.

13.4 Weber River Basin
a. Weber River Drainage

TABLE

Willard Creek, from Willard Bay Reservoir to headwaters 2B 3A 4

~~[Weber River, from Great Salt Lake to Slaterville diversion, except as listed below: 2B 3C 3D 4~~

~~]Weber River, from Great Salt Lake to Slaterville diversion, except as listed below: 2B 3C 3D 4~~

Four Mile Creek from Interstate[-]_15 [F]to headwaters 2B 3A 4

Weber River and tributaries, from Slaterville diversion to Stoddard diversion, except as listed below 2B 3A 4

Ogden River and tributaries, [F]from confluence with Weber River [F]to Pineview Dam, except as listed [B]below[-]: 2A 3A 4

~~[Wheeler Creek from Confluence with Ogden River to headwaters 1C 2B 3A 4~~

~~] Wheeler Creek from confluence with Ogden River to headwaters 1C 2B 3A 4~~

~~[All tributaries to Pineview Reservoir 1C 2B 3A 4~~

~~] All tributaries to Pineview Reservoir 1C 2B 3A 4~~

Strong's Canyon Creek and [F]tributaries, from U.S. National Forest boundary to headwaters 1C 2B 3A 4

Burch Creek and tributaries, from Harrison Boulevard in Ogden to Headwaters 1C 2B 3A

Spring Creek and tributaries, [F]from U.S. National Forest [B]boundary to headwaters 1C 2B 3A 4

~~[Weber River and tributaries, from Stoddard diversion to headwaters 1C 2B 3A 4~~

~~]Weber River and tributaries, from Stoddard diversion to headwaters 1C 2B 3A 4~~

13.5 Utah Lake-Jordan River Basin
a. Jordan River Drainage

TABLE

~~[Jordan River, from Farmington Bay to North Temple Street,~~

~~Salt Lake City 2B 3B * 3D 4~~
~~]Jordan River, from Farmington Bay to North Temple Street, Salt Lake City 2B 3B* 3D 4~~

~~[State Canal, from Farmington Bay to confluence with the Jordan River 2B 3B * 3D 4~~

~~]State Canal, from Farmington Bay to confluence with the Jordan River 2B 3B* 3D 4~~

~~[Jordan River, from North Temple Street in Salt Lake City to confluence with Little Cottonwood Creek 2B 3B * 4~~

~~]Jordan River, from North Temple Street in Salt Lake City to confluence with Little Cottonwood Creek 2B 3B* 4~~

~~[Surplus Canal from Great Salt Lake to the diversion from the Jordan River 2B 3B * 3D 4~~

~~]Surplus Canal from Great Salt Lake to the diversion from the Jordan River 2B 3B* 3D 4~~

~~[Jordan River from confluence with Little Cottonwood Creek to Narrows Diversion 2B 3A 4~~

~~]Jordan River from confluence with Little Cottonwood Creek to Narrows Diversion 2B 3A 4~~

~~[Jordan River, from Narrows Diversion to Utah Lake 1C 2B 3B 4~~

~~]Jordan River, from Narrows Diversion to Utah Lake 1C 2B 3B 4~~

~~[City Creek, from Memory Park in Salt Lake City to City Creek Water Treatment Plant 2B 3A~~

~~]City Creek, from Memory Park in Salt Lake City to City Creek Water Treatment Plant 2B 3A~~

~~City Creek, from City Creek Water Treatment Plant to headwaters 1C 2B 3A~~

~~[Red Butte Creek and tributaries from Liberty Park pond inlet to Red Butte Reservoir 2B 3A 4~~

~~]Red Butte Creek and tributaries, from Liberty Park pond inlet to Red Butte Reservoir 2B 3A 4~~

~~[Red Butte Creek and tributaries, from Red Butte Reservoir to headwaters 1C 2B 3A~~

~~]Red Butte Creek and tributaries, from Red Butte Reservoir to headwaters 1C 2B 3A~~

~~[Emigration Creek and tributaries, from 1100 East in Salt Lake City to headwaters 2B 3A 4~~

~~]Emigration Creek and tributaries, from 1100 East in Salt Lake City to headwaters 2B 3A 4~~

~~[Parley's Creek and tributaries, from 1300 East in Salt Lake City to Mountain Dell Reservoir 1C 2B 3A~~

~~]Parley's Creek and tributaries, from 1300 East in Salt Lake City to Mountain Dell Reservoir 1C 2B 3A~~

~~[Parley's Creek and tributaries, from Mountain Dell Reservoir to~~

~~Parley's Creek and tributaries, from Mountain Dell Reservoir to~~

headwaters	1C	2B 3A	
]Parleys Creek and tributaries, from Mountain Dell Reservoir to headwaters	1C	2B 3A	
[Mill Creek (Salt Lake County) from confluence with Jordan River to Interstate Highway 15]	2B	3C	4
]Mill Creek (Salt Lake County) from confluence with Jordan River to Interstate 15	2B	3C	4
[Mill Creek (Salt Lake County) and tributaries from Interstate Highway 15 to headwaters]	2B 3A		4
]Mill Creek (Salt Lake County) and tributaries, from Interstate 15 to headwaters	2B 3A		4
[Big Cottonwood Creek and tributaries, from confluence with Jordan River to Big Cottonwood Water Treatment Plant]	2B 3A		4
]Big Cottonwood Creek and tributaries, from confluence with Jordan River to Big Cottonwood Water Treatment Plant	2B 3A		4
[Big Cottonwood Creek and tributaries, from Big Cottonwood Water Treatment Plant to headwaters]	1C	2B 3A	
]Big Cottonwood Creek and tributaries from Big Cottonwood Water Treatment Plant to headwaters	1C	2B 3A	
Deaf Smith Canyon Creek and tributaries	1C	2B 3A	4
[Little Cottonwood Creek and tributaries, from confluence with Jordan River to Metropolitan Water Treatment Plant]	2B 3A		4
]Little Cottonwood Creek and tributaries, from confluence with Jordan River to Metropolitan Water Treatment Plant	2B 3A		4
Little Cottonwood Creek and tributaries, from Metropolitan Water Treatment Plant to headwaters	1C	2B 3A	
Bells Canyon Creek and tributaries, from [+]Lower Bell[-]s Canyon [x]Reservoir to headwaters	1C	2B 3A	
[Little Willow Creek and tributaries, from Draper Irrigation Company diversion to headwaters]	1C	2B 3A	
]Little Willow Creek and tributaries, from Draper Irrigation Company diversion to headwaters	1C	2B 3A	
Big Willow Creek and tributaries, from Draper Irrigation Company diversion to headwaters	1C	2B 3A	
South Fork of Dry Creek and tributaries, from Draper [
]Irrigation Company diversion to headwaters	1C	2B 3A	
[All permanent streams on east slope of Oquirrh Mountains (Coon,			

Barney's, Bingham, Butterfield, and Rose Creeks)	2B	3D	4
]All permanent streams on east slope of Oquirrh Mountains (Coon, Barneys, Bingham, Butterfield, and Rose Creeks)	2B	3D	4
Kersey Creek from confluence of C-7 Ditch to headwaters	2B	3D	
[* Site-specific criteria for dissolved oxygen. See Table 2.14.5.](*) Site-specific criteria are associated with this use.			

b. Provo River Drainage

TABLE

[Provo River and tributaries, from Utah Lake to Murdock diversion]	2B 3A		4
]Provo River and tributaries, from Utah Lake to Murdock Diversion	2B 3A		4
[Provo River and tributaries, from Murdock Diversion to headwaters, except as listed below]	1C	2B 3A	4
]Provo River and tributaries, from Murdock Diversion to headwaters, except as listed below:	1C	2B 3A	4
Upper Falls drainage above Provo City diversion	1C	2B 3A	
Bridal Veil Falls drainage above Provo City diversion	1C	2B 3A	
Lost Creek and tributaries above Provo City diversion	1C	2B 3A	

c. Utah Lake Drainage

TABLE

[Dry Creek and tributaries (above Alpine), from U.S. National Forest boundary to headwaters]	2B 3A		4
]Dry Creek and tributaries (above Alpine), from U.S. National Forest boundary to headwaters	2B 3A		4
[American Fork Creek and tributaries, from diversion at mouth of American Fork Canyon to headwaters]	2B 3A		4
]American Fork Creek and tributaries, from diversion at mouth of American Fork Canyon to headwaters	2B 3A		4
[Spring Creek and tributaries, from Utah Lake near Lehi to headwaters]	2B 3A		4
]Spring Creek and tributaries, from Utah Lake near Lehi to headwaters	2B 3A		4
[Lindon Hollow Creek and tributaries, from Utah Lake to headwaters]	2B	3B	4
]Lindon Hollow Creek and tributaries, from Utah Lake to headwaters	2B	3B	4
Grove Creek from Murdock Diversion to headwaters	1C	2B 3A	
Battle Creek from Murdock Diversion to Headwaters	1C	2B 3A	

[Rock Canyon Creek and tributaries (East of Provo) from U.S. National Forest boundary to headwaters	1C	2B 3A	4
]Rock Canyon Creek and tributaries (East of Provo), from U.S. National Forest boundary to headwaters	1C	2B 3A	4
Mill Race (except from Interstate [Highway]15 to the Provo City WWTP discharge) and tributaries, from Utah Lake to headwaters		2B 3B	4
Mill Race from Interstate 15 [Highway] [15-] to the Provo City wastewater treatment plant discharge		2B 3B	4
[Spring Creek and tributaries from Utah Lake (Provo Bay) to 50 feet upstream from the east boundary of the Industrial Parkway Road right-of-way	2B	3B	4
]Spring Creek and tributaries, from Utah Lake (Provo Bay) to 50 feet upstream from the east boundary of the Industrial Parkway Road right-of-way	2B	3B	4
[Tributary to Spring Creek (Utah County) which receives the Springville City WWTP effluent from confluence with Spring Creek to headwaters	2B	3D	4
]Tributary to Spring Creek (Utah County) which receives the Springville City WWTP effluent from confluence with Spring Creek to headwaters	2B	3D	4
[Spring Creek and tributaries from 50 feet upstream from the east boundary of the Industrial Parkway Road right-of-way to the headwaters	2B 3A		4
]Spring Creek and tributaries from 50 feet upstream from the east boundary of the Industrial Parkway Road right-of-way to the headwaters	2B 3A		4
Ironton Canal from Utah Lake (Provo Bay) to the east boundary of the Denver and Rio Grande Western Railroad right-of-way		2B 3C	4
[Ironton Canal from the east boundary of the Denver and Rio Grande Western Railroad right-of-way to the point of diversion from Spring Creek	2B 3A		4
]Ironton Canal from the east boundary of the Denver and Rio Grande Western Railroad right-of-way to the point of diversion from Spring Creek	2B 3A		4
[Hobble Creek and tributaries, from Utah Lake to headwaters	2B 3A		4
]Hobble Creek and tributaries, from Utah Lake to headwaters	2B 3A		4
[Dry Creek and tributaries from Utah Lake (Provo Bay) to Highway US 89	2B	3E	4
]Dry Creek and tributaries, from Utah Lake (Provo Bay) to U.S. Highway 89	2B	3E	4

[Dry Creek and tributaries from Highway US 89 to headwaters	2B 3A	4
]Dry Creek and tributaries, from U.S. Highway 89 to headwaters	2B 3A	4
[Spanish Fork River and tributaries, from Utah Lake to diversion at Moark Junction	2B 3B 3D	4
]Spanish Fork River and tributaries, from Utah Lake to diversion at Moark Junction	2B 3B 3D	4
[Spanish Fork River and tributaries, from diversion at Moark Junction to headwaters	2B 3A	4
]Spanish Fork River and tributaries, from diversion at Moark Junction to headwaters	2B 3A	4
Benjamin Slough and tributaries, from Utah Lake to headwaters, except as listed below	2B 3B	4
[Beer Creek (Utah County) from 4850 West (in NE1/4NE1/4 sec. 36, T.8 S., R.1 E.) to headwaters	2B 3C	4
] Beer Creek (Utah County) from 4850 West (in NE1/4NE1/4 sec. 36, T.8.S., R.1.E.) to headwaters	2B 3C	4
[Salt Creek, from Nephi diversion to headwaters	2B 3A	4
]Salt Creek from Nephi diversion to headwaters	2B 3A	4
[Currant Creek, from mouth of Goshen Canyon to Mona Reservoir	2B 3A	4
]Currant Creek from mouth of Goshen Canyon to Mona Reservoir	2B 3A	4
[Currant Creek, from Mona Reservoir to headwaters	2B 3A	4
]Currant Creek from Mona Reservoir to headwaters	2B 3A	4
[Peteetneet Creek and tributaries, from irrigation diversion above Maple Dell to headwaters	2B 3A	4
]Peteetneet Creek and tributaries, from irrigation diversion above Maple Dell to headwaters	2B 3A	4
[Summit Creek and tributaries (above Santaquin), from U.S. National Forest boundary to headwaters	2B 3A	4
]Summit Creek and tributaries (above Santaquin), from U.S. National Forest boundary to headwaters	2B 3A	4
[All other permanent streams entering Utah Lake	2B 3B	4
]All other permanent streams entering Utah Lake	2B 3B	4

13.6 Sevier River Basin
a. Sevier River Drainage

TABLE

[Sevier River and tributaries from Sevier Lake to Gunnison Bend Reservoir to U.S. National Forest boundary except as listed below	2B	3C	4	[Round Valley Creek and tributaries, Millard County	2B 3A	4
]Sevier River and tributaries, from Sevier Lake to Gunnison Bend Reservoir to U.S. National Forest boundary, except as listed below:	2B	3C	4	] Round Valley Creek and tributaries, Millard County	2B 3A	4
Sevier River from Gunnison Bend Reservoir to Clear Lake	2B	3C	4*	[Judd Creek and tributaries, Juab County	2B 3A	4
[Beaver River and tributaries from Minersville City to headwaters	2B 3A		4	] Judd Creek and tributaries, Juab County	2B 3A	4
] Beaver River and tributaries, from Minersville City to headwaters	2B 3A		4	[Meadow Creek and tributaries, Juab County	2B 3A	4
[Little Creek and tributaries, from irrigation diversion to headwaters	2B 3A		4	] Meadow Creek and tributaries, Juab County	2B 3A	4
] Little Creek and tributaries, from irrigation diversion to headwaters	2B 3A		4	[Cherry Creek and tributaries, Juab County	2B 3A	4
[Pinto Creek and tributaries, from Newcastle Reservoir to headwaters	2B 3A		4	] Cherry Creek and tributaries, Juab County	2B 3A	4
] Pinto Creek and tributaries, from Newcastle Reservoir to headwaters	2B 3A		4	[Tanner Creek and tributaries, Juab County	2B	3E 4
Coal Creek and tributaries	2B 3A		4	] Tanner Creek and tributaries, Juab County	2B	3E 4
Summit Creek and tributaries	2B 3A		4	Baker Hot Springs, Juab County	2B	3D 4
Parowan Creek and tributaries	2B 3A		4	[Chicken Creek and tributaries, Juab County	2B 3A	4
[Tributaries to Sevier River from Sevier Lake to Gunnison Bend Reservoir from U.S. National Forest boundary to headwaters, including:	2B 3A		4	] Chicken Creek and tributaries, Juab County	2B 3A	4
]Tributaries to Sevier River from Sevier Lake to Gunnison Bend Reservoir from U.S. National Forest boundary to headwaters, including:	2B 3A		4	[San Pitch River and tributaries, from confluence with Sevier River to Highway U-132 crossing except as listed below:	2B	3C 3D 4
[Pioneer Creek and tributaries, Millard County]	2B 3A		4	] San Pitch River and tributaries, from confluence with Sevier River to Highway U-132 crossing, except as listed below:	2B	3C 3D 4
[Chalk Creek and tributaries, Millard County]	2B 3A		4	San Pitch River from below Gunnison Reservoir to the Sevier River	2B	3C 3D 4*
[Meadow Creek and tributaries, Millard County]	2B 3A		4	[Twelve Mile Creek (South Creek) and tributaries, from U.S. Forest Service boundary to headwaters	2B 3A	4
[Corn Creek and tributaries, Millard County]	2B 3A		4	] Twelve Mile Creek (South Creek) and tributaries, from U.S. National Forest boundary to headwaters	2B 3A	4
Sevier River and tributaries, below U.S. National Forest boundary from Gunnison Bend Reservoir to Annabella Diversion, except as listed below	2B	3B	4	Six Mile Creek and tributaries, Sanpete County	2B 3A	4
Sevier River between Gunnison Bend Reservoir and DMAD Reservoir	2B	3B	4*	[Manti Creek (South Creek) and tributaries, from U.S. Forest Service boundary to headwaters	2B 3A	4
[Oak Creek and tributaries, Millard County]	2B 3A		4	] Manti Creek (South Creek) and tributaries, from U.S. National Forest boundary to headwaters	2B 3A	4
] Oak Creek and tributaries Millard County	2B 3A		4	[Ephraim Creek (Cottonwood Creek) and tributaries, from U.S. Forest Service to headwaters	2B 3A	4
				] Ephraim Creek (Cottonwood Creek) and tributaries, from U.S. National Forest to headwaters	2B 3A	4

[Oak Creek and tributaries, from U.S. Forest Service boundary near Spring City to headwaters	2B 3A	4
] Oak Creek and tributaries, from U.S. National Forest boundary near Spring City to headwaters	2B 3A	4
[Fountain Green Creek and tributaries, from U.S. Forest Service boundary to headwaters	2B 3A	4
] Fountain Green Creek and tributaries, from U.S. National Forest boundary to headwaters	2B 3A	4
[San Pitch River and tributaries, from Highway U-132 crossing to headwaters	2B 3A	4
] San Pitch River and tributaries, from Highway U-132 crossing to headwaters	2B 3A	4
Lost Creek from the confluence with Sevier River to U.S. National Forest boundary	2B	3C 3D 4*
Brine Creek-Petersen Creek from the confluence with the Sevier River to Highway U-119 Crossing	2B	3C 3D 4*
[Tributaries to Sevier River from Gunnison Bend Reservoir to Annabella Diversion from U.S. National Forest boundary to headwaters	2B 3A	4
] Tributaries to Sevier River from Gunnison Bend Reservoir to Annabella diversion from U.S. National Forest boundary to headwaters	2B 3A	4
[Sevier River and tributaries, from Annabella diversion to headwaters	2B 3A	4
] Sevier River and tributaries, from Annabella diversion to headwaters	2B 3A	4
[Monroe Creek and tributaries, from diversion to headwaters	2B 3A	4
] Monroe Creek and tributaries, from diversion to headwaters	2B 3A	4
[Little Creek and tributaries, from irrigation diversion to headwaters	2B 3A	4
] Little Creek and tributaries, from irrigation diversion to headwaters	2B 3A	4
[Pinto Creek and tributaries, from Newcastle Reservoir to headwaters	2B 3A	4
] Pinto Creek and tributaries, from Newcastle Reservoir to headwaters	2B 3A	4
Coal Creek and tributaries	2B 3A	4
Summit Creek and tributaries	2B 3A	4
Parowan Creek and tributaries	2B 3A	4
Duck Creek and tributaries	1C 2B 3A	4
(*) Site-specific criteria are associated with this use.		

13.7 Great Salt Lake Basin
a. Western Great Salt Lake Drainage

TABLE

Grouse Creek and tributaries, Box Elder County	2B 3A	4
Muddy Creek and tributaries, Box Elder County	2B 3A	4
Dove Creek and tributaries, Box Elder County	2B 3A	4
Pine Creek and tributaries, Box Elder County	2B 3A	4
Rock Creek and tributaries, Box Elder County	2B 3A	4
Fisher Creek and tributaries, Box Elder County	2B 3A	4
Dunn Creek and tributaries, Box Elder County	2B 3A	4
[Indian Creek and tributaries, Box Elder County	2B 3A	4
] Indian Creek and tributaries, Box Elder County	2B 3A	4
[Tennile Creek and tributaries, Box Elder County	2B 3A	4
] Tennile Creek and tributaries, Box Elder County	2B 3A	4
[Curlew (Deep) Creek, Box Elder County	2B 3A	4
] Curlew (Deep) Creek, Box Elder County	2B 3A	4
[Blue Creek and tributaries, from Great Salt Lake to Blue Creek Reservoir	2B	3D 4
] Blue Creek and tributaries, Box Elder County, from Bear River Bay, Great Salt Lake to Blue Creek Reservoir	2B	3D 4*
[Blue Creek and tributaries, from Blue Creek Reservoir to headwaters	2B 3B	4
] Blue Creek and tributaries from Blue Creek Reservoir to headwaters	2B 3B	4*
[All perennial streams on the east slope of the Pilot Mountain Range	1C 2B 3A	4
] All perennial streams on the east slope of the Pilot Mountain Range	1C 2B 3A	4
[Donner Creek and tributaries, from irrigation diversion to Utah-Nevada state line	2B 3A	4
] Donner Creek and tributaries, from irrigation diversion to Utah-Nevada state line	2B 3A	4
[Bettridge Creek and tributaries, from irrigation diversion to Utah-Nevada state line	2B 3A	4
] Bettridge Creek and tributaries, from irrigation diversion to Utah-Nevada state line	2B 3A	4
[North Willow Creek and tributaries, Tooele County	2B 3A	4

]North Willow Creek and tributaries, Tooele County	2B 3A	4
[South Willow Creek and tributaries, Tooele County	2B 3A	4
]South Willow Creek and tributaries, Tooele County	2B 3A	4
Hickman Creek and tributaries, Tooele County	2B 3A	4
Barlow Creek and tributaries, Tooele County	2B 3A	4
Clover Creek and tributaries, Tooele County	2B 3A	4
Faust Creek and tributaries, Tooele County	2B 3A	4
Vernon Creek and tributaries, Tooele County	2B 3A	4
Ophir Creek and tributaries, Tooele County	2B 3A	4
[Soldier Creek and Tributaries from the Drinking Water Treatment Facility Headwaters, Tooele County	1C 2B 3A	4
]Soldier Creek and tributaries, from the Drinking Water Treatment Facility to headwaters, Tooele County	1C 2B 3A	4
Settlement Canyon Creek and tributaries, Tooele County	2B 3A	4
[Middle Canyon Creek and tributaries, Tooele County	2B 3A	4
]Middle Canyon Creek and tributaries, Tooele County	2B 3A	4
Tank Wash and tributaries, Tooele County	2B 3A	4
Basin Creek and tributaries, Juab and Tooele Counties	2B 3A	4
Thomas Creek and tributaries, Juab County	2B 3A	4
[Indian Farm Creek and tributaries, Juab County	2B 3A	4
]Indian Farm Creek and tributaries, Juab County	2B 3A	4
[Cottonwood Creek and tributaries, Juab County	2B 3A	4
]Cottonwood Creek and tributaries, Juab County	2B 3A	4
Red Cedar Creek and tributaries, Juab County	2B 3A	4
Granite Creek and tributaries, Juab County	2B 3A	4
Trout Creek and tributaries, Juab County	2B 3A	4
Birch Creek and tributaries, Juab County	2B 3A	4
[Deep Creek and tributaries, from Rock Spring Creek to		

headwaters, Juab and Tooele Counties	2B 3A	4
]Deep Creek and tributaries, from Rock Spring Creek to headwaters, Juab and Tooele Counties	2B 3A	4
Cold Spring, Juab County	2B	3C 3D
Cane Spring, Juab County	2B	3C 3D
[Lake Creek, from Garrison (Pruess) Reservoir to Nevada state line	2B 3A	4
]Lake Creek, from Garrison (Pruess) Reservoir to Nevada state line	2B 3A	4
Snake Creek and tributaries, Millard County	2B	3B 4
Salt Marsh Spring Complex, Millard County	2B 3A	
Twin Springs, Millard County	2B	3B
Tule Spring, Millard County	2B	3C 3D
Coyote Spring Complex, Millard County	2B	3C 3D
[Hamblin Valley Wash and tributaries, from Nevada state line to headwaters (Beaver and Iron Counties)	2B	3D 4
]Hamblin Valley Wash and tributaries, from Nevada state line to headwaters (Beaver and Iron Counties)	2B	3D 4
[Indian Creek and tributaries, Beaver County, from Indian Creek Reservoir to headwaters	2B 3A	4
]Indian Creek and tributaries, Beaver County, from Indian Creek Reservoir to headwaters	2B 3A	4
Shoal Creek and tributaries, Iron County	2B 3A	4

(*) Site-specific criteria are associated with this use.

b. Farmington Bay Drainage

TABLE

[Corbett Creek and tributaries, from Highway to headwaters	2B 3A	4
]Corbett Creek and tributaries, from Highway to headwaters	2B 3A	4
[Kays Creek and tributaries, from Farmington Bay to U.S. National Forest boundary	2B 3B	4
]Kays Creek and tributaries, from Farmington Bay to U.S. National Forest boundary	2B 3B	4
North Fork Kays Creek and tributaries, from U.S. National Forest boundary to headwaters	2B 3A	4
Middle Fork Kays Creek and tributaries, from U.S. National Forest boundary to headwaters	1C 2B 3A	4
South Fork Kays Creek and		

tributaries, from U.S. National Forest boundary to headwaters	1C	2B 3A	4	[Parrish Creek and tributaries, from Davis Aqueduct to headwaters	2B 3A	4
Snow Creek and tributaries		2B 3C	4	]Parrish Creek and tributaries, from Davis Aqueduct to headwaters	2B 3A	4
[Holmes Creek and tributaries, from Farmington Bay to U.S. National Forest boundary	2B	3B	4	]Deuel Creek and tributaries, (Centerville Canyon) from Davis Aqueduct to headwaters	2B 3A	4
]Holmes Creek and tributaries, from Farmington Bay to U.S. National Forest boundary	2B	3B	4	]Deuel Creek and tributaries, (Centerville Canyon) from Davis Aqueduct to headwaters	2B 3A	4
Holmes Creek and tributaries, from U.S. National Forest boundary to headwaters	1C	2B 3A	4	[Stone Creek and tributaries, from Farmington Bay Waterfowl Management Area to U.S. National Forest boundary	2B 3A	4
[Baer Creek and tributaries, from Farmington Bay to Interstate Highway 15	2B	3C	4	]Stone Creek and tributaries, from Farmington Bay Waterfowl Management Area to U.S. National Forest Boundary	2B 3A	4
]Baer Creek and tributaries, from Farmington Bay to Interstate 15	2B	3B	4	[Stone Creek and tributaries, from U.S. National Forest boundary to headwaters	1C 2B 3A	4
[Baer Creek and tributaries, from Interstate Highway 15 to Highway US 89	2B	3B	4	]Stone Creek and tributaries, from U.S. National Forest boundary to headwaters	1C 2B 3A	4
]Baer Creek and tributaries, from Interstate 15 to U.S. Highway 89	2B	3B	4	[Barton Creek and tributaries, from U.S. National Forest boundary to headwaters	2B 3A	4
Baer Creek and tributaries, from U.S. Highway [US-]89 to headwaters [—]	1C	2B 3A	4	]Barton Creek and tributaries, from U.S. National Forest boundary to headwaters	2B 3A	4
[Shepard Creek and tributaries, from U.S. National Forest boundary to headwaters	1C	2B 3A	4	]Mill Creek (Davis County) and tributaries, from confluence with State Canal to U.S. National Forest boundary	2B 3B	4
]Shepard Creek and tributaries, from U.S. National Forest boundary to headwaters	1C	2B 3A	4	]Mill Creek (Davis County) and tributaries, from confluence with State Canal to U.S. National Forest boundary	2B 3B	4
Farmington Creek and tributaries, from Farmington Bay Waterfowl Management Area to U.S. National Forest boundary		2B 3B	4	[Mill Creek (Davis County) and tributaries, from U.S. National Forest boundary to headwaters	1C 2B 3A	4
Farmington Creek and tributaries, from U.S. National Forest boundary to headwaters	1C	2B 3A	4	]Mill Creek (Davis County) and tributaries, from U.S. National Forest boundary to headwaters	1C 2B 3A	4
[Rudd Creek and tributaries, from Davis aqueduct to headwaters	2B 3A		4	]North Canyon Creek and tributaries, from U.S. National Forest boundary to headwaters	2B 3A	4
]Rudd Creek and tributaries, from Davis aqueduct to headwaters	2B 3A		4	]North Canyon Creek and tributaries, from U.S. National Forest boundary to headwaters	2B 3A	4
[Steed Creek and tributaries, from U.S. National Forest boundary to headwaters	1C	2B 3A	4	Howard Slough	2B 3C	4
]Steed Creek and tributaries, from U.S. National Forest boundary to headwaters	1C	2B 3A	4	Hooper Slough	2B 3C	4
[Davis Creek and tributaries, from Highway US 89 to headwaters	2B 3A		4	Willard Slough	2B 3C	4
]Davis Creek and tributaries, from U.S. Highway 89 to headwaters	2B 3A		4	Willard Creek to Headwaters	1C 2B 3A	4
Lone Pine Creek and tributaries, from U.S. Highway [US-]89 to headwaters		2B 3A	4	Chicken Creek to Headwaters	1C 2B 3A	4
Ricks Creek and tributaries, from [Highway I-]Interstate 15 to headwaters	1C	2B 3A	4	Cold Water Creek to Headwaters	1C 2B 3A	4
[Barnard Creek and tributaries, from Highway US 89 to headwaters	2B 3A		4	One House Creek to Headwaters	1C 2B 3A	4
]Barnard Creek and tributaries, from U.S. Highway 89 to headwaters	2B 3A		4	Garner Creek to Headwaters	1C 2B 3A	4

13.8 Snake River Basin
a. Raft River Drainage (Box Elder County)

TABLE

Raft River and tributaries	2B 3A	4
[Clear Creek and tributaries, from Utah-Idaho state line to headwaters	2B 3A	4
]Clear Creek and tributaries, from Utah-Idaho state line to headwaters	2B 3A	4
[Onemile Creek and tributaries, from Utah-Idaho state line to headwaters	2B 3A	4
]Onemile Creek and tributaries, from Utah-Idaho state line to headwaters	2B 3A	4
[George Creek and tributaries, from Utah-Idaho state line to headwaters	2B 3A	4
]George Creek and tributaries, from Utah-Idaho state line to headwaters	2B 3A	4
[Johnson Creek and tributaries, from Utah-Idaho state line to headwaters	2B 3A	4
]Johnson Creek and tributaries, from Utah-Idaho state line to headwaters	2B 3A	4
[Birch Creek and tributaries, from state line to headwaters	2B 3A	4
]Birch Creek and tributaries, from state line to headwaters	2B 3A	4
[Pole Creek and tributaries, from state line to headwaters	2B 3A	4
]Pole Creek and tributaries, from state line to headwaters	2B 3A	4
Goose Creek and tributaries	2B 3A	4
[Hardesty Creek and tributaries, from state line to headwaters	2B 3A	4
]Hardesty Creek and tributaries, from state line to headwaters	2B 3A	4
Meadow Creek and tributaries, from state line to headwaters	2B 3A	4

13.9 All irrigation canals and ditches statewide, except as otherwise designated: 2B, 3E, 4

13.10 All drainage canals and ditches statewide, except as otherwise designated: 2B, 3E

13.11 National Wildlife Refuges and State Waterfowl Management Areas, and other Areas Associated with the Great Salt Lake

TABLE

Bear River National Wildlife Refuge, Box Elder County	2B 3B 3D
Bear River Bay	
Open Water below approximately 4,208 ft.	5C
Transitional Waters approximately 4,208 ft. to Open Water	5E
Open Water above approximately 4,208 ft.	2B 3B 3D

Brown[[±]]s Park Waterfowl Management Area, Daggett County	2B 3A	3D
Clear Lake Waterfowl Management Area, Millard County	2B	3C 3D
Desert Lake Waterfowl Management Area, Emery County	2B	3C 3D
Farmington Bay Waterfowl Management Area, Davis and Salt Lake Counties	2B	3C 3D
Farmington Bay		
Open Water below approximately 4,208 ft.		5D
Transitional Waters approximately 4,208 ft. to Open Water		5E
Open Water above approximately 4,208 ft.	2B 3B	3D
Fish Springs National Wildlife Refuge, Juab County	2B	3C 3D
Harold Crane Waterfowl Management Area, Box Elder County	2B	3C 3D
Gilbert Bay		
Open Water below approximately 4,208 ft.		5A
Transitional Waters approximately 4,208 ft. to Open Water		5E
Open Water above approximately 4,208 ft.	2B 3B	3D
Gunnison Bay		
Open Water below approximately 4,208 ft.		5B
Transitional Waters approximately 4,208 ft. to Open Water		5E
Open Water above approximately 4,208 ft.	2B 3B	3D
Howard Slough Waterfowl Management Area, Weber County	2B	3C 3D
Locomotive Springs Waterfowl Management Area, Box Elder County	2B 3B	3D
Ogden Bay Waterfowl Management Area, Weber County	2B	3C 3D
Ouray National Wildlife Refuge, Uintah County	2B 3B	3D
Powell Slough Waterfowl Management Area, Utah County	2B	3C 3D
Public Shooting Grounds Waterfowl Management Area, Box Elder County	2B	3C 3D
Salt Creek Waterfowl Management Area, Box Elder County	2B	3C 3D
Stewart Lake Waterfowl Management Area, Uintah County	2B 3B	3D
Timpie Springs Waterfowl Management Area, Tooele County	2B 3B	3D

13.12 Lakes and Reservoirs. All lakes and any reservoirs greater than 10 acres not listed in 13.12 are assigned by default to the classification of the stream with which they are associated.

a. Beaver County

TABLE

Anderson Meadow Reservoir	2B 3A	4
Manderfield Reservoir	2B 3A	4
LaBaron Reservoir	2B 3A	4
Kent[±]s Lake	2B 3A	4
Minersville Reservoir	2B 3A 3D	4
Puffer Lake	2B 3A	
Three Creeks Reservoir	2B 3A	4

b. Box Elder County

TABLE

Cutler Reservoir (including portion in Cache County)	2B 3B 3D	4
Etna Reservoir	2B 3A	4
Lynn Reservoir	2B 3A	4
Mantua Reservoir	2B 3A	4
Willard Bay Reservoir	1C 2A 3B 3D	4

c. Cache County

TABLE

Hyrum Reservoir	2A 3A	4
Newton Reservoir	2B 3A	4
Porcupine Reservoir	2B 3A	4
Pelican Pond	2B 3B	4
Tony Grove Lake	2B 3A	4

d. Carbon County

TABLE

Grassy Trail Creek Reservoir	1C 2B 3A	4
Olsen Pond	2B 3B	4
Scofield Reservoir	1C 2B 3A	4

e. Daggett County

TABLE

Browne Reservoir	2B 3A	4
Daggett Lake	2B 3A	4
Flaming Gorge Reservoir (Utah portion)	1C 2A 3A	4

Long Park Reservoir	1C 2B 3A	4
Sheep Creek Reservoir	2B 3A	4
Spirit Lake	2B 3A	4
Upper Potter Lake	2B 3A	4

f. Davis County

TABLE

Farmington Ponds	2B 3A	4
Kaysville Highway Ponds	2B 3A	4
Holmes Creek Reservoir	2B 3B	4

g. Duchesne County

TABLE

Allred Lake	2B 3A	4
Atwine Lake	2B 3A	4
Atwood Lake	2B 3A	4
Betsy Lake	2B 3A	4
Big Sandwash Reservoir	1C 2B 3A	4
Bluebell Lake	2B 3A	4
Brown Duck Reservoir	2B 3A	4
Butterfly Lake	2B 3A	4
Cedarview Reservoir	2B 3A	4
Chain Lake #1	2B 3A	4
Chepeta Lake	2B 3A	4
Clements Reservoir	2B 3A	4
Cleveland Lake	2B 3A	4
Cliff Lake	2B 3A	4
Continent Lake	2B 3A	4
Crater Lake	2B 3A	4
Crescent Lake	2B 3A	4
Daynes Lake	2B 3A	4
Dean Lake	2B 3A	4
Doll Lake	2B 3A	4
Drift Lake	2B 3A	4
Elbow Lake	2B 3A	4
Farmer[±]s Lake	2B 3A	4
Fern Lake	2B 3A	4
Fish Hatchery Lake	2B 3A	4

Five Point Reservoir	2B 3A	4	Timothy Reservoir #1	2B 3A	4
Fox Lake Reservoir	2B 3A	4	Timothy Reservoir #6	2B 3A	4
Governor[±]s Lake	2B 3A	4	Timothy Reservoir #7	2B 3A	4
Granddaddy Lake	2B 3A	4	Twin Pots Reservoir	1C 2B 3A	4
Hoover Lake	2B 3A	4	Upper Stillwater Reservoir	1C 2B 3A	4
Island Lake	2B 3A	4	X - 24 Lake	2B 3A	4
Jean Lake	2B 3A	4	h. Emery County		
Jordan Lake	2B 3A	4	TABLE		
Kidney Lake	2B 3A	4	Cleveland Reservoir	2B 3A	4
Kidney Lake West	2B 3A	4	Electric Lake	2B 3A	4
Lily Lake	2B 3A	4	Huntington Reservoir	2B 3A	4
Midview Reservoir (Lake Boreham)	2B 3B	4	Huntington North Reservoir	2A 3B	4
Milk Reservoir	2B 3A	4	Joe[±]s Valley Reservoir _	2A 3A	4
Mirror Lake	2B 3A	4	Millsite Reservoir	1C 2A 3A	4
Mohawk Lake	2B 3A	4	i. Garfield County		
Moon Lake	1C 2A 3A	4	TABLE		
North Star Lake	2B 3A	4	Barney Lake	2B 3A	4
Palisade Lake	2B 3A	4	Cyclone Lake	2B 3A	4
Pine Island Lake	2B 3A	4	Deer Lake	2B 3A	4
Pinto Lake	2B 3A	4	Jacob[±]s Valley Reservoir	2B 3C 3D	4
Pole Creek Lake	2B 3A	4	Lower Bowns Reservoir	2B 3A	4
Potter[±]s Lake	2B 3A	4	North Creek Reservoir	2B 3A	4
Powell Lake	2B 3A	4	Panguitch Lake	2B 3A	4
Pyramid Lake	2A 3A	4	Pine Lake	2B 3A	4
Queant Lake	2B 3A	4	Oak Creek Reservoir (Upper Bowns)	2B 3A	4
Rainbow Lake	2B 3A	4	Pleasant Lake	2B 3A	4
Red Creek Reservoir	2B 3A	4	Posey Lake	2B 3A	4
Rudolph Lake	2B 3A	4	Purple Lake	2B 3A	4
Scout Lake	2A 3A	4	Raft Lake	2B 3A	4
Spider Lake	2B 3A	4	Row Lake #3	2B 3A	4
Spirit Lake	2B 3A	4	Row Lake #7	2B 3A	4
Starvation Reservoir	1C 2A 3A	4	Spectacle Reservoir	2B 3A	4
Superior Lake	2B 3A	4	Tropic Reservoir	2B 3A	4
Swasey Hole Reservoir	2B 3A	4	West Deer Lake	2B 3A	4
Taylor Lake	2B 3A	4	Wide Hollow Reservoir	2B 3A	4
Thompson Lake	2B 3A	4	j. Iron County		

	TABLE			
Newcastle Reservoir		2B 3A		4
Red Creek Reservoir		2B 3A		4
Yankee Meadow Reservoir		2B 3A		4

k. Juab County

	TABLE			
Chicken Creek Reservoir		2B	3C 3D	4
Mona Reservoir		2B	3B	4
Sevier Bridge (Yuba) Reservoir		2A	3B	4

l. Kane County

	TABLE			
Navajo Lake		2B 3A		4

m. Millard County

	TABLE			
DMAD Reservoir		2B	3B	4
Fools Creek Reservoir		2B	3C 3D	4
Garrison Reservoir (Pruess Lake)		2B	3B	4
Gunnison Bend Reservoir		2B	3B	4

n. Morgan County

	TABLE			
East Canyon Reservoir		1C 2A	3A	4
Lost Creek Reservoir		1C	2B 3A	4

o. Piute County

	TABLE			
Barney Reservoir		2B 3A		4
Lower Boxcreek Reservoir		2B 3A		4
Manning Meadow Reservoir		2B 3A		4
Otter Creek Reservoir		2B 3A		4
Piute Reservoir		2B 3A		4
Upper Boxcreek Reservoir		2B 3A		4

p. Rich County

	TABLE			
Bear Lake (Utah portion)		2A	3A	4
Birch Creek Reservoir		2B 3A		4

Little Creek Reservoir		2B 3A		4
Woodruff Creek Reservoir		2B 3A		4

q. Salt Lake County

	TABLE			
Decker Lake		2B	3B 3D	4
Lake Mary		1C	2B 3A	
Little Dell Reservoir		1C	2B 3A	
Mountain Dell Reservoir		1C	2B 3A	

r. San Juan County

	TABLE			
Blanding Reservoir #4		1C	2B 3A	4
Dark Canyon Lake		1C	2B 3A	4
Ken[±]s Lake_			2B 3A*[±]	4
Lake Powell (Utah portion)		1C 2A	3B	4
Lloyd[±]s Lake_		1C	2B 3A	4
Monticello Lake			2B 3A	4
Recapture Reservoir			2B 3A	4

(* Site-specific criteria are associated with this use.)

s. Sanpete County

	TABLE			
Duck Fork Reservoir			2B 3A	4
Fairview Lakes		1C	2B 3A	4
Ferron Reservoir			2B 3A	4
Lower Gooseberry Reservoir		1C	2B 3A	4
Gunnison Reservoir		2B	3C	4
Island Lake			2B 3A	4
Miller Flat Reservoir			2B 3A	4
Ninemile Reservoir			2B 3A	4
Palisade Reservoir		2A	3A	4
Rolfson Reservoir		2B	3C	4
Twin Lakes			2B 3A	4
Willow Lake			2B 3A	4

t. Sevier County

	TABLE			
Annabella Reservoir			2B 3A	4
Big Lake			2B 3A	4

Farnsworth Lake	2B 3A	4	Lily Lake	2B 3A	4
Fish Lake	2B 3A	4	Lost Reservoir	2B 3A	4
Forsythe Reservoir	2B 3A	4	Lower Red Castle Lake	2B 3A	4
Johnson Valley Reservoir	2B 3A	4	Lyman Lake	2A 3A	4
Koosharem Reservoir	2B 3A	4	Marsh Lake	2B 3A	4
Lost Creek Reservoir	2B 3A	4	Marshall Lake	2B 3A	4
Redmond Lake	2B 3B	4	McPheters Lake	2B 3A	4
Rex Reservoir	2B 3A	4	Meadow Reservoir	2B 3A	4
Salina Reservoir	2B 3A	4	Meeks Cabin Reservoir	2B 3A	4
Sheep Valley Reservoir	2B 3A	4	Notch Mountain Reservoir	2B 3A	4

u. Summit County

TABLE

Abes Lake	2B 3A	4	Red Castle Lake	2B 3A	4
Alexander Lake	2B 3A	4	Rockport Reservoir	1C 2A 3A	4
Amethyst Lake	2B 3A	4	Ryder Lake	2B 3A	4
Beaver Lake	2B 3A	4	Sand Reservoir	2B 3A	4
Beaver Meadow Reservoir	2B 3A	4	Scow Lake	2B 3A	4
Big Elk Reservoir	2B 3A	4	Smith Moorehouse Reservoir	1C 2B 3A	4
Blanchard Lake	2B 3A	4	Star Lake	2B 3A	4
Bridger Lake	2B 3A	4	Stateline Reservoir	2B 3A	4
China Lake	2B 3A	4	Tamarack Lake	2B 3A	4
Cliff Lake	2B 3A	4	Trial Lake	1C 2B 3A	4
Clyde Lake	2B 3A	4	Upper Lyman Lake	2B 3A	4
Coffin Lake	2B 3A	4	Upper Red Castle	2B 3A	4
Cuberant Lake	2B 3A	4	Wall Lake Reservoir	2B 3A	4
East Red Castle Lake	2B 3A	4	Washington Reservoir	2B 3A	4
Echo Reservoir	1C 2A 3A	4	Whitney Reservoir	2B 3A	4

v. Tooele County

TABLE

Fish Lake	2B 3A	4	Blue Lake	2B 3B	4
Fish Reservoir	2B 3A	4	Clear Lake	2B 3B	4
Haystack Reservoir #1	2B 3A	4	Grantsville Reservoir	2B 3A	4
Henry[[±]]s Fork Reservoir	2B 3A	4	Horseshoe Lake	2B 3B	4
Hoop Lake	2B 3A	4	Kanaka Lake	2B 3B	4
Island Lake	2B 3A	4	Rush Lake	2B 3B	
Island Reservoir	2B 3A	4	Settlement Canyon Reservoir	2B 3A	4
Jesson Lake	2B 3A	4	Stansbury Lake	2B 3B	4
Kamas Lake	2B 3A	4	Vernon Reservoir	2B 3A	4

w. Uintah County

TABLE			
Ashley Twin Lakes (Ashley Creek)	1C	2B 3A	4
Bottle Hollow Reservoir		2B 3A	4
Brough Reservoir		2B 3A	4
Calder Reservoir		2B 3A	4
Crouse Reservoir		2B 3A	4
East Park Reservoir		2B 3A	4
Fish Lake		2B 3A	4
Goose Lake #2		2B 3A	4
Matt Warner Reservoir		2B 3A	4
Oaks Park Reservoir		2B 3A	4
Paradise Park Reservoir		2B 3A	4
Pelican Lake		2B 3B	4
Red Fleet Reservoir	1C 2A	3A	4
Steinaker Reservoir	1C 2A	3A	4
Towave Reservoir		2B 3A	4
Weaver Reservoir		2B 3A	4
Whiterocks Lake		2B 3A	4
Workman Lake		2B 3A	4

x. Utah County

TABLE			
Big East Lake		2B 3A	4
Salem Pond	2A	3A	4
Silver Flat Lake Reservoir		2B 3A	4
Tibble Fork Reservoir		2B 3A	4
Utah Lake		[2B]2A 3B 3D	4

y. Wasatch County

TABLE			
Currant Creek Reservoir	1C	2B 3A	4
Deer Creek Reservoir	1C 2A	3A	4
Jordanelle Reservoir	1C 2A	3A	4
Mill Hollow Reservoir		2B 3A	4
Strawberry Reservoir	1C	2B 3A	4

z. Washington County

TABLE

Baker Dam Reservoir		2B 3A	4
Gunlock Reservoir	1C 2A	3B	4
Ivins Reservoir		2B 3B	4
Kolob Reservoir		2B 3A	4
Lower Enterprise Reservoir		2B 3A	4
Quail Creek Reservoir	1C 2A	3B	4
Sand Hollow Reservoir	1C 2A	3B	4
Upper Enterprise Reservoir		2B 3A	4

aa. Wayne County

TABLE

Blind Lake		2B 3A	4
Cook Lake		2B 3A	4
Donkey Reservoir		2B 3A	4
Fish Creek Reservoir		2B 3A	4
Mill Meadow Reservoir		2B 3A	4
Raft Lake		2B 3A	4

bb. Weber County

TABLE

Causey Reservoir		2B 3A	4
Pineview Reservoir	1C 2A	3A	4

[** Denotes site specific temperature, see Table 2.14.2 Notes]

13.13 Unclassified Waters

All waters not specifically classified are presumptively classified: 2B, 3D

R317-2-14. Numeric Criteria.

TABLE 2.14.1
NUMERIC CRITERIA FOR DOMESTIC,
RECREATION, AND AGRICULTURAL USES

Parameter	Domestic[<u> </u>]	Recreation and Aesthetics		Agri-culture
	Source[<u> </u>]	2A	2B	4
	1C(1)[<u> </u>]			
BACTERIOLOGICAL				
(30-DAY GEOMETRIC MEAN) (NO.)/100 ML (7)				
E. coli	206	126	206	
MAXIMUM				
(NO.)/100 ML (7)				
E. coli	668	409	668	
PHYSICAL				
pH (RANGE)	6.5-9.0	6.5-9.0	6.5-9.0	6.5-9.0
Turbidity Increase (NTU)		10	10	
METALS (DISSOLVED, MAXIMUM MG/L) (2)				

<p>Arsenic 0.01 0.1</p> <p>Barium 1.0</p> <p>Beryllium <0.004</p> <p>Cadmium 0.01 0.01</p> <p>Chromium 0.05 0.10</p> <p>Copper 0.2</p> <p>Lead 0.015 0.1</p> <p>Mercury 0.002</p> <p>Selenium 0.05 0.05</p> <p>Silver 0.05</p> <p>INORGANICS (MAXIMUM MG/L)</p> <p>Bromate 0.01</p> <p>Boron 0.75</p> <p>Chlorite <1.0</p> <p>Fluoride ___ [(3)] 4.0[1.4-2.4]</p> <p>Nitrates as N 10</p> <p>Total Dissolved Solids (4) 1200</p> <p>RADIOLOGICAL (MAXIMUM pCi/L)</p> <p>Gross Alpha 15 15</p> <p>Gross Beta 4 mrem/yr Radium 226, 228 (Combined) 5</p> <p>Strontium 90 8</p> <p>Tritium 20000</p> <p>Uranium 30</p> <p>ORGANICS (MAXIMUM UG/L)</p> <p>Chlorophenoxy Herbicides</p> <p>2,4-D 94-75-7 [] 70</p> <p>2,4,5-TP 93-72-1 [] 10 [Methoxychlor 40]</p> <p>Alachlor 15972-60-8 2</p> <p>Atrazine 1912-24-9 3</p> <p>Carbofuran 1563-66-2 40</p> <p>Dalapon 75-99-0 200</p> <p>Di(2ethylhexyl)adipate 103-23-1 400</p> <p>Dibromochloropropane 96-12-8 0.2</p> <p>Dinoseb 88-85-7 7</p> <p>Diquat 85-00-7 20</p> <p>Endothal 145-73-3 100</p> <p>Ethylene Dibromide 106-93-4 0.05</p> <p>POLLUTION INDICATORS (5)</p> <p>BOD (MG/L) 5 5 5</p> <p>Nitrate as N (MG/L) 4 4</p> <p>Total Phosphorus as P (MG/L) (6) 0.05 0.05</p> <p>FOOTNOTES:</p> <p>(1) Reserved See also numeric criteria for water and organism in Table 2.14.6.</p> <p>(2) The dissolved metals method involves filtration of the sample in the field, acidification of the sample in the field, no digestion process in the laboratory, and analysis by approved laboratory methods for the required detection levels.</p> <p>(3) Reserved [Maximum concentration varies according to the daily maximum mean air temperature.</p>	<p>(4) SITE SPECIFIC STANDARDS FOR TOTAL DISSOLVED SOLIDS (TDS)</p> <p>Blue Creek and tributaries, Box Elder County, from Bear River Bay, Great Salt Lake to Blue Creek Reservoir: March through October daily maximum 4,900 mg/l and an average of 3,800 mg/l; November through February daily maximum 6,300 mg/l and an average of 4,700 mg/l. Assessments will be based on TDS concentrations measured at the location of STORET 4960740.</p> <p>Blue Creek Reservoir and tributaries, Box Elder County, daily maximum 2,100 mg/l;</p> <p>Castle Creek from confluence with the Colorado River to Seventh Day Adventist Diversion: 1,800 mg/l;</p> <p>Cottonwood Creek from the confluence with Huntington Creek to Highway [I-57+]U-57: 3,500 mg/l;</p> <p>Ferron Creek from the confluence with San Rafael River to Highway U-10: 3,500 mg/l;</p> <p>Huntington Creek and tributaries from the confluence with Cottonwood Creek to Highway U-10: 4,800 mg/l;</p> <p>Ivie Creek and its tributaries from the confluence with Muddy Creek to the confluence with Quitchupah Creek: 3,800 mg/l provided that total sulfate not exceed 2,000 mg/l to protect the livestock watering agricultural existing use;</p> <p>Ivie Creek and its tributaries from the confluence with Quitchupah Creek to Highway U-10: 2,600 mg/l;</p> <p>Lost Creek from the confluence with Sevier River to U.S. [Forest] National Forest [Service-B] boundary: 4,600 mg/l;</p> <p>Muddy Creek and tributaries from the confluence with Ivie Creek to Highway U-10: 2,600 mg/l;</p> <p>Muddy Creek from confluence with Fremont River to confluence with Ivie Creek: 5,800 mg/l;</p> <p>North Creek from the confluence with Virgin River to headwaters: 2,035 mg/l;</p> <p>Onion Creek from the confluence with Colorado River to road crossing above Stinking Springs: 3000 mg/l;</p> <p>Brine Creek-Petersen Creek, from the confluence with the Sevier River to Highway U-119 Crossing: 9,700 mg/l;</p> <p>Price River and tributaries from confluence with Green River to confluence with Soldier Creek: 3,000 mg/l;</p> <p>Price River and tributaries from the confluence with Soldier Creek to Carbon Canal Diversion: 1,700 mg/l;</p> <p>Quitchupah Creek and tributaries from the confluence with Ivie Creek to Highway U-10: [] 3,800 mg/l provided that total sulfate not exceed 2,000 mg/l to protect the livestock watering agricultural existing use;</p> <p>Rock Canyon Creek from the confluence with Cottonwood Creek to headwaters: 3,500 mg/l;</p> <p>San Pitch River from below Gunnison Reservoir to the Sevier River: 2,400 mg/l;</p> <p>San Rafael River from the confluence with the Green River to Buckhorn Crossing: 4,100 mg/l;</p> <p>San Rafael River from the Buckhorn Crossing to the confluence with Huntington Creek and Cottonwood Creek: 3,500 mg/l;</p>
<p>TEMP (C) MG/L</p> <p>12.0 2.4</p> <p>12.1-14.6 2.2</p> <p>14.7-17.6 2.0</p> <p>17.7-21.4 1.8</p> <p>21.5-26.2 1.6</p> <p>26.3-32.5 1.4</p>	

Sevier River between Gunnison Bend Reservoir and DMAD Reservoir:
1,725 mg/l;

Sevier River from Gunnison Bend Reservoir to ~~Clear~~Crafts Lake: _
3,370_
]mg/l;

South Fork Spring Creek from confluence with Pelican Pond
Slough Stream to U.S. Highway 89[-----] 1,450 mg/l (Apr.-
Sept.)
1,950 mg/l (Oct.-March)

Virgin River from the Utah/Arizona border to Pah Tempe Springs:
2,360 mg/l

1 Hour Average	340	340	340	340
Cadmium (7)				
4 Day Average	[0-25]0.72	[0-25]0.72	[0-25]0.72	[0-25]0.72
1 Hour Average	[2-0]1.8	[2-0]1.8	[2-0]1.8	1.8[2-0]
Chromium (Hexavalent)				
4 Day Average	11	11	11	11
1 Hour Average	16	16	16	16
Chromium (Trivalent) (7)				
4 Day Average	74	74	74	74
1 Hour Average	570	570	570	570
Copper (7)				
4 Day Average	9	9	9	9
1 Hour Average	13	13	13	13
Cyanide (Free)				
4 Day Average	5.2	5.2	5.2	
1 Hour Average	22	22	22	22
Iron (Maximum)	1000	1000	1000	1000
Lead (7)				
4 Day Average	2.5	2.5	2.5	2.5
1 Hour Average	65	65	65	65
Mercury				
4 Day Average	0.012	0.012	0.012	0.012
Nickel (7)				
4 Day Average	52	52	52	52
1 Hour Average	468	468	468	468
Selenium				
4 Day Average	4.6	4.6	4.6	4.6
1 Hour Average	18.4	18.4	18.4	18.4
Selenium (14) Gilbert Bay (Class 5A) Great Salt Lake Geometric Mean over Nesting Season (mg/kg dry wt)				12.5
Silver				
1 Hour Average (7)	[1-6]3.2	[1-6]3.2	[1-6]3.2	[1-6]3.2
Tributyltin				
4 Day Average	0.072	0.072	0.072	0.072
1 Hour Average	0.46	0.46	0.46	0.46
Zinc (7)				
4 Day Average	120	120	120	120
1 Hour Average	120	120	120	120
INORGANICS (MG/L) (4) Total Ammonia as N (9)				
30 Day Average	(9a)	(9a)	(9a)	(9a)
1 Hour Average	(9b)	(9b)	(9b)	(9b)
Chlorine (Total Residual)				
4 Day Average	0.011	0.011	0.011	0.011
1 Hour Average	0.019	0.019	0.019	0.019
Hydrogen Sulfide (Undissociated, Max. UG/L)	2.0	2.0	2.0	2.0
Phenol (Maximum)	0.01	0.01	0.01	0.01
RADIOLOGICAL (MAXIMUM pCi/L)				
ORGANICS (UG/L) (4) Acrolein				
4 Day Average	3.0	3.0	3.0	3.0

TABLE 2.14.2
NUMERIC CRITERIA FOR AQUATIC WILDLIFE(8)

Parameter	Aquatic Wildlife				5
	3A	3B	3C	3D	
PHYSICAL					
Total Dissolved Gases	(1)	(1)			
Minimum Dissolved Oxygen (MG/L) (2) (2a)					
30 Day Average	6.5	5.5	5.0	5.0	
7 Day Average	9.5/5.0	6.0/4.0			
Minimum	8.0/4.0	5.0/3.0	3.0	3.0	
Max. Temperature(C)(3)	20	27	27		
Max. Temperature Change (C) (3)	2	4	4		
pH (Range) (2a)	6.5-9.0	6.5-9.0	6.5-9.0	6.5-9.0	
Turbidity Increase (NTU)	10	10	15	15	
METALS (4) (DISSOLVED, UG/L) (5)					
Aluminum					
4 Day Average (6)	87	87	87	87	
1 Hour Average	750	750	750	750	
Arsenic (Trivalent)					
4 Day Average	150	150	150	150	

1 Hour Average	3.0	3.0	3.0	3.0
Aldrin				
1 Hour Average	1.5	1.5	1.5	1.5
Carbaryl				
4 Day Average	2.1	2.1	2.1	2.1
1 Hour Average	2.1	2.1	2.1	2.1
Chlordane				
4 Day Average	0.0043	0.0043	0.0043	0.0043
1 Hour Average	1.2	1.2	1.2	1.2
Chlorpyrifos				
4 Day Average	0.041	0.041	0.041	0.041
1 Hour Average	0.083	0.083	0.083	0.083
4,4' -DDT				
4 Day Average	0.0010	0.0010	0.0010	0.0010
1 Hour Average	0.55	0.55	0.55	0.55
Diazinon				
4 Day Average	0.17	0.17	0.17	0.17
1 Hour Average	0.17	0.17	0.17	0.17
Dieldrin				
4 Day Average	0.056	0.056	0.056	0.056
1 Hour Average	0.24	0.24	0.24	0.24
Alpha-Endosulfan				
4 Day Average	0.056	0.056	0.056	0.056
1 Hour Average	0.11	0.11	0.11	0.11
beta-Endosulfan				
4 Day Average	0.056	0.056	0.056	0.056
1 Day Average	0.11	0.11	0.11	0.11
Endrin				
4 Day Average	0.036	0.036	0.036	0.036
1 Hour Average	0.086	0.086	0.086	0.086
Heptachlor				
4 Day Average	0.0038	0.0038	0.0038	0.0038
1 Hour Average	0.26	0.26	0.26	0.26
Heptachlor epoxide				
4 Day Average	0.0038	0.0038	0.0038	0.0038
1 Hour Average	0.26	0.26	0.26	0.26
Hexachlorocyclohexane (Lindane)				
4 Day Average	0.08	0.08	0.08	0.08
1 Hour Average	1.0	1.0	1.0	1.0
Methoxychlor (Maximum)	0.03	0.03	0.03	0.03
Mirex (Maximum)	0.001	0.001	0.001	0.001
Nonylphenol				
4 Day Average	6.6	6.6	6.6	6.6
1 Hour Average	28.0	28.0	28.0	28.0
Parathion				
4 Day Average	0.013	0.013	0.013	0.013
1 Hour Average	0.066	0.066	0.066	0.066
PCB[±]s				
4 Day Average	0.014	0.014	0.014	0.014
Pentachlorophenol (11)				
4 Day Average	15	15	15	15
1 Hour Average	19	19	19	19
Toxaphene				
4 Day Average	0.0002	0.0002	0.0002	0.0002

1 Hour Average	0.73	0.73	0.73	0.73
POLLUTION INDICATORS (10)				
Gross Alpha (pCi/L)	15	15	15	15
Gross Beta (pCi/L)	50	50	50	50
BOD (MG/L)	5	5	5	5
Nitrate as N (MG/L)	4	4	4	4
Total Phosphorus as P(MG/L) (12)	0.05	0.05		

FOOTNOTES:

- (1) Not to exceed 110% of saturation.
- (2) These limits are not applicable to lower water levels in deep impoundments. First number in column is for when early life stages are present, second number is for when all other life stages present.
 - (2a) These criteria are not applicable to Great Salt Lake impounded wetlands. Surface water in these wetlands shall be protected from changes in pH and dissolved oxygen that create significant adverse impacts to the existing beneficial uses. To ensure protection of uses, the Director shall develop reasonable protocols and guidelines that quantify the physical, chemical, and biological integrity of these waters. These protocols and guidelines will include input from local governments, the regulated community, and the general public. The Director will inform the Water Quality Board of any protocols or guidelines that are developed.
- (3) Site Specific Standards for Temperature Ken[±]s Lake: From June 1st - September 20th, 27 degrees C.
- (4) Where criteria are listed as 4-day average and 1-hour average concentrations, these concentrations should not be exceeded more often than once every three years on the average.
- (5) The dissolved metals method involves filtration of the sample in the field, acidification of the sample in the field, no digestion process in the laboratory, and analysis by EPA approved laboratory methods for the required detection levels.
- (6) The criterion for aluminum will be implemented as follows:

Where the pH is equal to or greater than 7.0 and the hardness is equal to or greater than 50 ppm as CaCO3 in the receiving water after mixing, the 87 ug/l chronic criterion (expressed as total recoverable) will not apply, and aluminum will be regulated based on compliance with the 750 ug/l acute aluminum criterion (expressed as total recoverable).
- (7) Hardness dependent criteria. 100 mg/l used. Conversion factors for ratio of total recoverable metals to dissolved metals must also be applied. In waters with a hardness greater than 400 mg/l as CaCO3, calculations will assume a hardness of 400 mg/l as CaCO3. See Table 2.14.3 for complete equations for hardness and conversion factors.
- (8) ~~Reserved~~ See also numeric criteria for organism only in Table 2.14.6.
- (9) The following equations are used to calculate Ammonia criteria concentrations:
 - (9a) The thirty-day average concentration of total ammonia nitrogen (in mg/l as N) does not exceed, more than once every three years on the average, the chronic criterion calculated using the following equations.

Fish Early Life Stages are Present:

$$\text{mg/l as N (Chronic)} = ((0.0577/(1+10^{7.688-\text{pH}})) + (2.487/(1+10^{\text{pH}-7.688}))) * \text{MIN}(2.85, 1.45*10^{0.028*(25-\text{pH})})$$

Fish Early Life Stages are Absent:

$$\text{mg/l as N (Chronic)} = ((0.0577/(1+10^{7.688-\text{pH}})) + (2.487/(1+10^{\text{pH}-7.688}))) * 1.45*10^{0.028*(25-\text{MAX}(1,7))}$$
 - (9b) The one-hour average concentration of total ammonia nitrogen (in mg/l as N) does not exceed, more than once every three years on the average the acute criterion calculated using the following equations.

Class 3A:

$$\text{mg/l as N (Acute)} = (0.275/(1+10^{7.204-\text{pH}})) + (39.0/1+10^{\text{pH}-7.204})$$

Class 3B, 3C, 3D:

$$\text{mg/l as N (Acute)} = 0.411/(1+10^{7.204-\text{pH}}) + (58.4/(1+10^{\text{pH}-7.204}))$$

In addition, the highest four-day average within the 30-day period should not exceed 2.5 times the chronic criterion. The "Fish Early Life Stages are Present" 30-day average total ammonia criterion will be applied by default unless it is determined by the Director, on a site-specific basis, that it is appropriate to apply the "Fish Early Life Stages are Absent" 30-day average criterion for all or some portion of the year. At a minimum, the "Fish Early Life Stages are Present" criterion will apply from the beginning of spawning through the end of the early life stages. Early life stages include the pre-hatch embryonic stage, the post-hatch free embryo or yolk-sac fry stage, and the larval stage for the species of fish expected to occur at the site. The Director will consult with the Division of Wildlife Resources in making such determinations. The Division will maintain information regarding the waterbodies and time periods where application of the "Early Life Stages are Absent" criterion is determined to be appropriate.

(10) Investigation should be conducted to develop more information where these levels are exceeded.

(11) pH dependent criteria. pH 7.8 used in table. See Table 2.14.4 for equation.

(12) Total Phosphorus as P (mg/l) as a pollution indicator for lakes and reservoirs shall be 0.025.

(13) Reserved

(14) The selenium water quality standard of 12.5 (mg/kg dry weight) for Gilbert Bay is a tissue based standard using the complete egg/embryo of aquatic dependent birds using Gilbert Bay based upon a minimum of five samples over the nesting season. Assessment procedures are incorporated as a part of this standard as follows:

Egg Concentration Triggers: DWQ Responses

Below 5.0 mg/kg: Routine monitoring with sufficient intensity to determine if selenium concentrations within the Great Salt Lake ecosystem are increasing.

5.0 mg/kg: Increased monitoring to address data gaps, loadings, and areas of uncertainty identified from initial Great Salt Lake selenium studies.

6.4 mg/kg: Initiation of a Level II Antidegradation review by the State for all discharge permit renewals or new discharge permits to Great Salt Lake. The Level II Antidegradation review may include an analysis of loading reductions.

9.8 mg/kg: Initiation of preliminary TMDL studies to evaluate selenium loading sources.

12.5 mg/kg and above: Declare impairment. Formalize and implement TMDL.

Antidegradation

Level II Review procedures associated with this standard are referenced at R317-2-3.5.C.

TABLE
1-HOUR AVERAGE (ACUTE) CONCENTRATION OF
TOTAL AMMONIA AS N (MG/L)

pH	Class 3A	Class 3B, 3C, 3D
6.5	32.6	48.8
6.6	31.3	46.8
6.7	29.8	44.6
6.8	28.1	42.0
6.9	26.2	39.1
7.0	24.1	36.1
7.1	22.0	32.8
7.2	19.7	29.5
7.3	17.5	26.2
7.4	15.4	23.0
7.5	13.3	19.9

7.6	11.4	17.0
7.7	9.65	14.4
7.8	8.11	12.1
7.9	6.77	10.1
8.0	5.62	8.40
8.1	4.64	6.95
8.2	3.83	5.72
8.3	3.15	4.71
8.4	2.59	3.88
8.5	2.14	3.20
8.6	1.77	2.65
8.7	1.47	2.20
8.8	1.23	1.84
8.9	1.04	1.56
9.0	0.89	1.32

TABLE
30-DAY AVERAGE (CHRONIC) CONCENTRATION OF
TOTAL AMMONIA AS N (MG/L)

pH	Fish Early Life Stages Present Temperature, C									
	0	14	16	18	20	22	24	26	28	30
6.5	6.67	6.67	6.06	5.33	4.68	4.12	3.62	3.18	2.80	2.46
6.6	6.57	6.57	5.97	5.25	4.61	4.05	3.56	3.13	2.75	2.42
6.7	6.44	6.44	5.86	5.15	4.52	3.98	3.50	3.07	2.70	2.37
6.8	6.29	6.29	5.72	5.03	4.42	3.89	3.42	3.00	2.64	2.32
6.9	6.12	6.12	5.56	4.89	4.30	3.78	3.32	2.92	2.57	2.25
7.0	5.91	5.91	5.37	4.72	4.15	3.65	3.21	2.82	2.48	2.18
7.1	5.67	5.67	5.15	4.53	3.98	3.50	3.08	2.70	2.38	2.09
7.2	5.39	5.39	4.90	4.31	3.78	3.33	2.92	2.57	2.26	1.99
7.3	5.08	5.08	4.61	4.06	3.57	3.13	2.76	2.42	2.13	1.87
7.4	4.73	4.73	4.30	3.78	3.32	2.92	2.57	2.26	1.98	1.74
7.5	4.36	4.36	3.97	3.49	3.06	2.69	2.37	2.08	1.83	1.61
7.6	3.98	3.98	3.61	3.18	2.79	2.45	2.16	1.90	1.67	1.47
7.7	3.58	3.58	3.25	2.86	2.51	2.21	1.94	1.71	1.50	1.32
7.8	3.18	3.18	2.89	2.54	2.23	1.96	1.73	1.52	1.33	1.17
7.9	2.80	2.80	2.54	2.24	1.96	1.73	1.52	1.33	1.17	1.03
8.0	2.43	2.43	2.21	1.94	1.71	1.50	1.32	1.16	1.02	0.90
8.1	2.10	2.10	1.91	1.68	1.47	1.29	1.14	1.00	0.88	0.77
8.2	1.79	1.79	1.63	1.43	1.26	1.11	0.97	0.86	0.75	0.66
8.3	1.52	1.52	1.39	1.22	1.07	0.94	0.83	0.73	0.64	0.56
8.4	1.29	1.29	1.17	1.03	0.91	0.80	0.70	0.62	0.54	0.48
8.5	1.09	1.09	0.99	0.87	0.76	0.67	0.59	0.52	0.46	0.40
8.6	0.92	0.92	0.84	0.73	0.65	0.57	0.50	0.44	0.39	0.34
8.7	0.78	0.78	0.71	0.62	0.55	0.48	0.42	0.37	0.33	0.29
8.8	0.66	0.66	0.60	0.53	0.46	0.41	0.36	0.32	0.28	0.24
8.9	0.56	0.56	0.51	0.45	0.40	0.35	0.31	0.27	0.24	0.21
9.0	0.49	0.49	0.44	0.39	0.34	0.30	0.26	0.23	0.20	0.18

TABLE
30-DAY AVERAGE (CHRONIC) CONCENTRATION OF
TOTAL AMMONIA AS N (MG/L)

pH	Fish Early Life Stages Absent Temperature, C									
	0-7	8	9	10	11	12	13	14	16	
6.5	10.8	10.1	9.51	8.92	8.36	7.84	7.36	6.89	6.06	
6.6	10.7	[10.1]	9.99	9.37	[9.37]	8.79	[8.79]	8.24	[8.24]	7.72
6.7	[7.72]	7.24	[7.24]	6.79	[6.36]	6.37				
6.8	10.5	[9.99]	9.81	9.20	8.62	8.08	7.58	7.11	6.66	5.86
6.9	10.2	[9.81]	9.58	8.98	8.42	7.90	7.40	6.94	6.51	5.72
7.0	9.93	9.31	8.73	8.19	7.68	7.20	6.75	6.33	5.96	
7.1	9.60	9.00	8.43	7.91	7.41	6.95	6.52	6.11	5.73	
7.2	9.20	8.63	8.09	7.58	7.11	6.67	6.25	5.86	5.45	
7.3	8.75	8.20	7.69	7.21	6.76	6.34	5.94	5.57	5.20	
7.4	8.24	7.73	7.25	6.79	6.37	5.97	5.60	5.25	4.91	
7.5	7.69	7.21	6.76	6.33	5.94	5.57	5.22	4.89	4.60	
7.6	7.09	6.64	6.23	5.84	5.48	5.13	4.81	4.51	4.25	
7.7	6.46	6.05	5.67	5.32	4.99	4.68	4.38	4.11	3.91	
7.8	5.81	5.45	5.11	4.79	4.49	4.21	3.95	3.70	3.52	
7.9	5.17	4.84	4.54	4.26	3.99	3.74	3.51	3.29	3.14	

7.9	4.54	4.26	3.99	3.74	3.51	3.29	3.09	2.89	2.54
8.0	3.95	3.70	3.47	3.26	3.05	2.86	2.68	2.52	2.21
8.1	3.41	3.19	2.99	2.81	2.63	2.47	2.31	2.17	1.91
8.2	2.91	2.73	2.56	2.40	2.25	2.11	1.98	1.85	1.63
8.3	2.47	2.32	2.18	2.04	1.91	1.79	1.68	1.58	1.39
8.4	2.09	1.96	1.84	1.73	1.62	1.52	1.42	1.33	1.17
8.5	1.77	1.66	1.55	1.46	1.37	1.28	1.20	1.13	0.990
8.6	1.49	1.40	1.31	1.23	1.15	1.08	1.01	0.951	0.836
8.7	1.26	1.18	1.11	1.04	0.976	0.915	0.858	0.805	0.707
8.8	1.07	1.01	0.944	0.885	0.829	0.778	0.729	0.684	0.601
8.9	0.917	0.860	0.806	0.758	0.709	0.664	0.623	0.584	0.513
9.0	0.790	0.740	0.694	0.651	0.610	0.572	0.536	0.503	0.442
pH	18	20	22	24	26	28	30		
6.5	5.33	4.68	4.12	3.62	3.18	2.80	2.46		
6.6	5.25	4.61	4.05	3.56	3.13	2.75	2.42		
6.7	5.15	4.52	3.98	3.50	3.07	2.70	2.37		
6.8	5.03	4.42	3.89	3.42	3.00	2.64	2.32		
6.9	4.89	4.30	3.78	3.32	2.92	2.57	2.25		
7.0	4.72	4.15	3.65	3.21	2.82	2.48	2.18		
7.1	4.53	3.98	3.50	3.08	2.70	2.38	2.09		
7.2	4.41	3.78	3.33	2.92	2.57	2.26	1.99		
7.3	4.06	3.57	3.13	2.76	2.42	2.13	1.87		
7.4	3.78	3.32	2.92	2.57	2.26	1.98	1.74		
7.5	3.49	3.06	2.69	2.37	2.08	1.83	1.61		
7.6	3.18	2.79	2.45	2.16	1.90	1.67	1.47		
7.7	2.86	2.51	2.21	1.94	1.71	1.50	1.32		
7.8	2.54	2.23	1.96	1.73	1.52	1.33	1.17		
7.9	2.24	1.96	1.73	1.52	1.33	1.17	1.03		
8.0	[0.94] 1.94	1.71	1.50	1.32	1.16	1.02	0.897		
8.1	[0.68] 1.68	1.47	1.29	1.14	1.00	0.879	0.733		
8.2	[0.43] 1.43	1.26	1.11	[0.073] 1.073	0.855	0.752	0.661		
8.3	[0.22] 1.22	1.07	0.941	0.827	0.727	0.639	0.562		
8.4	[0.03] 1.03	0.906	0.796	0.700	0.615	0.541	0.475		
8.5	0.870	0.765	0.672	0.591	0.520	0.457	0.401		
8.6	0.735	0.646	0.568	0.499	0.439	0.396	0.339		
8.7	0.622	0.547	0.480	0.422	0.371	0.326	0.287		
8.8	0.528	0.464	0.408	0.359	0.315	0.277	0.244		
8.9	0.451	0.397	0.349	0.306	0.269	0.237	0.208		
9.0	0.389	0.342	0.300	0.264	0.232	0.204	0.179		

TABLE 2.14.3a

EQUATIONS TO CONVERT TOTAL RECOVERABLE METALS STANDARD WITH HARDNESS (1) DEPENDENCE TO DISSOLVED METALS STANDARD BY APPLICATION OF A CONVERSION FACTOR (CF).

Parameter	4-Day Average (Chronic) Concentration (UG/L)
CADMIUM	$CF * e^{-(0.7409 \ln(\text{hardness})) - 4.719}$ $e^{(0.7977 \ln(\text{hardness}) - 909)}$ CF = 1.101672 - ln(hardness) (0.041838)
CHROMIUM III	$CF * e^{(0.8190 \ln(\text{hardness}) + 0.6848)}$ CF = 0.860
COPPER	$CF * e^{(0.8545 \ln(\text{hardness}) - 1.702)}$ CF = 0.960
LEAD	$CF * e^{(1.273 \ln(\text{hardness})) - 4.705}$ CF = 1.46203 - ln(hardness) (0.145712)
NICKEL	$CF * e^{(0.8460 \ln(\text{hardness})) + 0.0584}$ CF = 0.997
SILVER	N/A
ZINC	$Cf * e^{(0.8473 \ln(\text{hardness})) + 0.884}$ CF = 0.986

TABLE 2.14.3b

EQUATIONS TO CONVERT TOTAL RECOVERABLE METALS STANDARD

WITH HARDNESS (1) DEPENDENCE TO DISSOLVED METALS STANDARD BY APPLICATION OF A CONVERSION FACTOR (CF).

Parameter	1-Hour Average (Acute) Concentration (UG/L)
CADMIUM	$CF * [e^{-(1.0166 \ln(\text{hardness})) - 3.924}] e^{(0.9789 \ln(\text{hardness}) - 3.866)}$ CF = 1.136672 - ln(hardness) (0.041838)
CHROMIUM (III)	$CF * e^{(0.8190 \ln(\text{hardness}) + 3.7256)}$ CF = 0.316
COPPER	$CF * e^{(0.9422 \ln(\text{hardness})) - 1.700}$ CF = 0.960
LEAD	$CF * e^{(1.273 \ln(\text{hardness})) - 1.460}$ CF = 1.46203 - ln(hardness) (0.145712)
NICKEL	$CF * e^{(0.8460 \ln(\text{hardness})) + 2.255}$ CF = 0.998
SILVER	$CF * e^{(1.72 \ln(\text{hardness})) - 6.59}$ CF = 0.85
ZINC	$CF * e^{(0.8473 \ln(\text{hardness})) + 0.884}$ CF = 0.978

FOOTNOTE:
(1) Hardness as mg/l CaCO₃.

TABLE 2.14.4
EQUATIONS FOR PENTACHLOROPHENOL (pH DEPENDENT)

4-Day Average (Chronic) Concentration (UG/L)	1-Hour Average (Acute) Concentration (UG/L)
$e^{(1.005(\text{pH}) - 5.134)}$	$e^{(1.005(\text{pH}) - 4.869)}$

TABLE 2.14.5

SITE SPECIFIC CRITERIA FOR DISSOLVED OXYGEN FOR JORDAN RIVER, SURPLUS CANAL, AND STATE CANAL (SEE SECTION 2.13)

DISSOLVED OXYGEN:	
May-July	
7-day average	5.5 mg/l
30-day average	5.5 mg/l
Instantaneous minimum	4.5 mg/l
August-April	
30-day average	5.5 mg/l
Instantaneous minimum	4.0 mg/l

TABLE 2.14.6

LIST OF HUMAN HEALTH CRITERIA (CONSUMPTION)

Chemical Parameter [and CAS #	Water and Organism Class 1C (ug/L)	Organism Only (ug/L)	
Antimony 7440-36-0 []	5.6	640	
Arsenic 7440-38-2 []	A	A	
Beryllium 7440-41-7 []	C	C	
[Cadmium]	C	C	
]Chromium III 16065-83-1 []	C	C	
Chromium VI 18540-29-9 []	C	C	
Copper 7440-50-8 []	1,300		
[Lead]	C	C	
]Mercury 7439-97-6 []	A	A	
Nickel 7440-02-0 []	[100-MCL] 610	4,600	

Selenium 7782-49-2 [-----]	[A--]170	4,200	[850]3,000
Thallium 7440-28-0 [-----]	0.24	0.47	2-Methyl-4,6-Dinitrophenol
Zinc 7440-66-6 [-----]	7,400	26,000	534-52-1 [13-0]2 [280]30
Free Cyanide 57-12-5 [-----]	140	140	2,4-Dinitrophenol 51-28-5 [-----] [69]10
Asbestos 1332-21-4 [-----]	7 million		[5,300]300
	Fibers/L		[2-Nitrophenol
2,3,7,8-TCDD Dioxin 1746-01-6 [-----]	5.0 E -9 B	5.1 E-9 B	4-Nitrophenol
Acrolein 107-02-8 [-----]	[6-0]3.0		[3-Methyl-4-Chlorophenol
[9-0]400			59-50-7 500 2,000
Acrylonitrile 107-13-1 [-----]	[0-051-B]0.061	[0-25-	Pen[e]tachlorophenol 87-86-5 [-----] [0-27]0.03 B
B]2.0			[3-0]0.04 B
[Atrachlor-----2.0			Phenol 108-95-2 [-----]10,000]4,000
]Atrazine 1912-24-9 [-----]	3.0		[860,000]300,000
Benzene 71-43-2 [-----]	[2-2]2.1 B	51 B	2,4,5-Trichlorophenol 95-95-4 300 600
Bromoform 75-25-2 [-----]	[4-3]2.0 B		2,4,6-Trichlorophenol 88-06-2 [-----]1,4]1.5 B [2-4]2.8
[140]120 B			B
[Carbofuran-----40			Acenaphthene 83-32-9 [-----] [670]70 [990]90
]Carbon Tetrachloride 56-23-5 [-----]	[0-23]0.4 B	[1-6]	[Acenaphthylene
5 B			]Anthracene 120-12-7 [-----] [8,300]300
Chlorobenzene 57-12-5 [-----]	100 MCL	1,600	[40,000]400
Chlorodibromomethane 124-48-1 [-----]	0.40 B	13 B	Benzidine 92-87-5 [-----] [0-000086]0.00014 B
[Chloroethane			[0-00020]0.011 B
2-Chloroethylvinyl Ether			Benzoanthracene 56-55-3 [-----] [0-0038]0.0012 B
]Chloroform 67-66-3 [-----]	5.7 B	470 B	[0-018]0.0013 B
Dalapon 75-99-0 [-----]	200		Benzo[a]Pyrene 50-32-8 [-----] [0-0038]0.00012 B [-
[Di(2ethylhexyl)adipate-----400			0-018]0.00013 B
Dibromochloropropane-----0.2			Benzobluoranthenes 205-99-2 [-----] [0-0038]0.0012 B
]Dichlorobromomethane 75-27-4 [-----]	0.55 B	17 B	0.018 B
[1,1-Dichloroethane			[Benzoghiperylene
]1,2-Dichloroethane 107-06-2 [-----]	[0-38]9.9 B	[37]	]Benzofluoranthenes 207-08-9 [-----] [0-0038]0.012 B
650 B			[0-018]0.013 B
1,1-Dichloroethylene 75-35-4 [-----]	[7]300 MCL[-]		[Bis2-Chloroethoxymethane
[7,100]20,000			]Bis2-Chloromethylether
Dichloroethylene (cis-1,2)			542-88-1 0.00015 0.017
156-59-2 70			Bis2-Chloromethylethylether
[Dinoseb-----7.0			108-60-1 200 B 4000
]Diquat 231-36-7 [-----]	20		Bis2-ChloroethylEther
1,2-Dichloropropane 78-87-5 [-----]	[0-50]0.90 B	[15]31	111-44-40 0.030 B [0-53]2.2 B
B			Bis2-Chloromethylether
1,3-Dichloropropene 542-75-6 [-----]	[0-34]0.27		542-88-1 0.00015 0.017
[21]12			Bis2-Chloromethylethylether
[Endothall-----100			108-60-1 200 B 4000
]Ethylbenzene 100-41-4 [-----]	[530]68		Bis2-ChloroisopropylEther
[2,100]130			39638-32-9 1,400 65,000
[Ethylene Dibromide-----0.05			Bis2-EthylhexylPhthalate
]Glyphosate 1071-83-6 [-----]	700		117-81-7 [1-2]0.32 B[-] [2-2]0.037 B
[Halooacetic acids-----60 E			[4-Bromophenyl-Phenyl Ether
]Methyl Bromide 74-83-9 [-----]	[47]100[-]		]Butylbenzyl Phthalate
[1,500]10,000			85-68-7 [1,500]0.1 [1,900]0.1
[Methyl Chloride-----F			2-Chloronaphthalene 91-58-7 [-----] [1,000]800
]Methylene Chloride 75-09-2 [-----]	[4-6]20 B	[590]	[1,600]1,000
1,000 B			[4-Chlorophenyl-Phenyl Ether
[Ocaml (vidate)-----200			]Chrysene 218-01-9 [-----] 0.0038 B 0.018 B
Picloram-----500			Dibenzoa,hAnthracene 53-70-3 [-----] 0.0038 B 0.018 B
Simazine-----4			1,2-Dichlorobenzene 95-50-1 [-----] [420]1,000[-]
Styrene-----100			[1,300]3,000
]1,1,2,2-Tetrachloroethane			1,3-Dichlorobenzene 541-73-1 [-----] [320]7
79-34-5 [0-17]0.2 B [4-0]3 B			[960]10
Tetrachloroethylene 127-18-4 [-----]	[0-69]10 B		1,4-Dichlorobenzene 106-46-7 [-----] [63]300 [-
[3-3]29 B			190]900
Toluene 108-88-3 [-----]	[1,000]57		3,3-Dichlorobenzidine
[15,000]520			91-94-1 [0-021]0.04 B [0-028]0.15 B
1,2 -Trans-Dichloroethylene			Diethyl Phthalate 64-66-2 [-----] [17,000]600
156-60-5 100 MCL [10,000]4,000			[44,000]600
1,1,1-Trichloroethane 71-55-6 [-----]	200]10,000 MCL		Dimethyl Phthalate 131-11-3 [-----] [270,000]2,000
[F]200,000			[1,100,000]2,000
1,1,2-Trichloroethane 79-00-5 [-----]	0.59]0.55 B	[16]8.9	Di-n-Butyl Phthalate 84-74-2 [-----] [2,000]20
B			[4,500]30
Trichloroethylene 79-01-6 [-----]	[2-5]0.6 B	[30]7 B	2,4-Dinitrotoluene 121-14-2 [-----] [0-11]0.49 B
Vinyl Chloride 75-01-4 [-----]	[0-025]0.022		[3-4]1.7 B
[2-4]1.6			Dinitrophenols 25550-58-7 10 1,000
Xylenes 1330-20-7 [-----]	10,000		[2,6-Dinitrotoluene
2-Chlorophenol 95-57-8 [-----]	[81]30	[150]800	Di-n-Octyl Phthalate
2,4-Dichlorophenol 120-83-2 [-----]	[77]10	[290]60	]1,2-Diphenylhydrazine
2,4-Dimethylphenol 105-67-9 [-----]	[380]100		122-66-7 0.036 B 0.20 B

Fluoranthene 206-44-0 [-----]	[130]20	
[140]20		
Fluorene 86-73-7 [-----]	[1,100]50	
[5,300]70		
Hexachlorobenzene 118-74-1 [-----]	[0,00028]0.000079 B	[-
0-00029]0.000079 B		
[Hexachlorobutadiene]Hexachlorobutadiene 87-68-3 [-----]	[0,44]0.01	
B [18]0.01 B		
Hexachloroethane 67-72-1 [-----]	1.4 B	3.3 B
Hexachlorocyclopentadiene 77-47-4	4[0]	[1,100]4
Ideno 1,2,3-cdPyrene 193-39-5	[0,0038]0.0012 B	[0,018]0.0013 B
Isophorone 78-59-1 [-----]	[35]34 B	
[960]1,800 B		
[Naphthalene]Nitrobenzene 98-95-3 [-----]	[17]10	
[690]600		
N-Nitrosodiethylamine 55-18-5 0.0008 B		1.24 B
N-Nitrosodimethylamine 62-75-9	0.00069 B	3.0 B
N-Nitrosodi-n-Propylamine 621-64-7	0.005 B	0.51 B
N-Nitrosodiphenylamine 86-30-6	3.3 B	6.0 B
N-Nitrosopyrrolidine 930-55-2	0.016 B	34 B
Pentachlorobenzene 608-93-5	0.1	0.1
[Phenanthrene]Pyrene 129-00-0	[830]20	
[4,000]30		
1,2,4-Trichlorobenzene 120-82-1	[35]0.07 MCL [-----]	[70]0.076
Aldrin 309-00-2 [-----]	[0,00049]0.0000077 B	[-]
[0,00050]0.0000077 B		
alpha-BHC 319-84-6 [-----]	[0,0026]0.00036 B	[-]
[0,0049]0.000050 B		
beta-BHC 319-85-7 [-----]	[0,0091]0.008 B	
[0,017]0.014 B		
gamma-BHC (Lindane) 58-89-9 [-----]	[0,2]4.2 MCL	
[1,8]4.4		
[delta-BHC]Hexachlorocyclohexane (HCH) Technical 608-73-1	0.0066	0.010
Chlordane 57-74-9 [-----]	[0,00080]0.00030 B	
[0,00081]0.00032 B		
4,4-DDT 50-29-3 [-----]	[0,00022]0.000032 B	[-]
[0,00022]0.000030 B		
4,4-DDE 72-55-9 [-----]	[0,00022]0.000018 B	[-]
[0,00022]0.000018 B		
4,4-DDD 72-54-8 [-----]	[0,00031]0.00012 B	
[0,00031]0.00012 B		
Dieldrin 60-57-1 [-----]	[0,000052]0.0000012 B	[-]
[0,000054]0.0000012 B		
alpha-Endosulfan 959-98-8 [-----]	[62]20	[89]30
beta-Endosulfan 33213-65-9 [-----]	[62]20	
[89]40		
Endosulfan Sulfate 1031-07-8 [-----]	[62]20	[89]40
Endrin 72-20-8 [-----]	[0,059]0.03	
[0,060]0.03		
Endrin Aldehyde 7421-93-4 [-----]	[0,29]1	
[0,30]1		
Heptachlor 76-44-8 [-----]	[0,000079]0.0000059 B	[-]
[0,000079]0.0000059 B		
Heptachlor Epoxide 1024-57-3 [-----]	[0,000039]0.000032 B	
[0,000039]0.000032 B		
Methoxychlor 72-43-5	0.02 MCL	0.02
Polychlorinated Biphenyls (PCBs) 1336-36-3	0.000064 B,D	0.000064 B,D
[PCB's]Toxaphene 8001-35-2 [-----]	[0,00028]0.0007 B	
[0,00028]0.00071 B		

Footnotes:
 A. See Table 2.14.2
 B. Based on carcinogenicity of 10-6 risk.
 C. EPA has not calculated a human criterion for this

contaminant. However, permit authorities should address this contaminant in NPDES permit actions using the State's existing narrative criteria for toxics

D. This standard applies to total PCBs.

KEY: water pollution, water quality standards
Date of Enactment or Last Substantive Amendment: [November 30, 2015]2018
Notice of Continuation: September 26, 2017[-1317, 1329]
Authorizing, and Implemented or Interpreted by: 19-5; FWPCA 33 USC 1251, 1311-1317, 1329

Health, Disease Control and Prevention, Environmental Services **R392-100** Food Service Sanitation

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 42684
FILED: 03/14/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule requires an amendment in order to define food trucks and to exempt them from this rule. Food truck sanitation requirements will be specified in the proposed new Rule R392-102, Food Truck Sanitation. This filing for Rule R392-100 is the same amendment that was under Filing No. 42320 published in the December 1, 2017, Bulletin which was allowed to lapse so that this amendment to Rule R392-100 and the proposed Rule R392-102 can be made effective at the same time. (EDITOR'S NOTE: The proposed new Rule R392-102 is under Filing No. 42685 in this issue, April 1, 2018, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: In Section R392-100-2, added definitions for "Food Cart", "Food Truck", and "Ice Cream Truck". In Section R392-100-3, included a statement that food trucks are exempt from the requirements of this rule.

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:** Amending Rule R392-100 will likely not result in a cost or benefit to the state budget due to the state not directly permitting or regulating food trucks, nor will this change the current work load for state employees.

♦ **LOCAL GOVERNMENTS:** Amending Rule R392-100 will likely not result in a cost or benefit to local governments. The 13 local health departments will not change how food trucks are regulated due to these changes. Food trucks will just be

addressed in a separate rule, but all the same current practices will still be in place.

♦ **SMALL BUSINESSES:** Amending Rule R392-100 will likely not result in a cost or benefit to small businesses. There are 76 small businesses currently providing mobile food services in Utah that will be impacted by these changes. These 76 businesses operate in the state under the NAICS code of 722330. These businesses will still be held to the same standards under which they currently operate, just not under this rule.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This change to Rule R392-100 is not expected to have a fiscal impact on other individuals revenues or expenditures because it only affects those persons who meet the definition of a food truck. This change does not directly affect organizations, groups, or associations having to do with food trucks as defined.

COMPLIANCE COSTS FOR AFFECTED PERSONS: State agency affected is the Utah Department of Health (Department). Local governments affected are 13 local health departments. Small businesses affected are 76 businesses identified as food truck operations. There are no persons other than small businesses, business, or local government entities identified in Utah that will be impacted by these changes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment defines a food truck, food cart, and ice cream truck and then exempts them from this rule in order to be governed by the new Rule R392-102, Food Truck Sanitation, will be published for comments simultaneously. The Department originally published a proposed amendment to this rule in the December 1, 2017, Utah State Bulletin. However, based on the comments submitted to the Department, the program has chosen to make changes to the proposed amendments. These changes to the proposed amendment are substantive, therefore the Department must republish and seek comment on the new version of the proposed amendments. There are 76 small businesses currently providing mobile food services in Utah that will be impacted by these changes. These 76 businesses operate in the state under the NAICS code of 722330. These businesses will still be held to the same standards under which they currently operate, just not under this rule. Therefore, the proposed amendments will likely not result in a cost or benefit to businesses.

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, or mail at 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 05/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2018

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

Amending Rule R392-100 will likely not result in a cost or benefit to non-small businesses. There are no non-small businesses identified in Utah that will be impacted by these changes.

R392. Health, Disease Control and Prevention, Environmental Services.**R392-100. Food Service Sanitation.****R392-100-1. Authority and Purpose.**

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

(2) This rule establishes definitions; sets standards for management and personnel, food operations, and equipment and facilities; and provides for food establishment plan review, permit issuance, inspection, employee restriction, and permit suspension to safeguard public health and provide consumers food that is safe, unadulterated, and honestly presented.

R392-100-2. Definitions.

(1) "Food Cart" means a cart:

(a) that is not motorized; and

(b) that a vendor, standing outside of the frame of the cart, uses to prepare, sell, or serve food or beverages for immediate human consumption.

(2)(a) "Food Truck" means a fully encased food service establishment:

(i) on a motor vehicle or on a trailer that a motor vehicle pulls to transport; and

(ii) from which a food truck vendor, standing within the frame of the vehicle, prepares, cooks, sells, or serves food or beverages for immediate human consumption.

(b) "Food Truck" does not include a food cart or an ice cream truck.

(3) "Ice Cream Truck" means a fully encased food service establishment:

(a) on a motor vehicle or on a trailer that a motor vehicle pulls to transport;

(b) from which a vendor, from within the frame of the vehicle, serves prepackaged ice cream products;

(c) that attracts patrons by traveling through a residential area and signaling the truck's presence in the area, including by playing music; and

(d) that may stop the vehicle to serve packaged ice cream products at the signal of a patron.

R392-100-3. General Requirements

(1) Food trucks as defined in this rule and in R392-102 are exempt from this rule. Food Trucks shall abide by R392-102.

R392-100-[2]4. Incorporation by Reference.

(1) The Department incorporates by reference the following:

(a) Section 402 of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 342.

(b) The 2013 version of the U.S. Public Health Service, Food and Drug Administration, Model Food Code ("Model Code"), Chapters 1 through 8, Annex 1 Parts 8-6 through 8-9, with the stated exceptions and amendments set out below.

(2) Exceptions to Incorporation. The following subsections of the Model Code are not incorporated into this rule:

(a) Subsection 5-203.15(B);

(b) Subsections 5-402.11(B), (C) and (D);

(c) Subsections 8-302.14(D) and (E);

(d) Subsection 8-304.11(K);

(e) Annex 1, Section 8-905.40;

(f) Annex 1, Subparagraphs 8-905.90(A)(1) and (2);

(g) Annex 1, Section 8-909-20;

(h) Annex 1, Subparagraphs 8-911.10(B)(1) and (2).

(3) The following amendments and additions to the Model Code shall be made. All other incorporated provisions remain the same.

(a) In section 1-201.10(B), Terms Defined, a specified definition is added or the definitions or its specific subsections set out in the definition are amended as follows:

(i) Core Item(1) is amended to read:

"(1) "Core Item" also referred to as "non-critical" means a provision in the Model Code that is not designated as a Priority Item or a Priority Foundation Item."

(ii) Food Establishment(2) is amended to add paragraph (C) to read:

"(2)(c) Catering operation which is a business entity that operates from a permitted food establishment that contracts with a client for food service to be provided to a client, the client's guests and/or customers at a different location. A catering operation may cook or perform final preparation of food at the service location. A catering operation does not include routine services offered at the same location, or meal that are individually purchased with the exception of cash bars."

(iii) A definition of Potentially Hazardous Food is added to read:

"Potentially Hazardous Food means the same as Time/Temperature Control for Safety Food."

(iv) Priority Item(1) is amended to read:

"(1) "Priority Item" also referred to as "critical 1" means a provision in the Model Code whose application contributes directly to the elimination, prevention or reduction to an acceptable level, hazards associated with food borne illness or injury and there is no provision that more directly controls the hazard."

(v) Priority Foundation Item(1) is amended to read:

"(1) "Priority Foundation Item" also referred to as "critical 2" means a provision in the Model Code whose application supports, facilitates or enables one or more Priority Items."

(b) After section 2-102.12, a new section is added to read: "2-102.13 Food Employee Training. Food managers shall be trained and certified as required under Chapter 26-15a, UCA and R392-101. Food employees shall be trained in food safety as required under Section 26-15-5 and shall hold a valid food handler's card issued by a local health department."

(c) Paragraph 3-201.16(A) is amended to read:

"(A) Except as specified in paragraph (B) of this section, mushroom species picked in the wild shall not be offered for sale or service by a food establishment."

(d) Section 3-501.17 is amended to include additional paragraph (H):

"(H) A date marking system that meets the criteria stated in paragraph (A) of this section shall use one of two types of date marks, and that date mark must be used consistently throughout the food establishment. The date mark will either be of the date:

(1) before which food must be used as specified in paragraph (A) or this section; or

(2) be the date of Day 1."

(e) Subparagraph 3-501.19(B)(2) is amended to read:

"(2) Only one time marking scheme may be used, and it must be used consistently throughout the food establishment. The food shall be marked with either:

(a) the time food is removed from temperature control; or

(b) the time before which the food shall be cooked and served at any temperature if ready-to-eat, or discarded."

(f) After Section 4-204-123 a new section is added to read:

"4-204.124 Restraint of Pressurized Containers.

Carbon dioxide, helium or other similar pressurized containers must be restrained or secured to prevent the tanks from falling over."

(g) Section 5-101.12, shall be amended to add: "The process shall be in accordance with the American Water Works Association (AWWA) C651-2005 for disinfection and testing."

(h) Section 5-202.13 is deleted and replaced to read:

"(A) Where the horizontal distance from the water supply inlet to an adjacent single wall or obstruction is greater than three times the diameter of the inlet, or greater than four times for intersecting walls, an air gap between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment shall be at least twice the diameter of the water supply inlet and may not be less than 25 millimeters (1 inch).

(B) Where the horizontal distance from the water supply inlet to an adjacent single wall or obstruction is less than three times the diameter of the inlet, or less than four times for intersecting walls, and air gap between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment shall be at least three times the diameter of the water supply inlet and may not be less than 38 millimeters (1.5 inches)."

(i) Paragraph 5-203.15(A) is amended to read:

"(A) If not provided with an air gap as specified under Section 5-202.13, an American Society of Safety Engineers (ASSE) 1022 dual check valve with an intermediate vent shall be installed upstream from a carbonating device and downstream from any copper in the water supply."

(j) Paragraph 5-402.11(A) is amended to read:

"(A) A direct connection may not exist between the sewage system and a drain originating from equipment in which food, portable equipment, or utensils are placed."

(k) Section 8-103.10 Modifications and Waivers is amended to read:

"(A) The regulatory authority may grant a variance by modifying or waiving the requirements of this Code if in the opinion of the regulatory authority a health hazard or nuisance will not result from the variance. If a variance is granted, the regulatory authority shall retain the information specified under section 8-103.11 in its records for the food establishment.

(B) A copy of the variance or waiver issued by the regulatory authority and the documentation required in section 8-103.11 shall be provided to the Utah Department of Health, Office of Epidemiology, Environmental Sanitation Program within 5 working days of issuance.

(C) A variance or waiver intended for a food establishment which is of a chain with stores in more than one local health

jurisdiction in the State must be approved by the Utah Department of Health prior to issuance."

(1) Section 8-103.11 is amended to add paragraph (D) to read:

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

(1) the variance is limited to a specific task or work station;

(2) the applicant has demonstrated good cause why section 3-301.11 cannot be met;

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

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

(m) Paragraph 8-302.14(C) is amended to read:

"A statement specifying whether the food establishment is mobile or stationary and temporary or permanent."

(n) Paragraph 8-304.10(A) is amended to read:

"(A) Upon request, the regulatory authority shall provide a copy of the food service sanitation rule according to the policy of the local regulatory agency."

(o) Paragraph 8-401.10(A) is amended to read:

"(A) Except as specified in paragraphs (B) and (C) of this section, the regulatory authority shall inspect a food establishment at least once every 6 months and twice in a season for seasonal operations."

(p) Subparagraph 8-401.10(B)(2) is amended to read:

"(2) The food establishment is assigned a less frequent inspection frequency based on a written risk-based inspection schedule that is being uniformly applied throughout the jurisdiction; or"

(q) Section 8-501.10 is amended to read:

"(B) Requiring appropriate medical examinations, including collection of specimens for laboratory analysis, of a suspected food employee or conditional employee; and

(C) Meeting reporting requirements under Communicable Disease Rule R386-702 and Injury Reporting Rule R386-703."

(r) Annex 1, Section 8-601.10 is amended to read:

"Due process and equal protection shall be afforded as required by law in all enforcement and regulatory actions."

(s) Annex 1, Section 8-801.30 is amended to read:

"Service is effective at the time the notice is served or when service is made as specified in Paragraph 8-801-20(B)."

(t) Annex 1, Section 8-903.10 is amended to read:

"8-903.10 Impoundment of Adulterated Food Products Authorized.

(A) The impoundment of adulterated food is authorized under Section 26-15-9, UCA.

(B) The regulatory authority may impound, by use of a hold order, any food product found in places where food or drink is handled, sold, or served to the public, but is found or is suspected of being adulterated and unfit for human consumption.

(C) Upon five days notice and a reasonable opportunity for a hearing to the interested parties, to condemn and destroy the same if deemed necessary for the protection of the public health.

(D) If the regulatory authority has reasonable cause to believe that the hold order will be violated, or finds that the order is violated, the regulatory authority may remove the food that is subject to the hold order to a place of safekeeping.

(E) Within the limits set in paragraphs (B), (C), and (D) of this section, the regulatory authority may impound, by use of a hold

order, molluscan shellfish that are not tagged or labeled according to Paragraph 3-202.18(A) of this code. Other actions may be taken in accordance with Paragraph 3-202.18(B) of this code."

(u) Annex 1, Section 8-903.60 is amended to read:

"The regulatory authority may examine, sample, and test food in order to determine its compliance with this Code in section 8-402.11."

(v) Annex 1, Section 8-903.90 is amended to read:

"The regulatory authority shall issue a notice of release from a hold order and shall physically remove the hold tags, labels, or other identification from the food if the hold order is vacated."

(w) Annex 1 Section 8-904.30 heading is amended to read:

"8-904.30 Contents of the Summary Suspension Notice."

(x) Annex 1, Paragraph 8-905.10(A) is amended to read:

"(A) A person who receives a notice of hearing shall file a response within 10 calendar days from the date of service. Failure to respond may result in license suspension, license revocation, or other administrative penalties."

(y) Annex 1, Section 8-905.20 is amended to read:

"A response to a hearing notice or a request for a hearing as specified in section 8-905.10 shall be in written form and contain the following:

(A) Response to a notice of hearing must include:

(1) An admission or denial of each allegation of fact;

(2) A statement as to whether the respondent waives the right to a hearing;

(3) A statement of defense, mitigation, or explanation concerning all claims; and

(4) A statement as to whether the respondent wishes to settle some or all of the claims made by the regulatory authority.

(B) A request for hearing must include:

(1) A statement of the issues of fact specified in section 8-905.30 paragraph (B) for which a hearing is requested; and

(2) A statement of defense, mitigation, denial, or explanation concerning each allegation of fact.

(C) Witnesses - In addition to the above requirements, if witnesses are requested, the response to a notice of hearing and a request for hearing must include the name, address, telephone number, and a brief statement of the expected testimony for each witness.

(D) Legal Representation - Legal counsel is allowed, but not required. All documents filed by the respondent must include the name, address, and telephone number of the respondent's legal counsel, if any."

(z) Annex 1, Subparagraph 8-905.50(A)(1) is amended to read:

"(1) Except as provided in paragraph (B) of this section, within 5 calendar days after receiving a written request for an appeal hearing from:"

(aa) Annex 1, Subparagraph 8-905.50(A)(2) is amended to read:

"(2) Within 30 calendar days after the service of a hearing notice to consider administrative remedies for other matters as specified in section 8-905.10(C) or for matters as determined necessary by the regulatory authority."

(ab) Annex 1, Section 8-905.60 heading is amended to read:

"8-905.60 Notice of Hearing Contents."

(ac) Annex 1, Section 8-905.80 heading is amended to read:

"8-905.80 Expeditious and Impartial Hearing."

(ad) Annex 1, Section 8-905.90 heading is amended to read: "8-905.90 Confidentiality of Hearing and Proceedings."

(ae) Annex 1, Paragraph 8-905.90(A) is amended to read:

"(A) Hearings will be open to the public unless compelling circumstances, such as the need to discuss a person's medical or mental health condition, a food establishment's trade secrets, or any other matter private or protected under federal or state law."

(af) Amend section 8-906.30 paragraph (B) to read:

"(B) Unless a party appeals to the head of the regulatory authority within 10 calendar days of the hearing or a lesser number of days specified by the hearing officer:"

(ag) Annex 1, Section 8-907.60 is amended to read:

"Documentary evidence may be received in the form of a copy or excerpt if provided to the hearing officer and opposing party prior to the hearing as ordered by the hearing officer."

(ah) Annex 1, Section 8-908.20 is amended to read:

"Respondents accepting a consent agreement waive their rights to a hearing on the matter, including judicial review."

(ai) Annex 1, Subparagraphs(B)(1) and (2) are deleted and Paragraph 8-911.10(B) is amended to read:

"(B) Any person who violates any provision of this rule may be assessed a civil penalty as provided in section 26-23-6, UCA."

(aj) Annex 1, Section 8-913.10 headline is amended to read:

"8-913.10 Petitions, Penalties, Contempt, and Continuing Violations."

(ak) Annex 1, Paragraph 8-913.10(B) is amended to read:

"In addition to any criminal fines and sentences imposed as specified in Paragraph 8-911.10, or to being enjoined as specified in Paragraph 8-912.10, a person who violates a provision of this code, any rule or regulation adopted in accordance with law related to food establishments within the scope of this code, or to any term, condition, or limitation of a permit issued as specified in Paragraphs 8-303.10 and 8-303.20 is subject to a civil penalty not exceeding \$5,000."

(al) Annex 1, Section 8-913.10 is amended to add the paragraph (D) to read:

"(D) The adjudicative body, upon proper findings, shall assess violators a fee for each day the violation remains in contempt of its order."

R392-100-[3]5. Construction Standards.

(1) All parts of the food establishment shall be designed, constructed, maintained, and operated to meet the requirements of Title 15A, State Construction and Fire Codes Act.

KEY: public health, food services, sanitation

Date of Enactment or Last Substantive Amendment: ~~May 23, 2016~~ **2018**

Notice of Continuation: **January 20, 2012**

Authorizing, and Implemented or Interpreted Law: **26-1-30(2); 26-15-2**

Health, Disease Control and Prevention, Environmental Services **R392-102** Food Truck Sanitation

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 42685

FILED: 03/14/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Food truck operators and local health departments have indicated a need for an improvement in the uniform operation and regulation of food trucks including the permitting process, plan reviews, inspections, construction, sanitary operations, and equipment requirements.

SUMMARY OF THE RULE OR CHANGE: This rule requires a food truck operator to adhere to uniform statewide standards for constructing, operating, and maintaining a food truck in a manner that safeguards public health and ensures that food is safe, unadulterated, and honestly presented when offered to the consumer. This rule sets uniform standards for the operation and regulation of food trucks.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5 and Section 26-15-2 and Section 26-7-1 and Subsection 26-1-30(23) and Subsection 26-1-30(9)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** Enacting Rule R392-102 will likely not result in a fiscal impact to the state budget due to the state not directly permitting or regulating food trucks, nor will this change the current work load for state employees.

◆ **LOCAL GOVERNMENTS:** Enacting Rule R392-102 will likely result in a direct fiscal cost of \$1,150 per year individually to local governments, particularly to the 13 local health departments, due primarily to a loss of revenue previously generated from fees for permits, plan reviews, and inspections. No other costs to local governments are anticipated. The aggregate annualized fiscal cost to local governments is anticipated to be approximately \$15,000.

◆ **SMALL BUSINESSES:** Enacting Rule R392-102 will likely result in a direct fiscal benefit to small businesses due to proposed changes in permit fees, as well as uniform standards for the operation and regulation of food trucks, inspections, plan reviews, construction, sanitary operations, and equipment requirements, as well as simplification of the process of obtaining additional permits. There are 76 small businesses currently providing mobile food services in Utah that will be impacted by these changes. These 76 businesses operate in the state under the NAICS code of 722330. The approximate expected benefit to each affected small business in the first year after implementation of this proposed rule is \$1,325 with an ongoing savings of \$1,325 for each year thereafter. The aggregate annualized fiscal benefit to small business is anticipated to be approximately \$100,700.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This proposed rule is not expected to have fiscal impacts on persons other than small businesses because all of the

affected persons are small businesses. For the purposes of fiscal analysis of this proposed rule, the Department of Health (Department) considered individual food truck owners as self-employed small business owners. This proposed rule does not contain any fiscal or regulatory requirements for food truck associations, leagues, or other private food truck organizations.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this proposed rule seeks to simplify the process of obtaining additional food truck permits, and because it will likely result in a fiscal benefit to food truck operators, some non-mobile food service establishments may experience an indirect fiscal impact. However, the fiscal cost to non-mobile food service businesses is inestimable because the relevant data is unavailable and the cost of acquiring the relevant data is prohibitively expensive.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule is proposed in accordance with S.B. 250 passed in the 2017 General Session and in consultation with local health departments. Previously, food trucks were generally governed by Rule R392-100. S.B. 250 required local governments to establish a truck/card licensing process; reciprocity in fees, permits and inspection; address food truck/cart events that require permitting; and the creation of a Utah Fire Prevention Board with authority to inspect food trucks/carts. Local health departments, in cooperation with the Department, determined that the best way to comply with the statutory requirements was to support an administrative rule adopted by the Department that could be uniformly followed by all affected local governments and municipalities. Small business food truck operators will benefit fiscally from this rule because it simplifies the permitting process and sets uniform standards for the operation and regulation of food trucks, inspections, plan reviews, construction, sanitary operations, and equipment requirements. The Department originally published the proposed rule in the December 1, 2017, Utah State Bulletin. However, based on the comments submitted to the Department, the program has chosen to make changes to the proposed rule. The changes to this proposed rule are substantive, therefore the Department must republish and seek comment on this new version of the proposed rule. There are 76 small businesses currently providing mobile food services in Utah that will be impacted by these changes. Small business food truck operators will benefit fiscally from this rule because it simplifies the permitting process and there is no relevant available data applicable to other types of businesses which do not operate food trucks. The approximate expected benefit to each affected small business in the first year after implementation of the proposed rule is \$1,325 with an ongoing savings of \$1,325 for each year thereafter. The aggregate annualized fiscal benefit to small businesses is anticipated to be approximately \$100,700. (EDITOR'S NOTE: The proposed Rule R392-102 that was under Filing No. 42321 published in the December 1, 2017, Bulletin has been allowed to lapse.)

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, or mail at 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 05/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Net Fiscal Benefits:	\$85,700	\$85,700	\$85,700
----------------------	----------	----------	----------

*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 non-small businesses identified in Utah that will be impacted by this proposed rule.

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

R392-102. Food Truck Sanitation.

R392-102-1. Authority and Purpose.

(1) This rule is authorized under Sections 26-1-5, 26-1-30(9) and (23), 26-7-1, and 26-15-2.

(2) This rule requires a food truck operator to adhere to uniform statewide standards for constructing, operating, and maintaining a food truck in a manner that safeguards public health - including risk factors contributing to injury, sickness, death, and disability - and ensures that food is safe, unadulterated, and honestly presented when offered to the consumer.

(3) This rule establishes uniform standards for the regulation of food trucks, including the permitting process, plan reviews, inspections, construction, sanitary operations, and equipment requirements, which provide for the prevention and control of health hazards associated with food trucks that are likely to affect public health.

R392-102-2. Definitions.

(1) "Catering operation", as defined in this rule, means a food truck that contracts with a client for food service to be provided to the client or the client's guests or customers at a private event on private property. A catering operation does not include services routinely provided at the same location, or meals that are purchased individually by guests or customers.

(2) "Commissary" means a food service establishment permitted by a local health department according to Rule R392-100 to which a food truck operator may return regularly to perform functions necessary for sanitary operations including:

- (a) food preparation and boarding onto the food truck;
- (b) hot and cold holding of time/temperature controlled for safety (TCS) foods;
- (c) storing and stocking of food, utensils, and equipment;
- (d) disposal of solid and liquid wastes;
- (e) equipment and utensil cleaning and sanitizing;
- (f) vehicle cleaning;
- (g) refilling of water tank(s) with potable water; and
- (h) utilizing electrical power sources.

(3) "FDA Food Code" or "Food Code" means the most recent FDA Model Food Code as adopted by reference with amendments in Rule R392-100. When FDA Food Code is referenced in this rule, the term 'establishment' or 'food establishment' used in the FDA Food Code shall be synonymous with 'food truck' as defined in this rule.

(4) "Food cart" means:

- (a) a cart that is not motorized; and

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$15,000	\$15,000	\$15,000
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$15,000	\$15,000	\$15,000
Fiscal Benefits	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$100,700	\$100,700	\$100,700
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$100,700	\$100,700	\$100,700

(b) that a vendor, standing outside of the frame of the cart, uses to prepare, sell, or serve food or beverages for immediate human consumption; or

(c) a motor vehicle that a vendor, standing outside of the frame of the vehicle, uses to sell or serve prepackaged food or beverages for human consumption.

(5) "Food processing plant" means a commercial operation inspected by a regulatory authority, such as the United States Department of Agriculture (USDA), U.S. Food and Drug Administration (FDA), or the Utah Department of Agriculture and Food (UDAF), that manufactures, packages, labels, or stores food for human consumption, and provides food for sale or distribution to other business entities such as food processing plants or food establishments. A food processing plant does not include a food establishment.

(6) "Food service establishment" means an operation that:

(a) stores, prepares, packages, serves, vends food directly to the consumer, or otherwise provides food for human consumption such as a restaurant, satellite or catered feeding location; and

(b) relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

(7)(a) "Food truck" means a fully encased food service establishment:

(i) on a motor vehicle or on a trailer that a motor vehicle pulls to transport; and

(ii) from which a food truck vendor, standing within the frame of the vehicle, prepares, cooks, sells, or serves food or beverages for immediate human consumption.

(b) "Food Truck" does not include a food cart, a shaved ice establishment, or an ice cream truck.

(8) "Food truck operator" or "operator" means a person who owns, manages, or controls, or who has the duty to manage or control, the operation of a food truck.

(9) "Food truck employee" means a person working with unpackaged food, food equipment or utensils, or food contact surfaces in a food truck.

(10) "Ice cream truck" means a fully encased food service establishment:

(a) on a motor vehicle or on a trailer that a motor vehicle pulls to transport;

(b) from which a vendor, from within the frame of the vehicle, serves prepackaged ice cream products;

(c) that attracts patrons by traveling through a residential area and signaling the truck's presence in the area, including by playing music; and

(d) that may stop the vehicle to serve packaged ice cream products at the signal of a patron.

(11) "Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on the number of potential injuries and the nature, severity, and duration of the anticipated injury.

(12) "Local health department" has the same meaning as provided in Section 26A-1-102(5).

(13) "Local health officer" means the director of the jurisdictional local health department or a designated representative.

(14) "Person in charge" means the individual present at a food truck who is responsible for its operation at the time of the inspection.

(15) "Potentially hazardous food (PHF)" or "Time/temperature control for safety food (TCS)" has the same meaning as described in the FDA Food Code.

(16) "Primary permit" means a health permit issued by a local health department to operate a food truck within the jurisdiction of the local health department wherein the majority of the food truck's operations take place.

(17) "Sanitized" means the application of cumulative heat or chemicals on cleaned food, ice, or potable water contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to a 99.999% reduction, of representative disease microorganisms of public health importance.

(18) "Shaved ice establishment" means a facility that would normally be classified as a food truck as defined in this rule that serves only shaved ice with flavored syrups and other toppings approved by the local health officer, and is operating from a fixed, single location without moving offsite throughout the entire operating season.

(19) "Secondary permit" means a health permit issued by a local health department to operate a food truck within the jurisdiction of the local health department to a food truck operator who has a current primary permit from another local health department within the state.

R392-102-3. Commissary Requirements.

(1) No food or equipment may be stored at a home residence, storage unit, garage, or other unapproved structure.

(2) A food truck operator shall use a commissary unless exempted by the local health officer issuing a primary permit as described in Section R392-102-5.

(3) If a food truck commissary is required:

(a) The food truck operator shall use a commissary located within a local health jurisdiction approved by the local health department issuing the primary permit.

(b) The food truck operator must obtain a written, signed commissary agreement from the commissary operator, which shall be renewed annually, and any changes to the agreement shall be submitted to the local health department issuing the primary permit prior to the changes being implemented;

(c) The operator shall return the food truck to the commissary at a regular frequency, as determined and approved by the local health department issuing the primary permit;

(d) The operator must park the food truck at a location approved by the local health department issuing the primary permit at the end of daily operations;

(e) The operator shall document presence at the commissary on a log provided by the commissary operator according to the frequency determined and approved by the local health officer;

(i) The operator shall record the date, time in, time out, and initials.

(ii) The operator shall retain commissary records for one year, and shall make the records available for inspection by a local health officer upon request.

(f) The operator must have access to, and the ability to utilize:

(i) a 3-compartment sink and other approved warewashing equipment;

(ii) adequate hot and cold holding equipment as necessary for proper food storage;

(iii) a service sink with hot and cold water under pressure;

(iv) at least one handsink with pressurized hot and cold water that is conveniently located and used exclusively for hand washing;

(v) a conveniently located toilet room; and

(vi) approved methods and equipment to clean and sanitize food and non-food contact

Surfaces within the food truck.

(g) The food truck operator shall use a commissary which provides adequate space for the sanitary storage of food, equipment, utensils, linens, and single-service, or single-use articles; and

(h) The food truck operator shall use a commissary which has an electrical outlet available for food truck use, if needed, when parked at the commissary;

(i) An electrical installation intended for food truck use at a commissary shall comply with applicable codes and ordinances including the state electrical code.

(ii) Not more than one food truck shall be served by one electrical outlet at a time.

(4) If a commissary's operating permit is revoked or suspended, all associated primary and secondary food truck permits shall be invalidated until the operating permit is reinstated or the food truck operator obtains a new commissary agreement at an approved location, at which point the primary and secondary food truck permits shall be reinstated with the original expiration date.

R392-102-4. Food Truck Permit Requirements.

(1) A person shall not operate a food truck without a valid permit to operate issued by a local health department.

(2) A food truck operator shall only operate a food truck after:

(a) obtaining a temporary food establishment permit from a local health department when only operating at a fixed location for no more than 14 consecutive days; or

(b) obtaining an annual primary permit from the local health department wherein the majority of the food truck's operations will take place.

(3) In order to obtain a primary permit, a food truck operator shall:

(a) provide the following information to the local health department issuing the primary permit:

(i) name, title, contact information, and signature;

(ii) evidence of food safety manager certification as required in Subsection R392-102-4(19)

(iii) ownership status of the food truck (e.g. individual, partnership, corporation, etc.)

(iv) name of the food truck business or "dba";

(v) food truck license plate number;

(vi) a complete list of menu items if there has been a menu change or if it was not previously submitted with plans as required in Section R392-102-5;

(vii) a means whereby the local health department can determine the food truck's vending location or route as well as days and hours of food truck operation;

(viii) a copy of the written commissary agreement as described in Subsection R392-102-3(3)(b), unless exempted by the local health officer; and

(ix) documentation of an approved servicing area if the commissary is not properly equipped to provide potable water or electricity to, or to receive wastewater from a food truck; and shall

(b) pay a primary permit fee;

(c) submit plans for review as described in Section R392-102-5;

(d) complete necessary changes resulting from the review of plans, as required; and

(e) complete a pre-operational inspection, as described in Subsection R392-102-16(8).

(4) An issued primary permit shall include the following information:

(a) name of the issuing local health department;

(b) name of the permitted food truck, as provided on the application;

(c) license plate of the associated food truck;

(d) expiration date;

(e) permit tier designation as described in Subsection R392-102-4(5)(b); and

(f) the written words, "Primary Permit".

(5)(a) Primary and secondary permit fees shall be uniform statewide and may only be in an amount that reimburses the local health department for the cost of administering the food truck sanitation program.

(b) The local health department shall use a two-tier risk based assessment to determine an appropriate primary permit fee as follows:

(i) A primary permit shall be designated as "tier-one" when the food truck operator's menu includes fewer than three potentially hazardous foods, and when raw animal products are not included as a menu ingredient.

(ii) A primary permit shall be designated as "tier-two" when the food truck operator's menu includes three or more potentially hazardous foods, or when raw animal products are included as a menu ingredient.

(iii) The amount of a tier-one primary permit fee shall be reduced, as compared to a tier-two primary permit fee, to account for the lower regulatory burden.

(6) If an application for a primary permit is denied, the food truck operator may request information from a local health officer that includes:

(a) the specific reasons and rule citations for permit denial; and

(b) any actions the applicant must take to qualify for a primary permit.

(7) A food truck operator shall obtain a secondary permit before operating a food truck in any local health department jurisdiction other than the jurisdiction of the local health department that issued the primary permit as described in Subsection R392-102-4(2)(b).

(8) In order to obtain a secondary permit, a food truck operator shall:

(a) provide the following information to the local health department issuing the secondary permit:

(i) a copy of the primary permit;

(ii) a means whereby the local health department can determine the food truck's vending location or route as well as days and hours of food truck operation within the jurisdiction of the local health department issuing the secondary permit; and shall

_____ (b) pay a secondary permit fee;
_____ (9) An issued secondary permit shall contain the following information:

- _____ (a) name of the issuing local health department;
_____ (b) name of the permitted food truck, as provided on the application;
_____ (c) license plate of the associated food truck;
_____ (d) expiration date which shall be the same as the expiration date printed on the primary permit provided by the food truck operator as required in Subsection R392-102-4(8)(a)(i); and
_____ (e) the written words, "Secondary Permit".

_____ (10)(a) A secondary permit fee shall only be in an amount that reimburses the local health department for the cost of permitting and inspecting the food truck.

_____ (b) A secondary permit fee shall be no more than one-half of a tier-one primary permit fee, and shall be the same regardless of expiration date of the primary permit.

_____ (11) A local health department issuing a secondary permit may not:

- _____ (a) impose any additional permit conditions or qualifications on a food truck operator; or
_____ (b) require a plan review or a pre-operational inspection before issuing or renewing the permit.

_____ (12) When acting as a catering operation, a food truck operator may operate in a health department jurisdiction other than the jurisdiction of the health department that issued the primary permit without obtaining either a secondary food truck permit or a temporary food service permit, and without additional inspections from the local health department.

_____ (13)(a) A food truck operator shall comply with permitting requirements as stated in Subsection R392-102-4(3) when renewing a primary permit, and Subsection R392-102-4(8) when renewing a secondary permit.

_____ (b) If a food truck operator elects to renew a primary permit and any secondary permits, it shall be the duty of the operator to renew within thirty calendar days before the expiration date of the current permit.

_____ (14)(a) If a local health officer suspends a primary food truck permit, the local health officer shall notify other applicable local health departments regarding the enforcement actions taken. Any secondary permits issued by other local health departments shall be rendered invalid until the suspended primary permit is reinstated.

_____ (b) If a local health officer suspends a secondary food truck permit, no other permits, whether primary or secondary, from other local health jurisdictions shall be affected.

_____ (15) To reinstate a suspended permit, a food truck operator shall:

_____ (a) complete a pre-operational inspection with the local health department that suspended the permit, as described in Subsection R392-102-16(8), which shows that the food truck is back in compliance with this rule; and

_____ (b) pay an inspection fee.

_____ (16) A food truck permit applied for or issued pursuant to this rule may be denied, suspended, or revoked by the local health officer for any of the following reasons:

_____ (a) Failure of the application or plans to show that the food truck will be operated or maintained in accordance with the requirements of this rule;

_____ (b) Submission of incorrect or false information in the application or plans;

_____ (c) Failure to operate or maintain the food truck in accordance with the application, plans, and specifications approved by the local health department;

_____ (d) Failure of the operator to allow the local health officer to conduct inspections as necessary to determine compliance with this rule;

_____ (e) Failure of the operator to make the food truck available for inspection or to obtain an inspection according the frequency requirements detailed in Subsection R392-102(16)(9);

_____ (f) Operation of the food truck in a way that causes or creates an imminent health hazard;

_____ (g) Violation of any condition upon which the permit was issued; or

_____ (h) Failure to pay a permit fee or inspection fee.

_____ (17) A food truck operator shall post all issued health permits in a conspicuous location.

_____ (18) A food truck permit may not be transferred from one food truck operator to another, from one food truck to another, or from one type of operation to another if the change affects the tier designation as specified in Subsection R392-102-4(5)(b) and the local health department that issued the primary permit has not approved the change.

_____ (19) At least one food truck employee shall:

_____ (a) be certified in food safety management according to the requirements of Rule R392-101, unless exempted by a local health officer according to the criteria listed in Subsection R392-101-8(2) and Section 26-15a-105; and

_____ (b) maintain proof of certification available for review by the local health officer upon request.

_____ (20)(a) All food truck employees shall be trained in food safety as required by Rule R392-103, and shall hold a valid food handler's permit issued by a local health department

_____ (b) The operator shall maintain proof of food handler permit certification of employees and shall provide it to the local health officer upon request.

R392-102-5. Plan Review Requirements.

_____ (1) A food truck operator shall submit to the local health department properly prepared plans and specifications for review and approval before:

_____ (a) the construction of a food truck;

_____ (b) the conversion of an existing vehicle or trailer to a food truck; or

_____ (c) the remodeling of a food truck or a change of food truck type or change in foods served or food service operations which would necessitate a change in risk assessment as described in Subsection R392-102-4(5)(b).

_____ (2) When applying for a primary permit for the first time, the operator of a newly constructed food truck, or food truck in pre-construction shall submit plans to the local health department, which include at least the following:

_____ (a) a complete list of intended menu items;

_____ (b) anticipated volume of food to be stored, prepared, and sold or served;

_____ (c) equipment cut sheets;

_____ (d) plumbing schedule;

(e) mechanical schedule;
(f) dimensional floor plan;
(g) finish schedule for floors, walls, and ceilings;
(h) an equipment layout; and
(i) any additional information required by the local health officer.

(3) When applying for a primary permit for the first time, the operator of a retrofitted or existing food truck shall submit plans to the local health department, which may include the following:

(a) dimensional floor plan;
(b) an equipment layout, including the location of hand wash and food preparation sinks; and
(c) any additional information required by the local health officer.

(4)(a) Except when the food truck has undergone renovation or a change in ownership since the time of permit issuance, an additional plan review is not required before renewing a primary permit.

(b) When the food truck has undergone renovation or a change in ownership since the time of permit issuance, the operator shall comply with Subsection R392-102-5(3)

R392-102-6. Construction and Maintenance Requirements.

(1) Materials for indoor floor, wall, and ceiling surfaces of a food truck shall be:

(a) smooth, durable, and easily cleanable for areas where food is stored, prepared, held under temperature control, or served; and
(b) nonabsorbent for areas subject to moisture such as food preparation areas, walk-in refrigerators, warewashing areas, toilet rooms, servicing areas, and areas subject to flushing or spray cleaning methods.

(2) Nonfood-contact surfaces shall be free of unnecessary ledges, projections, and crevices, and be designed and constructed to allow easy cleaning and to facilitate maintenance.

(3) Exterior walls and roofs of a food truck shall be constructed of weather-resistant materials, and shall effectively protect the food truck interior from the entry of dust, debris, stormwater, insects, rodents, and other animals.

(4)(a) A food truck operator shall permanently display the business name on the exterior of the food truck in printed letters of at least four inches in height.

(b) The business name printed on the exterior of the food truck shall be the same as the business name or "dba" provided on the application required by Subsection R392-102-4(3)(a)(iv)

(5) Mats and duckboards shall be designed to be removable and easily cleanable.

(6) Physical facilities shall be maintained in good repair.

(7)(a) Physical facilities shall be cleaned as often as necessary to keep them clean.

(b) Except for cleaning that is necessary due to a spill or other accident, cleaning shall be done during periods when the least amount of food is exposed such as after closing.

(8) Equipment shall be maintained in a state of repair and condition that meets the requirements specified under Section R392-102-8.

(9) Except as specified in Subsection R392-102-6(10), a food truck operator shall protect outer openings of a food truck against the entry of insects and rodents by:

(a) tight-fitting windows; and

(b) closed, solid, tight-fitting doors.

(10) If the windows or doors of a food truck are kept open for ventilation or food service, the openings shall be protected against the entry of insects and rodents by:

(a) 16 mesh to 1 inch screens; or

(b) other effective means approved by the local health officer.

(11)(a) Light intensity within the interior of the food truck shall be:

(i) at least 540 lux (50 foot candles) at any surface where a food truck employee works with food or utensils;

(ii) at least 215 lux (20 foot candles):

(A) in a toilet room; and

(B) inside equipment such as reach-in and under-counter refrigerators; and

(iii) at least 108 lux (10 foot candles) at a distance of 30 inches (75 cm) above the floor in walk-in refrigeration units and dry food storage areas.

(b) Light bulbs located in the food truck shall be shielded, coated, or otherwise shatter-resistant.

(12) Living quarters and shower or bathing facilities are prohibited on a food truck.

(13)(a) A food truck shall have at least one handwashing sink provided with hot and cold running water.

(b) A local health department issuing a primary permit may require the installation of one or more handwashing sinks as necessary for their convenient use by employees in the following areas:

(i) food preparation, food dispensing, and warewashing areas; and

(ii) in a toilet room.

(14)(a) A food truck shall have a 3-compartment sink installed with hot and cold water under pressure for manually washing, rinsing, and sanitizing equipment and utensils unless exempted by the local health department issuing a primary permit.

(b) Unless exempted, a 3-compartment sink shall meet the following requirements:

(i) the food truck must have sufficient onboard water storage capacity to fill all sink compartments without depleting water storage needed for food truck operations such as handwashing; and

(ii) sink compartments shall be large enough to accommodate immersion of in-use utensils.

R392-102-7. Water and Wastewater Requirements.

(1) A food truck operator shall ensure that potable water is available to a food truck during all hours of operation through:

(a) an onboard potable water storage tank which shall hold a minimum of 30 gallons as measured down from the inlet; or

(b) piping, tubing, or hoses connected to an adjacent potable water source under pressure as approved by the local health officer.

(i) The water supply type described in Subsection R392-102-7(1)(b) is allowed only when the food truck is concurrently connected to a public sanitary sewer system in a manner approved by the local health officer.

(2)(a) The water source and system shall be of sufficient capacity to meet the peak water demands of the food truck.

(b) Hot water generation and distribution systems shall be sufficient to meet the peak hot water demands throughout the food truck.

(3) Materials that are used in the construction of a mobile water tank, food truck onboard water tank, and appurtenances shall be:

- (a) safe;
 - (b) durable, corrosion resistant, and nonabsorbent;
 - (c) finished to have a smooth, easily cleanable surface; and
 - (d) designed and intended only for use with potable water.
- (4) An onboard water tank shall be:
- (a) enclosed from the filling inlet to the discharge outlet;
 - (b) sloped to an outlet that allows complete drainage of the tank; and
 - (c) used for conveying potable water and for no other purpose.

(5) If an onboard water tank is designed with an access port for inspection and cleaning, the opening shall be in the top of the tank and be:

- (a) flanged upward at least 13 mm (one-half inch); and
- (b) equipped with a port cover assembly that is:
 - (i) provided with a gasket and a device for securing the cover in place, and
 - (ii) flanged to overlap the opening and sloped to drain.

(6) A fitting with "V" type threads on an onboard water tank inlet or outlet shall be allowed only when a hose is permanently attached.

(7) If provided, an onboard water tank vent shall terminate in a downward direction and shall be covered with:

- (a) 16 mesh to 25.4 mm (16 mesh to 1 inch) screen or equivalent when the vent is in a protected area; or
- (b) a protective filter when the vent is in an area that is not protected from windblown dirt and debris.

(8)(a) A water tank and its inlet and outlet shall be sloped to drain.

(b) A water tank inlet shall be positioned so that it is protected from contaminants such as waste discharge, road dust, oil, or grease.

(9)(a) A hose, pipe, or tube used for conveying potable water from a water tank shall be:

- (i) safe;
- (ii) durable, corrosion resistant, and nonabsorbent;
- (iii) resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition;
- (iv) finished with a smooth interior surface;
- (v) clearly and durably identified as to its use if not permanently attached; and
- (vi) prohibited from use in any other service such as conveying wastewater or toxic chemicals.

(b) An operator shall only use a hose designed and intended to convey potable water when filling an onboard water tank as described in Subsection R392-102-7(1)

(10) A food truck operator shall install and maintain a filter that does not pass oil or oil vapors in the air supply line between the compressor and potable water supply system when compressed air is used to pressurize the water tank system.

(11)(a) A cap and keeper chain, closed cabinet, closed storage tube, or other protective cover or device approved by the local health officer shall be provided for a water inlet, outlet, and hose.

(b) The protective cover or device shall be used whenever the water tank or hose inlet and outlet fitting is not in use.

(12) A food truck's onboard water tank inlet shall be:

(a) 19.1 mm (three-fourths inch) in inner diameter or less; and

(b) provided with a hose connection of a size or type that will prevent its use for any other service.

(13) The operator shall flush and sanitize any water tank, pump, and hoses before placing into service after initial purchase, construction, repair, modification, and periods of nonuse of 30 days or more, and as often as necessary to maintain the equipment in clean and sanitary condition.

(14) A food truck operator shall operate a water tank, pump, and hoses so that backflow and other contamination of the water supply are prevented.

(15)(a) A wastewater holding tank in a food truck shall be:

- (i) sized 15 percent larger in capacity than the water supply tank; and
- (ii) sloped to a drain that is 25 mm (1 inch) in inner diameter or greater, equipped with a shut-off valve.

(b) Subsection R392-102-7(15)(a)(i) does not apply to a potable water tank that is used only for beverage service on a food truck and is not connected to a wastewater holding tank.

(16) Wastewater shall be conveyed to the point of disposal through an approved sanitary sewage system or other system, including use of wastewater transport vehicles, waste retention tanks, pumps, pipes, hoses, and connections that are constructed, maintained, and operated according to:

- (a) Plumbing Code;
- (b) The Utah Department of Environmental Quality, Division of Water Quality under Title R317;
- (c) Local health department and municipal regulations; and
- (d) the local sewer district having jurisdiction.

(17)(a) Wastewater and other liquid wastes shall be removed from a food truck at an approved commissary or a waste servicing area approved by the local health officer or by a wastewater transport vehicle in such a way that a public health hazard or nuisance is not created.

(b) A food truck operator shall thoroughly flush and drain a tank for liquid waste retention in a sanitary manner during the servicing operation.

(18) Wastewater or liquid waste conveyance lines that are not shielded to intercept drips shall be installed or located under food and food contact surfaces.

(19) The operator shall store potable water pipes, hoses, and tubes separately from wastewater pipes, hoses, and tubes in a manner that prevents cross contamination.

R392-102-8. Equipment Requirements.

(1) Materials that are used in the construction of utensils and equipment food contact surfaces of equipment may not allow the migration of deleterious substances or impart colors, odors, or tastes to food and under normal use conditions shall be:

- (a) safe;
- (b) durable, corrosion-resistant, and nonabsorbent;
- (c) sufficient in weight and thickness to withstand repeated washing;
- (d) finished to have a smooth, easily cleanable surface; and
- (e) resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.

(2)(a) Nonfood-contact surfaces of equipment that are exposed to splash, spillage, or other food soiling or that require

frequent cleaning shall be constructed of a corrosion-resistant, nonabsorbent, and smooth material.

(b) Nonfood-contact surfaces shall be free of unnecessary ledges, projections, and crevices, and designed and constructed to allow easy cleaning and to facilitate maintenance.

(3) Copper and copper alloys such as brass may not be used in contact with a food that has a pH below 6 such as vinegar, fruit juice, or wine or for a fitting or tubing installed between a backflow prevention device and a carbonator.

(4) Hot oil filtering equipment shall be readily accessible for filter replacement and cleaning of the filter and meet the requirements of Subsection R392-102-8(1).

(5) Galvanized metal may not be used for utensils and food contact surfaces of equipment that are used in contact with acidic food.

(6) Sponges may not be used in contact with cleaned and sanitized or in-use food-contact surfaces.

(7)(a) Except as specified in (b), (c), and (d) of this section, wood and wood wicker may not be used as a food-contact surface.

(b) Hard maple or an equivalently hard, close-grained wood may be used for:

(i) cutting boards; cutting blocks; bakers' tables; and utensils such as rolling pins, doughnut dowels, salad bowls, and chopsticks; and

(ii) wooden paddles used in confectionery operations for pressure scraping kettles when manually preparing confections at a temperature of 110 degrees C (230 degrees F) or above.

(c) whole, uncut, raw fruits and vegetables, and nuts in the shell may be kept in the wood shipping containers in which they were received, until the fruits, vegetables, or nuts are used.

(d) If the nature of the food requires removal of rinds, peels, husks, or shells before consumption, the whole, uncut, raw food may be kept in:

(i) untreated wood containers; or

(ii) treated wood containers if the containers are treated with a preservative that meets the requirements specified in 21 CFR 178.3800 Preservatives for wood.

(8)(a) Multiuse food contact surfaces shall be:

(i) smooth;

(ii) free of breaks, open seams, cracks, chips, inclusions, pits, and similar imperfections;

(iii) free of sharp internal angles, corners, and crevices;

(iv) finished to have smooth welds and joints; and

(v) accessible for cleaning and inspection.

(9)(a) Equipment that is fixed in place because it is not easily movable shall be installed so that it is:

(i) spaced to allow access for cleaning along the sides, behind, and above the equipment;

(ii) spaced from adjoining equipment, walls, and ceilings a distance of not more than one millimeter or one thirty-second inch; or

(iii) sealed to adjoining equipment or walls, if the equipment is exposed to spillage or seepage.

(b) counter-mounted equipment that is not easily movable shall be installed to allow cleaning of the equipment and areas underneath and around the equipment by being:

(i) sealed; or

(ii) elevated on legs to provide not less than four inches of clearance.

(10) Floor-mounted equipment that is not easily movable shall be sealed to the floor or elevated on legs that provide at least a six

inch (15 centimeter) clearance between the floor and the equipment.

(11) Exhaust ventilation hood systems in food preparation and warewashing areas including components such as hoods, fans, guards, and ducting shall be designed to prevent grease or condensation from draining or dripping onto food, equipment, utensils, linens, and single-service and single-use articles.

(12) Filters or other grease extracting equipment shall be designed to be readily removable for cleaning and replacement if not designed to be cleaned in place.

(13) Drainboards, utensil racks, or tables large enough to accommodate all soiled and cleaned items that may accumulate during hours of operation shall be provided for necessary utensil holding before cleaning and after sanitizing. Sufficient space must be provided for storage of soiled and cleaned items that may accumulate during hours of operation, such as on drainboards, utensil racks, or tables.

(a) Soiled and clean items must be stored separately and in a manner that protects clean items from contamination.

(14) A plumbing fixture such as a handwashing sink or toilet shall be easily cleanable.

(15) Equipment for cooling and heating food, and holding cold and hot food, shall be sufficient in number and capacity, and shall be capable of consistently maintaining food temperatures as specified under Section R392-102-12.

(a) The operator shall maintain an operational temperature-measuring device in each mechanically refrigerated unit.

(b) In a mechanically refrigerated or hot food storage unit, the sensor or thermometer shall be located to measure the ambient temperature in the warmest part of a mechanically refrigerated unit and in the coolest part of a hot food storage unit.

(16) A food truck operator with a menu offering any potential hazardous foods shall equip the food truck with at least one readily accessible and properly calibrated food temperature measuring device.

(a) Food temperature measuring devices may not have sensors or stems constructed of glass unless the thermometer with a glass sensor or stem is encased in a shatterproof coating such a candy thermometer.

(b) Temperature measuring devices shall be easily readable.

(17) When manual warewashing of utensils or food-contact equipment is done on a food truck, the food truck operator shall provide a test kit or other device that accurately measures the concentration in mg/L of sanitizing solutions.

(a) If hot water is used for sanitization in manual warewashing operations in a food truck, the sanitizing compartment of the sink shall be:

(i) Designed with an integral heating device that is capable of maintaining water at a temperature not less than 171 degrees F; and

(ii) Provided with a rack or basket to allow complete immersion of equipment and utensils into the hot water.

(18)(a) Receptacles and waste handling units for refuse and recyclables and for use with materials containing food residue shall be durable, cleanable, insect- and rodent-resistant, leakproof, and nonabsorbent.

(b) Receptacles and waste handling units for refuse and recyclables used with materials containing food residue and used outside the food truck shall be:

(i) designed and constructed to have tight-fitting lids, doors, or covers; and

(ii) maintained in good repair.

_____ (c) Refuse and recyclables shall be stored in receptacles or waste handling units so that they are inaccessible to insects and rodents.

_____ (d) Receptacles and waste handling units for refuse and recyclables shall be kept covered inside the food truck:

_____ (i) if the receptacles and units contain food residue and are not in continuous use, or

_____ (ii) after they are filled.

_____ (19) Refuse and recyclables shall be removed from the food truck premises at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents.

_____ (20) A food truck operator shall furnish or equip a food truck with adequate electrical power to ensure uninterrupted service.

R392-102-9. Requirements for Cleaning Equipment and Utensils.

_____ (1) Equipment food-contact surfaces and utensils shall be clean to sight and touch.

_____ (2) The food-contact surfaces of cooking equipment and pans shall be kept free of encrusted grease deposits and other soil accumulations.

_____ (3) Nonfood-contact surfaces of equipment shall be kept free of an accumulation of dust, dirt, food residue, and other debris.

_____ (4) Equipment food-contact surfaces and utensils shall be cleaned and sanitized:

_____ (a) before each use with a different type of raw animal food such as beef, fish, lamb, pork, or poultry;

_____ (b) Each time there is a change from working with raw foods to working with ready-to-eat foods;

_____ (c) Between uses with raw fruits and vegetables and with TCS food;

_____ (d) Before using or storing a food temperature measuring device; and

_____ (e) At any time during the operation when contamination may have occurred.

_____ (f) Equipment food contact surfaces and utensils shall be cleaned throughout the day at least every four hours if used with TCS food.

_____ (g) Utensils and equipment contacting food that is not TCS shall be cleaned:

_____ (i) At any time when contamination may have occurred;

_____ (ii) At least every 24 hours;

_____ (iii) Before restocking consumer self-service equipment and utensils such as condiment dispensers and display containers; and

_____ (iv) In equipment such as ice bins and beverage dispensing nozzles and enclosed components of equipment such as ice makers, cooking oil storage tanks and distribution lines, beverage and syrup dispensing lines or tubes, coffee bean grinders, and water vending equipment:

_____ (A) At a frequency specified by the manufacturer; or

_____ (B) At a frequency necessary to preclude accumulation of soil or mold.

_____ (5) The food-contact surfaces of cooking and baking equipment shall be cleaned at least every 24 hours. This section does not apply to hot oil cooking and filtering equipment.

_____ (6) The cavities and door seals of microwave ovens shall be cleaned at least every 24 hours by using the manufacturer's recommended cleaning procedure.

_____ (7) Nonfood-contact surfaces of equipment shall be cleaned at a frequency necessary to preclude accumulation of soil residues.

_____ (8) Equipment food-contact surfaces and utensils shall be effectively washed to remove or completely loosen soils by using the manual or mechanical means necessary such as the application of detergents containing wetting agents and emulsifiers; acid, alkaline, or abrasive cleaners; hot water; brushes; scouring pads; high-pressure sprays; or ultrasonic devices.

_____ (9) The washing procedures selected shall be based on the type and purpose of the equipment or utensil, and on the type of soil to be removed.

_____ (10) Washed utensils and equipment shall be rinsed, after cleaning and prior to sanitizing, so that abrasives are removed and cleaning chemicals are removed or diluted through the use of water or a detergent-sanitizer solution by using one of the following procedures:

_____ (a) Use of a distinct, separate water rinse after washing and before sanitizing if using:

_____ (i) A 3-compartment sink, or

_____ (ii) Alternative manual warewashing equipment equivalent to a 3-compartment sink as approved by the local health department issuing the primary permit.

_____ (11) Equipment food-contact surfaces and utensils shall be sanitized before use after cleaning. Sanitizers and sanitizing operations shall meet the requirements in Section R392-102-10.

_____ (12) After cleaning and sanitizing, equipment and utensils shall be air-dried or used after adequate draining.

_____ (13) Linens that do not come in direct contact with food shall be laundered between operations if they become wet, sticky, or visibly soiled.

_____ (14)(a) Cloths in-use for wiping food spills from tableware and carry-out containers that occur as food is being served shall be:

_____ (i) maintained dry; and

_____ (ii) used for no other purpose.

_____ (b) Cloths in-use for wiping counters and other equipment surfaces shall be:

_____ (i) held between uses in a container of chemical sanitizer solution at a concentration specified under Subpart 4-501.114 of the FDA Food Code; and

_____ (ii) laundered daily.

_____ (c) Cloths in-use for wiping surfaces in contact with raw animal foods shall be kept separate from cloths used for other purposes.

_____ (d) Dry wiping cloths and the chemical sanitizing solutions specified in Subsection R392-102-9(14) in which wet wiping cloths are held between uses shall be free of food debris and visible soil.

_____ (e) Containers of chemical sanitizing solutions specified in Subsection R392-102-9(14)(b)(i) in which wet wiping cloths are held between uses shall be stored off the floor and used in a manner that prevents contamination of food, equipment, utensils, linens, single-service, or single-use articles.

_____ (f) Single-use disposable sanitizer wipes shall be used in accordance with EPA-approved manufacturer's label use instructions.

_____ (15) Soiled linens shall be kept in clean, nonabsorbent receptacles or clean, washable laundry bags and stored and transported to prevent contamination of food, clean equipment, clean utensils, and single-service and single-use articles.

_____ (16) Cleaned and sanitized equipment and utensils, laundered linens, and single-service and single-use articles shall be stored:

- (a) in a clean, dry location;
- (b) where they are not exposed to splash, dust, or other contamination; and
- (c) at least six inches (15 cm) above the floor.
- (17) Clean and sanitized equipment and utensils shall be stored as specified under Subsection R392-102-8(13) and shall be stored:
 - (a) in a self-draining position that allows air drying; and
 - (b) covered or inverted.
- (18) The wash, rinse, and sanitize solutions shall be maintained clean.
- (19) Single-service and single-use articles may not be reused.
- (20) Raw fruits and vegetables shall be thoroughly washed in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption in ready-to-eat form.

R392-102-10. Requirements for Sanitizing Equipment and Utensils.

- (1) Chemical sanitizers, including chemical sanitizing solutions generated on-site, and other chemical antimicrobials applied to food-contact surfaces shall:
 - (a) Meet requirements specified in 40 CFR 180.940 and 40 CFR 180.2020; and
 - (b) Be used in accordance with the EPA-registered label use instructions.
- (2) Chlorine sanitizer solutions shall have a minimum concentration and temperature:
 - (a) of 25 to 49 mg/L at 120 degrees F,
 - (i) with an associated contact time of 10 seconds;
 - (b) of 50 to 99 mg/L at 100 degrees F, pH of 10 or less, or 75 degrees F, pH or 8 or less,
 - (i) with an associated contact time of 7 seconds; or
 - (c) of 100 mg/L at 55 degrees F,
 - (i) with an associated contact time of 10 seconds.
- (3) Iodine sanitizing solutions shall have a:
 - (a) Minimum temperature of 68 degrees F;
 - (b) pH of 5.0 or less of a pH no higher than the level for which the manufacturer specifies the solution is effective;
 - (c) Concentration between 12.5 mg/L and 25 mg/L; and
 - (d) Contact time of at least 30 seconds.
- (4) Quaternary ammonium compound solutions shall:
 - (a) Have a minimum temperature of 75 degrees F;
 - (b) Have a concentration as indicated by the manufacturer's use directions included in the labeling;
 - (c) Be used only in water with 500 mg/L hardness or less or in water having a hardness no greater than specified by the EPA-registered label use instructions; and
 - (d) Have a contact time of at least 30 seconds.
- (5) Hot water sanitization, without the use of chemicals, shall be accomplished by:
 - (a) Manual immersion for at least 30 seconds in water held at a minimum temperature of 171 degrees F or higher;
 - (b) Being cycled through equipment which:
 - (i) the temperature of the sanitizing rinse as it enters the manifold may not be more than 194 degrees F or less than 165 degrees F for stationary racks or 180 degrees F for all other machines; and

- (ii) achieves a utensil surface temperature of 160 degrees F as measured by an irreversible registering temperature indicator.

R392-102-11. Food Safety Requirements.

- (1)(a) Food shall be safe, unadulterated, and honestly presented.
- (b) Food shall be offered for human consumption in a way that does not mislead or misinform the consumer.
- (c) Food or color additives, colored overwraps, or lights may not be used to misrepresent the true appearance, color, or quality of a food.
- (2) Food shall be obtained from sources that comply with Rule R392-100.
- (3) Food prepared in a private home or any structure or dwelling designed, constructed, or intended for human occupancy shall not be used in a food truck or offered from a food truck for human consumption.
- (4) Food in a hermetically sealed container shall be obtained from a food processing plant that is regulated by the food regulatory agency that has jurisdiction over the plant.
- (5) Food packages shall be in good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.
- (6) Eggs that have not been specifically treated to destroy all viable Salmonellae shall be labeled to include safe handling instructions as specified in 21 CFR 101.17(h).
 - (a) Eggs shall be received clean and sound and shall not exceed the restricted egg tolerances for U.S. Consumer Grade B as specified Rule R70-410.
 - (b) Egg products shall be obtained pasteurized.
 - (c) Pasteurized eggs or egg products shall be substituted for raw eggs in the preparation of foods such as Caesar salad, hollandaise or Bearnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages that are not cooked.
 - (i) Raw, unpasteurized eggs may be used in recipes that will not be cooked if the food truck has obtained a variance from the primary permit issuer, which variance is based on a commissary HACCP plan; and
 - (ii) The local health officer may revoke or suspend a permit and variance if the commissary HACCP plan is not being followed.
- (7) Fluid milk and milk products shall be obtained from sources that comply with grade A standards as specified in Rule R70-310.
- (8) Fish and molluscan shellfish that are received for sale or service shall be commercially and legally caught or harvested.
 - (a) Molluscan shellfish that are recreationally caught may not be received for sale or service.
 - (b) Molluscan shellfish, shucked shellfish and shellstock shall comply with 3-202.17, 3-202.18, 3-203.11, and 3-203.12 of the 2013 FDA Food Code as adopted in Rule R392-100.
 - (c) When received by a food truck, shellstock shall be reasonably free of mud, dead shellfish, and shellfish with broken shells. Dead shellfish or shellstock, or those with badly broken shells, shall be discarded.
- (9) Mushroom species picked in the wild shall not be offered for sale or service by a food truck.
- (10) If game animals are received for sale or service they shall meet the requirements of 3-201.17 of the 2013 FDA Food Code as adopted and amended in Rule R392-100.

(11) Ice for use as a food or a cooling medium shall be made from drinking water.

(12) Packaged food may not be stored in direct contact with ice or water if the food is subject to the entry of water because of the nature of its packaging, wrapping, or container or its positioning in the ice or water.

(13) Ice may not be used as food after use as a medium for cooling the exterior surfaces of food such as melons or fish, packaged foods such as canned beverages, or cooling coils and tubes of equipment.

(14) Food shall only contact surfaces of equipment and utensils that are cleaned and sanitized as specified in Sections R392-102-9 and R392-102-10 or single-service and single-use articles.

(a) Linens, such as cloth napkins, shall not be used in contact with food.

(15)(a) Except as specified in (b) and (c) of this subsection, food shall be protected from contamination by storing the food:

(i) in a clean, dry location;

(ii) where it is not exposed to splash, dust, or other contamination; and

(iii) at least six inches (15 cm) above the floor.

(b) Pressurized beverage containers and cased food in waterproof containers such as bottles or cans may be stored on a floor that is clean and not exposed to floor moisture.

(c) Food in packages and working containers may be stored less than six inches above the floor on case lot handling equipment, such as dollies, pallets, racks, and skids used to store and transport large quantities of packaged foods.

(16) Food shall not be stored:

(a) in toilet rooms;

(b) under sewer lines;

(c) under open stairwell;

(d) under leaking water lines, including leaking automatic fire sprinkler heads, or under lines on which water has condensed; or

(e) under other sources of contamination.

(17) Food shall be protected from cross contamination by:

(a) separating raw animal foods during storage, preparation, holding, and display from:

(i) raw ready-to-eat food, and

(ii) cooked ready-to-eat food;

(b) Except when combined as ingredients, separating types of raw animal foods from each other such as beef, fish, lamb, pork, and poultry during storage, preparation, holding, and display by:

(i) using separate equipment for each type; or

(ii) arranging each type of food in equipment so that cross contamination of one type with another is prevented; and

(iii) preparing each type of food at different times or in separate areas.

(c) Cleaning hermetically sealed containers of food of visible soil before opening;

(d) Protecting food containers that are received packaged together in a case or overwrap from cuts when the case or overwrap is opened;

(e) Storing and segregating damaged, spoiled, or recalled food in designated areas within the food truck that are separated from food, equipment, utensils, linens, and single-service and single-use articles.

(f) Separating fruits and vegetables before they are washed from ready-to-eat food.

(18) Food shall be protected from contamination that may result from a factor or source not specified in this section.

(19) Except for containers holding food that can be readily and unmistakably recognized such as dry pasta, working containers holding food or food ingredients that are removed from their original packages for use in the food truck, such as cooking oils, flour, herbs, potato flakes, salt, spices, and sugar shall be identified with the common name of the food.

(20) Food shall be protected from contamination that may result from the addition of:

(a) unsafe or unapproved food or color additives; and

(b) unsafe or unapproved levels of approved food and color additives.

(21) An operator shall not:

(a) Apply sulfating agents to fresh fruits and vegetables intended for raw consumption or to a food considered to be a good source of vitamin B1; or

(b) Except for grapes, serve or sell food specified under the previous subsection (21)(a) of this section that is treated with sulfating agents before receipt by the food truck.

(22)(a) A food truck operator shall not prepare food on a food truck using "specialized processing methods" as described in the currently adopted FDA Food Code incorporated by reference in Rule R392-100. A food truck operator may not obtain a variance from a local health officer to use specialized processing methods on a food truck.

(b) A food truck operator shall remove time/temperature controlled for safety (TCS) food from reduced oxygen packaging before holding or storing the food in a temperature controlled environment on a food truck.

(23) Food shall be protected from contamination that may result from a factor or source not specified elsewhere in this rule.

R392-102-12. Food Temperature Requirements.

(1)(a) Refrigerated, potentially hazardous food shall be at a temperature of 5 degrees C (41 degrees F) or below when received at the food truck from a commissary or other approved source.

(b) Raw eggs shall be received at the food truck from a commissary or other approved source in refrigerated equipment that maintains an ambient air temperature of 7 degrees C (45 degrees F) or less.

(c) Potentially hazardous food that is cooked to a temperature and for a time specified under Subparts 3-401.11 to 3-401.13 of the FDA Food Code and received hot at the food truck from a commissary or other approved source shall be at a temperature of 57 degrees C (135 degrees F) or above.

(d) A food that is labeled frozen and shipped frozen by a food processing plant shall be received frozen at the food truck from a commissary or other approved source.

(e) Upon receipt at the food truck from a commissary or other approved source, potentially hazardous food shall be free of evidence of previous temperature abuse.

(2) Any food requiring cooking, freezing, or reheating before service shall be cooked, frozen, or reheated as required in Part 3-4 of the FDA Food Code.

(3) Stored frozen foods shall be maintained frozen. Commercially processed foods which are labeled to be kept frozen must be kept frozen until cooked or served.

_____ (a) Commercially processed foods labeled to be kept frozen may be thawed under refrigeration at 41 degrees F or below in accordance with Subsection R392-102-12(4) if:

_____ (i) Records are kept or date marking used indicating when the food entered refrigeration; and

_____ (ii) Discarded seven days after entering the refrigerator.

_____ (4) Any food requiring thawing shall be thawed as required in Subpart 3-501.13 of the FDA Food Code.

_____ (5) Any food requiring cooling shall be cooled in the commissary as required in Subparts 3-501.14 and 3-501.15 of the FDA Food Code. The operator shall not cool cooked time/temperature control for safety (TCS) food on the food truck unless exempted by the local health officer issuing the primary permit.

_____ (6) Except during preparation, cooking, or cooling time/temperature control for safety food (TCS) shall be maintained:

_____ (a) at 57 degrees C (135 degrees F) or above, or

_____ (b) at 5 degrees C (41 degrees F) or less.

_____ (7)(a) Ready-to-eat, TCS food prepared and held for more than 24 hours at a temperature of 5 degrees C (41 degrees F) or less in a food truck shall be clearly marked to indicate the date or day by which the food shall be consumed, sold, or discarded, which date shall be a maximum of 7 days from the date of preparation, with the day of preparation being counted as Day 1.

_____ (b) Ready-to-eat, TCS food prepared and packaged by a food processing plant and is opened and held for more than 24 hours at a temperature of 5 degrees C (41 degrees F) or less in a food truck, shall be clearly marked at the time the original container is opened in a food truck to indicate the date or day by which the food shall be consumed, sold, or discarded, with the day the original container is opened being counted as Day 1, and

_____ (i) The day or date marked by the food truck may not exceed a manufacturer's use-by date if the manufacturer determined the use-by date based on food safety.

_____ (8) A refrigerated, ready-to-eat time/temperature control for safety food ingredient or a portion of a refrigerated, ready-to-eat, time/temperature control for safety food that is subsequently combined with additional ingredients or portions of food shall retain the date marking of the earliest-prepared or first-prepared ingredient.

_____ (9) A food specified in Subsection R392-102-12(7) shall be discarded if it:

_____ (a) exceeds the temperature and time combination specified in Subsection R392-102-12(7), except time that the product is frozen;

_____ (b) is in a container or package that does not bear a date or day; or

_____ (c) is appropriately marked with a date or day that exceeds a temperature and time combination as specified in Subsection R392-102-12(7).

R392-102-13. Poisonous or Toxic Materials.

_____ (1) Containers of poisonous or toxic materials and personal care items shall bear a legible manufacturer's label.

_____ (2) Working containers used for storing poisonous or toxic materials such as cleaners and sanitizers taken from bulk supplies shall be clearly and individually identified with the common name of the material.

_____ (3) Poisonous or toxic materials shall be stored so they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles by:

_____ (a) separating the poisonous or toxic materials by spacing or partitioning; and

_____ (b) locating the poisonous or toxic materials in an area that is not above food, equipment, utensils, linens, and single-service or single-use articles.

_____ (4) Only those poisonous or toxic materials that are required for the operation and maintenance of a food truck, such as for the cleaning and sanitizing of equipment and utensils and the control of insects and rodents, shall be allowed in a food truck.

_____ (5) Poisonous or toxic materials shall be:

_____ (a) used according to:

_____ (i) Rule R392-100 and local health department regulations,

_____ (ii) manufacturer's use directions included in labeling, and, for a pesticide, manufacturer's label instructions that state that use is allowed in a food establishment,

_____ (iii) the conditions of certification for use of the pest control materials, and

_____ (iv) additional conditions that may be established by the local health officer; and

_____ (b) applied so that:

_____ (i) a hazard to employees or other persons is not constituted, and

_____ (ii) contamination including toxic residues due to drip, drain, fog, splash or spray on food, equipment, utensils, linens, and single-service and single-use articles is prevented. This is achieved by:

_____ (A) removing the items,

_____ (B) covering the items with impermeable covers, or

_____ (C) taking other appropriate preventive actions, and

_____ (D) cleaning and sanitizing equipment and utensils after the application.

_____ (6) The food truck shall be maintained free of insects, rodents, and other pests. The presence of insects, rodents, and other pests shall be controlled to eliminate their presence on the food truck by:

_____ (a) routinely inspecting incoming shipments of food and supplies;

_____ (b) routinely inspecting the food truck for evidence of pests;

_____ (c) using pest management methods, if pests are found, such as trapping devices, eliminating harborage, or other means of pest control.

_____ (7) Restricted use pesticides shall not be used in a food truck.

_____ (8) A container previously used to store poisonous or toxic materials may not be used to store, transport, or dispense food.

_____ (9) Rodent bait shall be contained in a covered, tamper-resistant bait station.

_____ (10) Tracking powder may not be used inside of a food truck unless the powder is non-toxic, such as flour or talcum powder, and is used in such a manner that it cannot contaminate food, equipment, utensils, linens, and single-service or single-use articles.

R392-102-14. Personal Cleanliness and Protection from Contamination.

_____ (1) Food truck employees may not contact exposed, ready-to-eat food with their bare hands and shall use suitable utensils such as deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment.

_____ (2) Food truck employees shall minimize bare hand and arm contact with exposed food that is not in a ready-to-eat form.

(3) If used, single-use gloves shall be used for only one task such as working with ready-to-eat food or with raw animal food, used for no other purpose, and discarded when damaged or soiled, or when interruptions occur in the operation.

(4) Food truck employees shall keep their hands and exposed portions of their arms clean using the cleaning procedure specified in Subpart 2-301.12 of the FDA Food Code immediately before engaging in handling of food or clean equipment and utensils and:

(a) after touching bare human body parts other than clean hands and clean, exposed portions of arms;

(b) after using the toilet room;

(c) after coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking;

(d) after handling soiled equipment or utensils;

(e) during food preparation, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks;

(f) when switching between working with raw food and working with ready-to-eat food;

(g) before donning gloves to initiate a task that involves working with food; and

(h) after engaging in other activities that contaminate the hands.

(5) The operator shall supply each handwashing sink with:

(a) a supply of hand cleaning liquid, powder, or bar soap; and

(b) individual, disposable towels and an associated waste receptacle;

(c) a continuous towel system that supplies the user with a clean towel;

(d) a heated air hand drying device; or

(e) a hand drying device that employs an air-knife system that delivers high velocity, pressurized air at ambient temperature.

(6) Near each handwashing sink in a conspicuous location, the operator shall place a sign or poster that notifies food truck employees to wash their hands.

(7) Food truck employees shall clean their hands in a handwashing sink and may not clean their hands in a sink used for food preparation or warewashing.

(8) A hand antiseptic used as a topical application, a hand antiseptic solution used as a hand dip, or a hand antiseptic soap shall:

(a) be applied only to hands that are cleaned as specified in Subsection R392-102-14(4); and

(b) comply with the requirements of 2-301.16 of the FDA Food Code.

(c) Except as temporarily allowed by the health officer, the use of a hand antiseptic shall not replace the requirement for hand washing in Subsection R392-102-14(4).

(9) Food truck employees shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough.

(10) Unless wearing intact gloves in good repair, a food truck employee may not wear fingernail polish or artificial fingernails when working with exposed food.

(11) Except for a plain ring such as a wedding band, food truck employees may not wear jewelry including medical information jewelry on their arms and hands.

(12) Food truck employees shall wear clean outer clothing to prevent contamination of food, equipment, utensils, linens, and single-service and single-use articles.

(13) Food truck employees experiencing persistent sneezing, coughing, or a runny nose that causes discharges from the eyes, nose, or mouth may not work with exposed food; clean equipment, utensils, and linens; or unwrapped single-service or single-use articles.

(14) Food truck employees shall wear hair restraints such as hats, hair coverings or nets, beard restraints, and clothing that covers body hair, that are designed and worn to effectively keep their hair from contacting exposed food; clean equipment, utensils, and linens; and unwrapped single-service and single-use articles

(15) A food truck employee may not use a utensil more than once to taste food that is to be sold or served.

(16) Toilet rooms shall:

(a) have a supply of toilet tissue available at each toilet;

(b) be conveniently located and accessible to employees during all hours of operation;

(c) be provided with a covered waste receptacle;

(d) be completely enclosed and provided with a tight-fitting door. Except during cleaning and maintenance operations, toilet room doors shall be kept closed.

R392-102-15. Supervision, Employee Health, and Contamination Events.

(1) The operator shall be the person in charge or shall designate a person in charge and shall ensure that a person in charge is present at the food truck during all hours of operation.

(2) Based on the risks inherent to the food truck operation, during inspections and upon request the person in charge shall demonstrate to the local health officer knowledge of foodborne disease prevention and the requirements of this rule. The person in charge shall demonstrate this knowledge by:

(a) Complying with the requirements of this rule;

(b) Being certified in food safety management according to the requirements of Rule R392-101; or

(c) Responding correctly to the inspector's questions as they relate to the specific food truck operations.

(3) The person in charge shall ensure that:

(a) Food truck operations are not conducted in a private home or in a room used as living or sleeping quarters;

(b) Persons unnecessary to the food truck operation are not allowed in the food truck;

(c) Employees and other persons entering the food truck comply with this rule;

(d) Employees are effectively cleaning their hands;

(e) Employees are visibly observing foods as they are received to determine that they are from approved sources, delivered at the proper temperatures, protected from contamination, unadulterated, and accurately presented, and are placing foods into appropriate storage locations;

(f) Employees are properly cooking TCS food;

(g) Employees are using proper methods to rapidly cool TCS food;

(h) Consumers who order raw or partially cooked TCS food of animal origin are informed that the food is not cooked sufficiently to ensure its safety;

_____ (i) Employees are properly sanitizing cleaned equipment and utensils;

_____ (j) Employees are preventing cross-contamination of ready-to-eat food with bare hands by properly using suitable utensils;

_____ (k) Employees are properly trained in food safety, including food allergy awareness;

_____ (l) Employees are informed in a verifiable manner of their responsibility to report, to the person in charge, information about their health and activities as they relate to diseases that are transmissible through food, as specified under Subsection R392-102-15(4); and

_____ (m) Written procedures and plans, where required in this rule or by the local health officer, are maintained and implemented as required.

_____ (4) The operator, person in charge, and employees shall abide by Subpart 2-201 of the FDA Food Code in reporting of diseases, symptoms, and the exclusion or restriction of those working in the food truck.

_____ (5) A food truck shall have procedures for employees to follow when responding to vomiting or diarrheal events that involve the discharge of vomitus or fecal matter onto surfaces in the food truck. The procedures shall address the specific actions employees must take to minimize the spread of contamination and the exposure of employees, consumers, food, and surfaces to vomitus or fecal matter.

R392-102-16. Inspections, Corrective Actions, and Prevention of Foodborne Disease.

_____ (1) All food trucks shall meet the requirements of this rule. Food trucks are exempt from the requirements of Rule R392-100, Food Service Sanitation, unless otherwise stated in this rule.

_____ (2) Upon presenting proper identification and providing notice of the intent to conduct an inspection, the operator shall allow the local health officer to determine if the food truck is in compliance with this rule by allowing access to the food truck, allowing inspection, and providing information and records specified in this rule during the food truck's hours of operation and other reasonable times.

_____ (3) If an operator denies access to the local health officer, the local health officer shall:

_____ (a) Inform the operator that:

_____ (i) The operator is required to allow access to the local health officer as specified under Subsection R392-102-16(1),

_____ (ii) Access is a condition of the acceptance and retention of a permit to operate as specified under Section R392-102-4, and

_____ (iii) If access is denied, an order issued by an appropriate authority allowing access may be obtained; and

_____ (b) Make a final request for access.

_____ (c) If access continues to be refused, the local health officer shall provide details of the denial of access on an inspection report form.

_____ (4) The local health officer shall document on an inspection report form:

_____ (a) Administrative information about the food truck's legal identity, street and mailing addresses, permit tier designation as specified under Section R392-102-4, inspection date, and other information including the type of water supply, sewage disposal, status of the permit, and personnel certificates of food safety management and training; and

_____ (b) Specific factual observations of noncompliant conditions or other deviations from this rule that require correction by the operator including:

_____ (i) Failure of the operator to demonstrate the knowledge of foodborne illness prevention, and

_____ (ii) Failure of employees and the operator to report a disease or medical condition; and

_____ (c) Time frame for correction of violations.

_____ (5) At the conclusion of the inspection the local health officer shall provide a copy of the completed inspection report and the notice to correct violations to the operator or to the person in charge, and request a signed acknowledgement of receipt.

_____ (a) The local health officer shall inform a person who declines to sign an acknowledgement of receipt of inspectional findings that:

_____ (i) An acknowledgement of receipt is not an agreement with findings;

_____ (ii) Refusal to sign an acknowledgement of receipt will not affect the operator's obligation to correct the violations noted in the inspection report within the time frames listed; and

_____ (iii) A refusal to sign an acknowledgement of receipt is noted in the inspection report and conveyed to the historical record for the food truck.

_____ (iv) The local health officer shall make a final request that the person in charge sign an acknowledgement of receipt of inspectional findings.

_____ (6) The local health officer shall treat the inspection report as a public document and shall make it available for disclosure.

_____ (7) An operator shall immediately discontinue operations and notify the local health department if an imminent health hazard may exist because of an emergency such as a fire, flood, extended interruption of electrical or water service, sewage backup, misuse of poisonous or toxic materials, onset of an apparent foodborne illness outbreak, gross insanitary occurrence or condition, or other circumstances that may endanger public health.

_____ (a) If operations are discontinued as required by the local health officer or in response to an imminent health hazard as specified in Subsection R392-102(16)(7), the operator shall obtain approval from the local health officer before resuming operations.

_____ (8) A local health department issuing the primary permit, or reinstating a suspended primary or secondary permit, may conduct one or more preoperational inspections to verify that the food truck is constructed and equipped in accordance with the approved plans and approved modifications of those plans, and is in compliance with this rule.

_____ (9)(a) A local health officer may periodically conduct operational onsite inspections of a food truck to determine continued compliance with this rule.

_____ (b) For each year that a primary permit is issued to a food truck operator, the local health department that issued the permit shall conduct a minimum of one inspection of a food truck with a primary permit, regardless of tier designation as described in Subsection R392-102-4(5)(b).

_____ (c) Any local health department that issues a secondary permit to a food truck operator may conduct a minimum of one onsite inspection prior to permit expiration.

_____ (d) The local health department shall periodically inspect throughout its permit period a food truck operating only with a temporary food establishment permit that prepares, sells, or serves unpackaged time/temperature control for safety food and that has improvised rather than permanent facilities or equipment for accomplishing functions such as handwashing, food preparation and

protection, food temperature control, warewashing, potable water supply, waste retention and disposal, and insect and rodent control.

(10) A local health officer may conduct follow-up inspections, as needed, to ensure the timely resolution of inspection findings.

(11) The local health officer shall make the operator aware of inspectional findings both during, and at the conclusion of, the inspection as well as strategies for achieving compliance. Repeat violations may prompt further compliance and enforcement actions.

KEY: food trucks, mobile foods, sanitation, public health
Date of Enactment or Last Substantive Amendment: 2018
Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-1-30(9); 26-1-30(23); 26-7-1; 26-15-2

**Health, Health Care Financing,
 Coverage and Reimbursement Policy
 R414-519
 Settings for Home and Community-
 Based Services**

NOTICE OF PROPOSED RULE

(New Rule)
 DAR FILE NO.: 42635
 FILED: 03/05/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to implement Medicaid policy that governs federal setting requirements for home and community-based services (HCBS).

SUMMARY OF THE RULE OR CHANGE: This new rule implements setting requirements for HCBS that enforce and protect individual initiative, autonomy, and independence. These provisions also promote better living conditions and accessibility.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 42 CFR 441.301 and Section 26-1-5 and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The Department of Health anticipates costs in transportation, case management, patient accessibility, provider training, compliance, and costs associated with assisted living facilities. Nevertheless, there is not sufficient nor cost effective data available to determine what those expenses will be.
- ◆ **LOCAL GOVERNMENTS:** Local governments will see increased costs in utilization for hourly case management services (specifically for area agencies on aging). Nevertheless, there is not sufficient nor cost effective data available to determine what those expenses will be.
- ◆ **SMALL BUSINESSES:** There are both costs and revenue

associated with this federal requirement in the areas of transportation, case management, patient accessibility, provider training, compliance, and effects on assisted living facilities. Nevertheless, there is not sufficient nor cost effective data available to determine what those costs and revenue will be.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are both costs and revenue associated with this federal requirement in the areas of transportation, case management, patient accessibility, provider training, compliance, and effects on assisted living facilities. Nevertheless, there is not sufficient nor cost effective data available to determine what those costs and revenue will be.

COMPLIANCE COSTS FOR AFFECTED PERSONS: A single participant, business, assisted living facility, or Medicaid provider will see costs associated with this federal requirement in the areas of transportation, case management, patient accessibility, provider training, and compliance. Nevertheless, there is not sufficient nor cost effective data available to determine what those costs will be.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are both costs and revenue associated with this federal requirement in the areas of transportation, case management, patient accessibility, provider training, compliance, and effects on assisted living facilities. Nevertheless, there is not sufficient nor cost effective data available to determine what those costs and revenue will be.

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

HEALTH
 HEALTH CARE FINANCING, COVERAGE AND REIMBURSEMENT POLICY
 CANNON HEALTH BLDG
 288 N 1460 W
 SALT LAKE CITY, UT 84116-3231
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov, or mail at PO Box 143102, Salt Lake City, UT 84114-3102

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020

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

*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 both costs and revenue associated with this federal requirement to the 182 home and community-based service providers in the areas of transportation, case management, patient accessibility, provider training, compliance, and effects on assisted living facilities. Nevertheless, there are not sufficient nor cost effective data available to determine what those costs and revenue will be.

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.

R414-519. Settings for Home and Community-Based Services.

R414-519-1. Introduction and Authority.

Settings for home and community-based services (HCBS) must include all the qualities defined in 42 CFR 441.301(c)(4)(5), based on the needs specified in an individual's person-centered

service plan. For purposes of this rule, "individual" shall also refer to the individual's legal representative or guardian if the individual has one.

R414-519-2. HCBS Setting Requirements.

(1) An HCBS setting must be integrated and support community access to services that include opportunities for an individual to:

(a) seek employment and to work in competitive integrated settings;

(b) engage in aspects of community life;

(c) control personal resources; and

(d) receive community services with the same degree of access afforded to individuals who do not receive HCBS.

(2) An individual shall select the setting from among setting options that include non-disability specific settings and an option for a private unit in a residential setting.

(3) Setting options are identified and documented in the person-centered service plan based on the following:

(a) Individual need and preference; and

(b) Resources available for room and board in residential settings.

(4) An HCBS setting must ensure the following:

(a) Individual rights of privacy;

(b) Dignity and respect; and

(c) Freedom from coercion and restraint.

(5) An HCBS setting must optimize, but not regiment, individual initiative, autonomy, and independence through life choices that include daily activities, physical environment, and personal interaction.

(6) An HCBS setting must facilitate individual choice in relation to services and support.

(7) In addition to the qualities described in 42 CFR 441.301(c)(4)(i) through (v), a provider-owned or controlled residential setting must meet the following conditions:

(a) The unit or dwelling must be owned, rented, or occupied under a legally enforceable agreement by an individual who receives HCBS;

(b) An individual must possess the same responsibilities and protections from eviction that tenants have under the landlord and tenant law of the state, county, city, or other designated entity; and

(c) For settings in which landlord tenant laws do not apply, the State must ensure that a lease, residency agreement, or other form of written agreement is in place for each HCBS participant, and that the document provides protections which address eviction processes and appeals comparable to those provided under the landlord tenant law within the jurisdiction.

(8) An HCBS setting must afford privacy to each individual in a sleeping or living unit and the following provisions shall apply:

(a) Units must have lockable entrance doors and only authorized staff may possess the keys;

(b) An individual who shares a unit may have a choice of roommates in that setting;

(c) An individual may furnish and decorate his sleeping or living unit within the lease or other agreement;

(d) An individual may control his own schedule and activities, and access food at any time;

(e) An individual may have his choice of visitors at any time;

(f) An individual must be able to physically access the setting;

(g) Any modification of the additional conditions, under 42 CFR 441.301(c)(4)(vi)(A) through (D), must be supported by a specific assessed need and justified in the person-centered service plan. HCBS providers shall document that the plan meets the following requirements:

(i) The plan identifies a specific and individualized assessed need;

(ii) The plan documents the positive interventions and supports used before any modifications to the person-centered service plan;

(iii) The plan documents less intrusive, but unsuccessful methods of meeting an individual need;

(iv) The plan includes a clear description of the condition that is directly proportionate to the specific assessed need;

(v) The plan includes a regular collection and review of data to measure the ongoing effectiveness of the modification;

(vi) The plan includes established time limits for periodic reviews to determine whether the modification is still necessary or may be terminated;

(vii) The plan includes the informed consent of the individual; and

(viii) The plan includes an assurance that interventions and supports will cause no individual harm.

R414-519-3. Limitations.

(1) Home and community-based settings do not include the following:

(a) A nursing facility;

(b) An institution for mental diseases;

(c) An intermediate care facility for individuals with intellectual disabilities;

(d) A hospital; or

(e) Any other locations that have qualities of an institutional setting, as determined by the Centers for Medicare and Medicaid Services (CMS). Any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment, or in a building on the grounds of, or immediately adjacent to, a public institution, or any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS will be presumed to be a setting that has the qualities of an institution unless CMS determines through heightened scrutiny, based on information presented by the Department or other parties, that the setting does not have the qualities of an institution and that the setting does have the qualities of home and community-based settings.

(2) If, upon initial assessment, or any time thereafter, the Department determines that a setting does not comply with 42 CFR 441.301(c)(4)(5), the Department, or its designee, shall utilize an approved method to inform the individual of alternative settings that would comply with these requirements. If the individual elects to remain in, or receive services at a setting that does not meet these requirements, and the provider has not demonstrated compliance with the Department's corrective action plan for meeting such requirements, the individual shall not receive services under Utah home and community-based waiver programs.

(3) The Department shall assess compliance with 42 CFR 441.301(c)(4)(5) as part of its process for credentialing and re-credentialing providers.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: 2018

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3

Human Services, Aging and Adult Services **R510-200** Long-Term Care Ombudsman Program Policy

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 42636

FILED: 03/07/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Older Americans Act (Act) is the federal statute that directs the work of the Division of Aging and Adult Services generally and the Long-Term Care Ombudsman Program specifically. The Act was recently reauthorized and changes were made to the Long-Term Care Ombudsman Program with the new authorization. There were a number of minor language updates, and a more significant change in making services available to all residents of facility based care who are 18 years old or older, rather than the previous client group of individuals aged 60 or older. As a result, this rule needs to be amended to reflect this change. The other minor clean up points are also included in this amendment.

SUMMARY OF THE RULE OR CHANGE: The updated rule is a combination of the old rule along with the ombudsman policy and procedures, new federal regulations, and the revised Older Americans Act. The primary reason for this change is to meet federal requirements. Items have become more detailed and provide further clarification including: qualifications of ombudsman certification; individual and organizational conflicts of interest; legal counsel; intake, investigation, and complaint processing; and confidentiality.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63G-3-701 and Section 63G-3-702 and Subsection 63G-3-102(5)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The updates are to comply with federal statute and will not create new costs or savings.
- ◆ **LOCAL GOVERNMENTS:** This change does not create new costs or savings to the local Long-Term Care Ombudsman Program.
- ◆ **SMALL BUSINESSES:** The change does not impact small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No other organizations or individuals will be fiscally affected.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for the clients served nor for the facilities where they reside.

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

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

- ◆ Jonah Shaw by phone at 801-538-4225, by FAX at 801-538-3942, or by Internet E-mail at jshaw@utah.gov
- ◆ Nels Holmgren by phone at 801-538-3921, by FAX at 801-538-4395, or by Internet E-mail at nholmgrn@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2018

AUTHORIZED BY: Ann Williamson, 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

The repeal and reenact of R510-200 is not expected to have any fiscal impacts on large businesses revenues or expenditures, because these updates are to comply with federal statute and will not create new costs or savings to the Long-term Care Ombudsman program. The head of the Department of Human Services, Ann Williamson, has reviewed and approved this fiscal analysis.

R510. Human Services, Aging and Adult Services.

R510-200. Long-Term Care Ombudsman Program Policy.

[R510-200-1. Purpose:

A. The Long-term Care Ombudsman (LTCO) Program is created for the purpose of promoting, advocating, and ensuring the adequacy of care received, and the quality of life experienced by elderly residents of long-term care facilities within the State.

B. Operation of the LTCO Program is a joint responsibility of the Division and local AAAs. Authority to administer the LTCO Program is derived from the Older Americans Act (OAA) Title VII: Allotments for Vulnerable Elder Rights Protection Activities and Section 62a-3-201 et seq.

C. The Division will establish a State Office of LTCO.

D. The State LTCO is responsible for:

- (1) oversight of the statewide LTCO program;
- (2) providing training to local LTCO staff and volunteers;

~~(3) provision of public information regarding the LTCO program;~~

~~(4) working with federal agencies, the State Legislature, other units of state government and other agencies to obtain funding and other resources;~~

~~(5) developing cooperative relationships among agencies involved in long-term care;~~

~~(6) resolving conflicts among agencies regarding long-term care;~~

~~(7) assuring consistent, statewide reporting of LTCO program activities;~~

~~(8) monitoring local LTCO programs;~~

~~(9) providing technical assistance to local LTCO programs;~~

~~(10) maintaining close communication and cooperation in the LTCO statewide network;~~

~~(11) recommending rules governing implementation of the LTCO program; and~~

~~(12) providing overall leadership for the Utah LTCO program.~~

~~E. The Division may employ Regional Ombudsmen to assist the State LTCO in meeting his or her responsibilities. In addition to assisting the State LTCO, Regional Ombudsmen are responsible to:~~

~~(1) Spend a majority of their time providing ombudsman services, including but not limited to, investigating and resolving complaints when local ombudsmen transfer a case, providing services to assist elderly residents of long-term care facilities, informing and educating elderly residents about their rights, providing administrative and technical assistance to local ombudsmen and volunteers, providing systemic advocacy, providing training to long-term care facilities, and assisting in the development of family and resident councils;~~

~~(2) Provide monitoring, oversight, assistance and leadership to local ombudsmen and volunteers in their region;~~

~~(3) Ensure that all ombudsmen in their region adhere to established policy and procedure; and~~

~~(4) Improve consistency and quality of Ombudsmen services in their region.~~

~~F. AAAs are responsible for daily operation of the program, either directly or by contract, as defined in these rules.~~

~~G. The Division, State LTCO and AAAs must work together to protect elderly residents, promote quality care in long-term care facilities, and promote the LTCO program.~~

R510-200-2. Definitions.

~~A. "AAA" means area agency on aging as designated by the Division of Aging and Adult Services.~~

~~B. "APS" means adult protective services.~~

~~C. The Division means the Division of Aging and Adult Services within the Utah Department of Human Services.~~

~~D. "Elderly resident" means an adult 60 years of age or older who resides in a long-term care facility.~~

~~E. Long-term ombudsman is a person, operating within the guidelines of the Older American Act and the policies of the Division, who advocates for elderly residents of long-term care facilities to ensure the quality and adequacy of care received.~~

~~F. "Local LTCO" means the local program and personnel designated by the Division, through each AAA, to implement the (LTCO) Program within a defined geographic area.~~

~~G. "Responsible Agency" means the agency responsible to investigate or provide services on a particular case.~~

~~H. "State LTCO" means long-term care ombudsman personnel within the Division.~~

~~I. "Long-Term Care Facility" means any skilled nursing facility, intermediate care facility, nursing home, assisted living facility, adult foster care home, or any living arrangement in the community through which room and personal care services are provided for elderly residents.~~

R510-200-3. Local LTCO Program Administrative Standards.

~~A. AAAs shall operate the LTCO Program in accordance with the following standards:~~

~~(1) Supervision: All local LTCO shall have an identified supervisor. The person supervising the ombudsman shall meet all requirements for a supervisor as specified by the AAA and shall have at least a general knowledge of long-term care facilities.~~

~~B. Staffing: Each AAA shall recommend for certification one or more paid or volunteer staff members to serve as local LTCO.~~

~~(a) Persons assigned this responsibility shall have either education or experience in one or more of the following areas: gerontology, long-term care, health care, legal or human service programs, advocacy, complaint and dispute resolution, mediation or investigating.~~

~~(b) Assigned individuals shall be certified by the State LTCO within six months after assuming a local LTCO role.~~

~~B. The AAA shall have primary responsibility to provide for certified back-up to the local LTCO. AAAs may enter into cooperative agreements with other AAAs to provide for LTCO back-up. In emergency situations, AAAs may request back-up support from the State LTCO.~~

~~C. Local ombudsmen shall have no conflict of interest which would interfere with performing the function of this position, including:~~

~~(1) direct involvement in the licensing or certification of a long-term care facility or of a provider of a long-term care service;~~

~~(2) ownership or investment interest, represented by equity, debt, or other financial relationship in a long-term care facility or a long-term care service;~~

~~(3) employment by, or participation in the management of, a long-term care facility;~~

~~(4) receiving, or having the right to receive, directly or indirectly, remuneration in cash or in kind under a compensation arrangement with an owner or operator of a long-term care facility.~~

~~D. AAAs shall establish, and specify in writing, mechanisms to identify and remove conflicts of interest and to identify and eliminate relationships described in paragraph 3 including mechanisms such as:~~

~~(1) methods by which the AAA will examine individuals and immediate family members to identify conflicts; and~~

~~(2) actions the AAA will require individuals and family members to take in order to remove those conflicts.~~

~~E. Local LTCO shall have the ability to act in the best interests of residents of long-term care facilities, including taking public positions on policies or actions which affect residents. Local LTCO shall not be constrained by the local AAA or governing body from taking a stand in good-faith performance of their job.~~

~~(1) AAAs shall have on file a written description outlining the working relationship between the AAA and the ombudsman which spells out arrangements for assuring this ability.~~

~~(2) Grievance Procedure~~

~~(a) AAAs shall establish a grievance procedure to accept and hear complaints regarding an ombudsman's actions. The procedure shall allow for a final appeal to the Utah State Department of Human Services Office of Administrative Hearings.~~

~~(3) Records System~~

~~(a) AAAs shall maintain a records classification and retention program in accordance with Sections 63G-2-301 and 63A-12-101 and PL 89-73 42 USC 300-1 et seq.~~

R510-200-4. Local LTCO Classifications and Duties.

~~A. Ombudsman~~

~~An Ombudsman, who may be either a paid staff member or volunteer, may perform the following duties:~~

~~(1) investigate complaints and develop an action plan to resolve the complaint;~~

~~(2) provide supervision over the implementation of the action plan and any follow-up determined necessary;~~

~~(3) review complaints to set complaint response priorities;~~

~~(4) assign complaints to staff and volunteers;~~

~~(5) provide case consultation to long-term care facility staff;~~

~~and~~

~~(6) perform duties of an assistant ombudsman.~~

~~B. Assistant Ombudsman~~

~~(1) An Assistant Ombudsman, who may be either a paid staff member or volunteer, may:~~

~~(a) provide outreach to residents, families, facilities, and other entities concerned about long-term care;~~

~~(b) observe actions and quality of care in long-term care facilities;~~

~~(c) perform complaint intake;~~

~~(d) provide residents, families, and the general public with information about the LTCO program and resident rights;~~

~~(e) provide public presentations;~~

~~(f) assist with resolution and follow-up on complaints while under the supervision of a Certified Ombudsman; and~~

~~(g) provide technical assistance to the general public and long-term care facility staff.~~

~~C. Ombudsman Program Director~~

~~(1) An Ombudsman Program Director, who may be the AAA director or his designee, may perform the duties of an Ombudsman, if certified as such, and shall:~~

~~(a) provide overall administration of the local ombudsman program;~~

~~(b) provide overall supervision of LTCO paid and volunteer staff;~~

~~(c) conduct quality assurance and complaint case record reviews;~~

~~(d) oversee the screening, hiring, and dismissal of LTCO staff and volunteers; and~~

~~(e) assess the need for regulatory changes to improve the quality of care and life for long-term care facility residents and advocate for the passage of those changes.~~

~~D. Non-certified Staff or Volunteers~~

~~Non-certified staff or volunteers may perform the following functions:~~

~~(a) complaint intake;~~

~~(b) provide public information and presentations regarding the LTCO program, long-term care in general, and other topics on which they may have expertise, as determined by the AAA;~~

~~(c) provide outreach to residents, families, facilities, and other entities concerned about long-term care;~~

~~(d) visit long-term care facilities and residents; and~~

~~(e) any other activity which does not expressly require certification and for which the AAA has determined the individual competent to engage in on behalf of the AAA or LTCO program.~~

R510-200-5. Certification Curriculum and Training Hours.

~~A. Assistant Ombudsman: Prior to applying for certification as an Assistant Ombudsman, an individual shall complete a minimum of 18 hours of required initial training and pass the post-test with a minimum score of 70%. This training shall cover the following areas:~~

~~(1) An introduction to the LTCO Program, including a discussion of the scope of work of the LTCO;~~

~~(2) An overview of the long-term care system, including a discussion of:~~

~~(a) the types of long-term care facilities and providers, their organization and operations;~~

~~(b) federal and state regulations applicable to long-term care facilities and providers, with an emphasis on resident rights;~~

~~(c) long-term care resident profiles and methods of payment for long-term care services;~~

~~(d) the aging process and attitudes of aging; and~~

~~(e) the Aging Network and the relationship between the AAAs, the State LTCO, and various regulatory agencies.~~

~~(3) Ombudsman skills, including:~~

~~(a) interpersonal communication, observation, and interviewing;~~

~~(b) building working relationships with providers; and~~

~~(c) complaint handling, with an emphasis on intake.~~

~~(4) An overview of complaint resolution skills, with an emphasis on advocacy, negotiating, empowering residents, and follow-up activities:~~

~~(5) LTCO Program policies and procedures, including:~~

~~(a) confidentiality;~~

~~(b) access to facilities and residents;~~

~~(c) complaint investigation and resolution;~~

~~(d) reporting; and~~

~~(e) ethics.~~

~~(6) Case record documentation.~~

~~(7) Mediation and negotiation between residents.~~

~~(8) Any additional topics deemed appropriate by the State LTCO in consultation with the Division, AAAs, long-term care regulatory agencies and local LTCO Program Directors.~~

~~B. Ombudsman: Prior to applying for certification as a local Ombudsman, an individual shall complete a minimum of 30 hours of required initial training and pass the post-test with a minimum score of 70%. This training shall include all training described in Section A plus an additional 12 hours of training covering the following areas:~~

~~(1) a more in-depth review of the content areas covered for candidates for certification as ombudsman representatives, including written exercises, case studies, role plays, research exercises, and analysis of systemic issues;~~

~~(2) development of a complaint resolution action plan;~~

~~(3) legal, administrative, and other remedies;~~

~~(4) actions regarding public disclosure of actions or inactions which affect residents of long-term care facilities, including appropriateness, confidentiality of certain information, and how to work with the media;~~

~~(5) review of client records;~~
~~(6) alternative dispute resolution options for use in complaint handling; and~~
~~(7) advocacy skills.~~

~~C. Post-tests: The post-tests referred to in Sections A and B shall be developed by the State LTCO and shall be structured in sections to correspond to major training topics. If an applicant does not receive a score of at least 70% on a post-test they shall be eligible to retake the test one time within 30 days. If they do not receive a minimum score of at least 70% on the retake test, they will need to complete the training pertaining to the test sections on which they did not receive a passing score. Upon completion, they will be allowed to take the test one additional time. If a passing score is not obtained, the applicant will be deemed by the State LTCO to not be appropriate for certification as an Assistant Ombudsman or Ombudsman.~~

~~D. Ongoing Training: To maintain certification, an assistant ombudsman must complete a minimum of 12 hours of training annually; an ombudsman must complete a minimum of 24 hours of training annually.~~

~~(1) The State LTCO will provide for at least 48 hours of LTCO specific training per year. Training shall be scheduled at various times throughout the year and in various locations throughout the State.~~

~~(2) During the first year in which a person functions as an assistant ombudsman or ombudsman the required initial training will count toward the annual training requirement;~~

~~(3) Relevant training offered in the community can serve to meet annual training requirements in lieu of state-sponsored LTCO training on an hour-for-hour basis. Documentation of attendance at a training, including a copy of the training agenda, shall be submitted to the State LTCO for approval.~~

R510-200-6. Registration and Certification of Ombudsmen and Assistant Ombudsmen.

~~A. Central Registry~~

~~(1) The State LTCO shall maintain a central registry of all local ombudsmen and assistant ombudsmen. The registry shall retain the following information on each:~~

~~(a) the ombudsman's or assistant ombudsman's name, address, and telephone number;~~

~~(b) a summary of the ombudsman's or assistant ombudsman's qualifications;~~

~~(c) the ombudsman's or assistant ombudsman's classification;~~

~~(d) the AAA with which the ombudsman or assistant ombudsman is associated;~~

~~(e) the most recent date of certification;~~

~~(f) a position description which contains any prohibitions applicable to the ombudsman or assistant ombudsman. Prohibitions may include limitation on the duties that may be performed, limitations on the providers the ombudsman or assistant ombudsman may investigate or attempt complaint resolution with, or any limitations due to a conflict of interest; and~~

~~(g) information pertaining to any decertification actions and the results of those actions.~~

~~(2) Local ombudsman and assistant ombudsman shall register with the State LTCO through the AAA within 30 days of accepting assignment as a local ombudsman or assistant ombudsman.~~

R510-200-7. Decertification of Ombudsmen and Assistant Ombudsmen.

~~Decertification of an ombudsman or assistant ombudsman may occur through voluntary resignation or decertification by the State LTCO or AAA or sponsoring agency which employs him. A person who has been decertified may not be assigned to ombudsman duties.~~

~~A. Involuntary Decertification With Cause:~~

~~(1) No ombudsman or assistant ombudsman shall be recommended for involuntary decertification without cause. Cause may include:~~

~~(a) failure to follow policies and procedures that conform to the LTCO statute and rules;~~

~~(b) performing a function not recognized or sanctioned by the LTCO Program;~~

~~(c) failure to meet the required qualifications for certification;~~

~~(d) failure to meet continuing education requirements;~~

~~(e) intentional failure to reveal a conflict of interest; or~~

~~(f) misrepresentation of the ombudsman's or assistant ombudsman's category of certification or the duties he is certified to perform.~~

~~(2) The State LTCO and AAAs shall establish, for their respective programs, policies and procedures for recommending decertification. Those policies and procedures shall require that the State LTCO or AAA attempt to help the LTCO or Assistant LTCO attain satisfactory job performance through professional development, supervision, or other remedial actions prior to recommending decertification.~~

~~(3) AAAs recommending decertification shall state their reasons in writing and shall provide any relevant documentation to support the recommendation to the State LTCO. Notice of the recommendation for decertification and the basis for the recommendation shall be provided to the local ombudsman or assistant ombudsman at the same time that information is submitted to the State LTCO.~~

~~(4) The State LTCO shall review the recommendation and provide written notification of his decision to the AAA and the local ombudsman or assistant ombudsman within ten working days. The AAA or local ombudsman or assistant ombudsman may appeal the State LTCO's decision in accordance with the Department of Human Services Rule R497-100.~~

~~(5) When the State LTCO initiates a decertification action against a local ombudsman or assistant ombudsman, the State LTCO shall provide written notification to the AAA and the local ombudsman or assistant ombudsman. The AAA or the local ombudsman or assistant ombudsman may appeal the decision in accordance with the Department of Human Services Rule R497-100.~~

~~(6) Upon completion of the decertification actions, the State LTCO shall record the actions and results in the central registry.~~

~~B. Voluntary Decertification Without Cause:~~

~~When a local ombudsman or assistant ombudsman voluntarily resigns due to personal reasons which would not otherwise affect certification, they shall surrender their LTCO identification card to the AAA. The AAA shall notify the State LTCO of the voluntary decertification. The State LTCO shall record the date of voluntary decertification in the central registry.~~

~~C. Voluntary Decertification With Cause:~~

~~When a local ombudsman or assistant ombudsman voluntarily resigns for reasons which would otherwise warrant~~

involuntary decertification, they shall surrender their LTCO identification card to the AAA within seven days. The AAA shall notify the State LTCO of the voluntary decertification with cause and shall notify the local ombudsman or assistant ombudsman of the right to a hearing. The State LTCO shall record the date of voluntary decertification in the central registry.

D. Recertification:

(1) A certified local ombudsman or assistant ombudsman who voluntarily requests decertification may apply to have his certification reinstated when he becomes reemployed or accepted as a LTCO staff or volunteer. Any person seeking recertification shall apply in writing, through the AAA, to the State LTCO. The application shall include the date of the most recent decertification action and a summary of any professional development in or experience with ombudsman skills, long-term care services, problem resolution skills or any related skills the applicant may have received since his decertification.

(2) The State LTCO shall review the application and may require the applicant to receive additional professional development, and take an appropriate examination based upon the length of time since the applicant's most recent certification, and the experience or professional development the applicant has accumulated in the interim. The State LTCO shall make notify both the AAA and the applicant of the decision within ten working days.

R510-200-8. Operation of the Long-Term Care Ombudsman Program.

A. Intake: The local LTCO Program shall accept and screen referrals from residents, family, facility staff, agency staff and the general community. Ombudsmen and assistant ombudsmen may also serve as the complainant for situations they have personally observed.

(1) If the information indicates that the referral relates to abuse, neglect, or exploitation of a resident, the local LTCO shall refer the complaint to either the local Adult Protective Services (APS) office or local law enforcement. The local LTCO and the APS worker should collaborate on investigating and resolving the complaint whenever possible.

(2) If the information indicates that the referral relates to facilities or operations licensed or certified by the Department of Health Bureau of Medicare/Medicaid Program Certification and Resident Assessment, and the nature of the complaint is other than alleged abuse, neglect or exploitation of a resident, the LTCO shall refer the complaint to the Department of Health. The local LTCO and Department of Health staff should collaborate on investigating and resolving the complaint whenever possible.

(3) Referrals to other agencies shall be made immediately if the situation appears life threatening or, in other situations, within two working days. If a referral is made to another agency, the local LTCO shall complete the intake form, indicating the referral date and entity, and maintain the form as part of the record. The local LTCO shall follow up to see that action was taken by the referral agency.

(4) If the referral involves a resident who is under the age of 60, and the nature of the complaint is limited to impact only on that resident, the local LTCO shall refer the complaint as specified in paragraph (1) or (2) of this section and take no further action. If the referral involves a resident who is under the age of 60 who resides in a facility that has other residents over the age of 60 and the nature of the complaint is such that it impacts those residents, the local LTCO shall

refer the complaint as specified in paragraph (1) or (2) of this section as applicable and initiate an investigation:

(5) If the complaint involves residents rights or other issues within the jurisdiction of the LTCO, an investigation shall be initiated to determine if the complaint is valid. Issues within the purview of the LTCO include issues of privacy, confidentiality of information, and other issues relating to the action, inaction, or decisions by providers or representatives of providers of long-term care services, public agencies, or health and human service agencies that may adversely affect the health, safety, welfare, or rights of residents.

B. Investigations:

(1) LTCO investigations shall be initiated within three working days. If the available information indicates serious threat to a resident's life, health or property, the response shall be immediate.

(2) The investigation may involve phone or in-person contacts with the resident and complainant, collateral agency or individual contacts or an on-site investigation. The local LTCO shall:

(a) do a preliminary screening to gather facts and details of the complaint;

(b) categorize the complaint, i.e. resident rights, education, abuse, neglect, technical assistance, etc.;

(c) identify all parties to the complaint;

(d) identify relevant agencies, as required by state and federal statutes;

(e) identify steps already taken by the complainant;

(f) identify information gaps that may require additional research;

(g) determine if an on-site investigation is needed. If it is determined that an on-site investigation is not necessary, the LTCO shall document the reasons in the case file;

(h) determine if the situation is an emergency; and

(i) make verbal or written follow-up with the complainant.

(3) The method and extent of the investigation depends on the circumstances reported. The local LTCO shall complete an intake form on each referral. A complaint consists of the initial referral or any additional contacts regarding the initial referral received during the period that the case is opened. A referral regarding a different matter made during the period the case is opened is considered a new complaint. A referral received after a case is closed is considered a new complaint.

(4) When an on-site investigation is determined to be necessary the local LTCO does not have to give prior notice to the agency or facility in question. The local LTCO may choose to give notice if deemed appropriate. In either case, the ombudsman shall:

(a) upon arrival at the facility or agency, present official identification to the administration or designated person in charge;

(b) identify any factors that may interfere with the investigation;

(c) start the investigatory process to establish as clearly as possible what has happened, why it has happened, who or what is responsible for resolving the complaint, and possible solutions to the problem;

(d) interview the resident, as well as other residents, staff, family, friends and physician as deemed necessary;

(e) make phone calls, on-site observation, review resident records, and make collateral contacts with other agencies and professionals; and

(f) take any other appropriate investigatory actions within the purview of the LTCO Program.

~~(g) During the course of the investigation, the local LTCO shall look for credible evidence which supports or refutes the complaint. Evidence may be directly observed by the LTCO or indirectly gathered from statements from reliable sources. The State LTCO shall provide consultation and technical assistance regarding the methods used in investigating complaints as requested by the local LTCO.~~

~~(h) Ombudsmen shall be provided privacy by the facility or agency during all aspects of the investigative process.~~

~~(5) Determining Validity of Complaint~~

~~(a) The local LTCO, having gathered evidence regarding the complaint, shall review the evidence to determine whether that evidence supports the allegations made in the complaint. If the local LTCO is uncertain as to whether the complaint is valid, he shall discuss the situation with his supervisor. If further consultation is necessary, contact should be made with the State LTCO, who may suggest additional activities or approaches to the problem. The local LTCO shall gather further evidence from interviews, collateral contacts, and records review, until the body of evidence enables the local LTCO to make a supportable decision regarding validity of the complaint.~~

~~(b) Upon determination of the validity of the complaint, the local LTCO shall document the determination and reasons for it in the case file.~~

~~(6) Resolution of Complaints~~

~~(a) Having determined that the complaint is valid, the local LTCO shall take appropriate steps to resolve the complaint, including:~~

~~(i) determining the scope of the problem. Does the problem affect just the residents mentioned in the complaint, or does it affect other residents?~~

~~(ii) determining what options exist to resolve the complaint. For example, can the complaint be resolved immediately, will the resolution require negotiation with the facility management, or has the facility already moved to resolve the situation.~~

~~(iii) discussing with the resident which of the options are acceptable to resolve the complaint. Determining an acceptable resolution may require negotiation between the parties to achieve an acceptable resolution to the situation.~~

~~(iv) developing with the resident and facility a plan to achieve the agreed-upon resolution. The plan may be very simple or may have several steps and involve other agencies. Once the plan is agreed upon, the local LTCO, facility, resident, and other parties shall take action to implement the plan.~~

~~(v) making referrals to other agencies if a referrals are required by the plan.~~

~~(a) If during the investigation process the local LTCO determines that the incident or activities should be referred to APS, Health Facility Licensure, or Health Facility Review, the LTCO shall immediately make the referral and involve all appropriate agencies.~~

~~(b) The local LTCO who has referred the complaint to another agency shall follow up to obtain final results and record the outcome of the other agency's investigation. If the other agency does not respond or if the response is inadequate, the local LTCO may:~~

~~(1) contact the agency; or~~

~~(2) contact the State LTCO for technical assistance or help in resolving the problem with the other agency; or~~

~~(3) collaborate with another advocacy agency, such as the Legal Center for People with Disabilities, the Senior Citizens Law~~

~~Center, or the local office of Utah Legal Services to resolve the issue and clarify substantive legal rights of elderly residents; or~~

~~(4) track on-going problems with an agency or facility to build a body of credible evidence on which to base further action; or~~

~~(5) take any other appropriate action within the LTCO scope of authority, including filing legal action against the other agency if the AAA has the legal resources to bring legal action.~~

~~(6) compiling documentation of the validity of the complaint, of the agreed-upon outcome, and the steps taken to carry out the plan. The documentation may be summary in nature, but should clearly indicate the situation and its resolution.~~

~~(7) determining at what point the case is appropriately closed.~~

~~(8) notifying the complainant, verbally or in writing, that the investigation has been completed and the case is closed.~~

~~(7) Records~~

~~(a) The local LTCO shall maintain a set of records by resident, containing all required forms and relevant documentation, including:~~

~~(i) a completed intake form;~~

~~(ii) case recording consisting of: the nature of the complaint; validity of complaint and reasons for the determination; plan for resolution; implementation and outcome of plan; and dates and names of any collateral contacts;~~

~~(iii) consent forms; and~~

~~(iv) copies of any correspondence or written documents pertaining to the complaint, the investigation, the resolution plan, or implementation of the resolution plan.~~

~~(b) The local LTCO shall also maintain information by facility relating to all referrals.~~

~~(c) All actions, findings, conclusions, recommendations and follow-up shall be documented on the required state forms.~~

~~(8) Consent Forms~~

~~(a) In order to access resident files maintained in a facility, the local LTCO must attempt to obtain a signed release from the resident or the resident's legal representative. Signed releases shall be maintained in the case file and a copy shall be given to the facility or agency for inclusion in the residents record.~~

~~(b) If the local LTCO is unable to obtain written permission, he may get verbal approval from the resident or the resident's legal representative. The date and method of obtaining the verbal approval, e.g. phone contact with guardian, shall be documented in the case file. LTCO shall attempt to have a third-party witness the verbal consent and document it in the record.~~

~~(c) If a request for written or verbal consent is denied by the resident or their legal representative, the local LTCO shall not access the records.~~

~~(d) If the request for written or verbal consent is unsuccessful for any reason other than specific denial by the resident or legal representative, the local LTCO may proceed to access the records. The reasons for not obtaining consent shall be documented in the case file.~~

~~(9) Access to LTCO Records~~

~~(a) Records maintained by the local LTCO shall be available to the LTCO, their supervisor, the LTCO Program Director, the State LTCO, and any duly authorized agent of the AAA or the Division with program oversight responsibility. No other staff shall have access to these records.~~

~~_____ (b) Residents have the right to read their LTCO records; however, the name of any complainants shall be withheld.~~

~~_____ (c) LTCO records shall be released to other persons if the resident provides written consent. The consent form must be filed in the resident's file.~~

~~_____ (d) State and federal auditors may have access to LTCO records as required for administration of the program.~~

~~_____ (d) Statistical information and other data regarding the LTCO program which does not identify specific residents or complainants is available for public dissemination.~~

~~_____ (10) Reporting Requirements to State LTCO~~

~~_____ Local LTCO programs shall report to the State LTCO on the operation of the LTCO program. Reports shall include the data required to complete the State's report to the U.S. Department of Health and Human Services, Administration on Aging. Reports shall be submitted within time frames and in a format which shall be mutually agreed upon by the Division and AAAs.~~

~~_____ (11) Legal Issues~~

~~_____ (a) Legal representation: The Division is responsible for assuring that adequate legal representation is available for local LTCO Programs. AAAs and their governing authorities shall have the option to provide legal representation for their local LTCO Program. If an AAA, through their governing authority, opts not to provide this representation, the Division shall arrange for the representation through the attorney general or through contract. All AAA requests for legal consultation or representation shall be directed to the State LTCO for action. The Division is responsible to assure that no conflict of interest is present in the provision of legal representation to local LTCO Programs.~~

~~_____ (b) Liability: The local LTCO must operate within the scope of the ombudsman job description and this policy. Actions such as transporting a client, acting as a guardian or payee, signing consent forms for survey, medication, restraints, etc., signing medical directives, receiving a client power of attorney, and similar actions are outside the scope of the LTCO responsibilities. In doubtful situations the ombudsman should consult with supervisors, legal counsel or the State LTCO.~~

~~_____ (c) Guardianship: If a resident has a legal guardian, the local LTCO must work with the guardian. If the local LTCO identifies problems in the guardianship, they will discuss the situation with the local adult protective services staff to determine the advisability of investigating for abuse, neglect, or exploitation. They may also consult legal counsel or present issues to the court which oversees the guardianship.~~

~~_____ (12) Volunteers~~

~~_____ Local LTCO programs which use volunteers shall follow AAA policy with respect to applications, screening and approval, reference checks, personnel records, reimbursement, supervision, liability and all other relevant aspects of the volunteer program. In addition, volunteers must meet specific training and certification requirements contained in these rules if they are serving in the capacity of local ombudsman or assistant ombudsman.~~

~~_____ (13) Public Education~~

~~_____ In addition to receiving and investigating complaints, local LTCO Programs are mandated by federal and state statute to provide public education regarding long-term care issues. This may include activities such as frequent presence in facilities, community advocacy, attendance at family or resident councils, technical assistance and in~~

~~service to long-term care facilities, community organizations, and public information presentations.~~

~~**R510-200-9. Determination of the Responsible Agency for Investigating Particular Cases in Long-Term Care Facilities.**~~

~~_____ A. Pursuant to Utah Code Section 62A-3-106.5, to avoid duplication in responding to a report of alleged abuse, neglect, or financial exploitation in a long-term care facility, the Division hereby establishes procedures to determine whether Adult Protective Services or the Long-Term Care Ombudsman Program will be responsible to investigate or provide services in a particular case and determine whether, and under what circumstances, the agency that is not the responsible agency will provide assistance to the responsible agency in a particular case.~~

~~_____ B. The Long-Term Care Ombudsman Program will be the responsible agency in responding to a report of alleged abuse, neglect, or exploitation of an elderly adult who resides in a long-term care facility in the following cases:~~

~~_____ (1) When an allegation of abuse, neglect or exploitation occurs, the Long-Term Care Ombudsman will be the responsible agency in cases other than cases that allege sexual abuse or sexual exploitation;~~

~~_____ (2) When an elderly resident of a long-term care facility has allegedly abused, neglected, or financially exploited another resident;~~

~~_____ (3) When an employee of a long-term care facility has allegedly abused, neglected, or financially exploited an elderly resident and the facility has terminated the employee;~~

~~_____ (4) When the police or local law enforcement have initiated an investigation of alleged abuse, neglect, or financial exploitation.~~

~~_____ C. Adult Protective Services will be the responsible agency in responding to a report of alleged abuse, neglect, or exploitation of a vulnerable adult who resides in a long-term care facility in the following cases:~~

~~_____ (1) When an allegation of sexual abuse or sexual exploitation of a vulnerable adult is received.~~

~~_____ D. The agency that is not the responsible agency will provide assistance to the responsible agency in the following circumstances:~~

~~_____ (1) When the responsible agency requests the assistance of the non-responsible agency; or~~

~~_____ (2) When the responsible agency is the LTCO and there is evidence that the resident's protective need has not been met.]~~

~~**R510-200-1. Authority.**~~

~~_____ (1) Operation of the State Long-Term Care Ombudsman Program is a joint responsibility of the State Long-Term Care Ombudsman, the Division, and local AAAs. Authority to administer the LTCOP is derived from the Older Americans Act (OAA) Title VII: Allotments for Vulnerable Elder Rights Protection Activities and UC 62A-3-201 et seq.~~

~~**R510-200-2. Purpose.**~~

~~_____ (1) The State Long-Term Care Ombudsman Program is created for the purpose of promoting, advocating, and ensuring the adequacy of care received, and the quality of life experienced by residents of long-term care facilities within the State.~~

~~_____ (2) This provision does not limit the authority of the State Long-Term Care Ombudsman Program to provide ombudsman services to populations other than residents of long-term care facilities~~

so long as the appropriations under the Act are utilized to serve residents of long-term care facilities, as authorized by the Act.

R510-200-3. Definitions.

(1) "Area Agency on Aging" hereinafter "AAA" is as defined in UC 62A-3-101.

(2) "Direct Supervision" means a supervisor is present at all times, either physically or by telephone.

(3) "Division" is as defined in UC 62A-3-101.

(4) "Family Council" is the organized forum for families, as a group, to influence the quality of care for the residents.

(5) "Government Agency" is as defined in UC 62A-3-202.

(6) "Immediate Family" means a member of the household or a relative with whom there is a close personal or significant financial relationship.

(7) "Long-Term Care Ombudsman," hereinafter "LTCO" means the employees or volunteers designated by the State Long-Term Care Ombudsman to fulfill the duties of the State Long-Term Care Ombudsman Program. They are advocates for resident rights to help protect the quality of life and quality of care for anyone who resides in a long-term care facility.

(8) "Long-Term Care Ombudsman Program," hereinafter "LTCOP" means the Local LTCOP and includes its employees, officers, agents, and volunteers, which are designated by the Division to implement the LTCOP within the defined geographic area of the AAA or Provider Agency.

(9) "Long-Term Care Facility" is as defined in UC 62A-3-202.

(10) "Office of the State Long-Term Care Ombudsman," hereinafter "Office," means the organizational unit in a State or territory which is headed by a SLTCO.

(11) "Provider Agency" is defined as an entity designated by the SLTCO to provide ombudsman services in a particular area.

(12) "Resident" is defined as an individual who resides in a long-term care facility.

(13) "Resident Council" is an independent, organized group of residents living in a long-term care facility that meets on a regular basis to discuss concerns, develop suggestions on improving services, and plan social activities.

(14) "Resident Representative" means, excluding any intention to expand the scope of authority of any resident representative beyond that authority specifically authorized by the resident, State or Federal law, or a court of competent jurisdiction, any of the following:

(a) an individual chosen by the resident to act on behalf of the resident in order to support the resident in decision-making, access medical, social, or other personal information of the resident, manage financial matters, or receive notifications;

(b) a person authorized by State or Federal law (including agents under power of attorney, representative payees, and other fiduciaries) to act on behalf of the resident in order to support the resident in decision-making; access medical, social, or other personal information of the resident; manage financial matters; or receive notifications;

(c) legal representative; or

(d) the court-appointed guardian or conservator of a resident.

(15) "Resident Rights" means the basic human rights that residents of long-term care facilities are entitled to regardless of residency in such facilities.

(16) "State Long-Term Care Ombudsman," hereinafter "SLTCO," means the individual who heads the Office and is responsible to personally or through representatives of the Office, advocate for residents.

(17) "State Long-Term Care Ombudsman Program," hereinafter "SLTCOP," means the program through which the functions and duties of the Office are carried out, consisting of the ombudsman, the Office headed by the ombudsman, and the representatives of the Office.

(18) "Willful Interference" means actions or inactions taken by an individual in an attempt to intentionally prevent, interfere with, or attempt to impede the ombudsman from performing any of his or her responsibilities, or from performing any of the duties of the Office.

R510-200-4. Program Administration.

(1) Division.

(a) shall establish a State Office of Long-Term Care Ombudsman (Office). The Office is a distinct entity, separately identifiable, and located within or connected to the Division.

(b) shall require that the SLTCO serve on a full-time basis.

(c) shall not require or request the ombudsman to be responsible for leading, managing, or performing the work of non-ombudsman services or programs except on a time-limited, intermittent basis.

(d) shall ensure that the SLTCO meets minimum qualifications, including demonstrated expertise in:

(i) long-term services and supports or other direct services for older persons or other residents of long-term care facilities;

(ii) consumer-oriented public policy advocacy;

(iii) leadership and program management skills; and

(iv) negotiation and problem resolution skills.

(e) shall ensure that the SLTCO complies with the relevant provisions of the Older Americans Act (OAA) and this rule;

(f) shall ensure that the SLTCO has sufficient authority to fully perform all the functions, responsibilities, and duties of the Office;

(g) shall provide opportunities for training for the SLTCO in order to maintain expertise to serve as an effective advocate for residents;

(h) shall provide personal supervision and management of the SLTCO;

(i) shall integrate the goals and objectives of the Office into the State plan;

(j) shall provide elder rights leadership;

(k) ensure that mechanisms are in place to prohibit and investigate allegations of willful interference, retaliation, and reprisals;

(i) by a long-term care facility, other entity, or individual with respect to any resident, employee, or other person for filing a complaint with, providing information to, or otherwise cooperating with any representative of the Office; or

(ii) by a long-term care facility, other entity, or individual against the ombudsman or representatives of the Office for fulfillment of the functions, responsibilities, or duties enumerated in this rule.

(l) shall provide appropriate sanctions with respect to willful interference, retaliation and reprisals;

_____ (m) shall not have or maintain personnel policies or practices which prohibit the ombudsman from performing the functions and responsibilities of the ombudsman; and

_____ (n) may require that the SLTCO or other employees or volunteers of the Office adhere to the other personnel policies and procedures of the Division which are otherwise lawful.

(2) SLTCO.

(a) the SLTCO is responsible for:

(i) oversight of the statewide LTCOP;

(ii) providing training to local LTCO staff and volunteers;

(iii) provision of public information regarding the LTCOP;

(iv) working with Federal agencies, the State Legislature, other units of State government agency, and other agencies to obtain funding and other resources;

(v) developing cooperative relationships among agencies involved in long-term care;

(vi) resolving conflicts among agencies regarding long-term care;

(vii) assuring consistent, statewide reporting of LTCOP activities;

(viii) monitoring local LTCOPs on an annual basis, or as needed as determined by the SLTCO to ensure that LTCOP goals are being met;

(ix) providing technical assistance to local LTCOPs;

(x) maintaining close communication and cooperation in the LTCO statewide network;

(xi) recommending rules governing implementation of the LTCOP; and

(xii) providing overall leadership for the Utah LTCOP.

(b) the SLTCO shall propose to the State agency, hereinafter "Division" policies, procedures, and standards for administration of the ombudsman program including:

(i) leadership and personal oversight of the statewide LTCOP, including:

(A) final approval in hiring of local LTCO Representatives of the Office;

(B) final approval and/or determination in decertification of local LTCO Representatives;

(C) monitoring the performance of local Ombudsman entities; and

(D) evaluating statewide LTCOP performance.

(c) identify, investigate, and resolve complaints that:

(i) are made by, or on behalf of, residents; and

(ii) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents (including the welfare and rights of the residents with respect to the appointment and activities of guardians and representative payees), of:

(A) providers, or representatives of providers, of long-term care services;

(B) public agencies; or

(C) health and social service agencies.

(d) provide services to assist the residents in protecting the health, safety, welfare, and rights of the residents;

(e) inform residents about means of obtaining services provided by the Ombudsman Program;

(f) ensure that residents have regular and timely access to the services provided through the Office and that the residents and complaints receive timely responses from the representatives of the Office to complaints;

_____ (g) represent the interests of the residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

_____ (h) long-term care advocacy;

_____ (i) prioritize abuse, gross neglect, exploitation, and time-sensitive complaints;

_____ (ii) coordinate with statewide and national advocacy organizations involved in long-term care issues; and

_____ (iii) maintain awareness of current issues and trends in long-term care.

_____ (i) provide administrative and technical assistance to ombudsman entities to assist the entities in participating in the program;

_____ (j) practice vigilance regarding laws and regulations that pertain to the Office by:

(i) analyze, facilitate public comment on, recommend any changes in, and monitor the development and implementation of Federal, State, and local laws, regulations, and other governmental agency policies and actions, that pertain to the health, safety, welfare, and rights of the residents;

_____ (k) the SLTCO and representatives of the Office must be excluded from State lobbying prohibitions that conflict with OAA provisions. They must have the ability, without representing the positions of the State, Division or other entity housing the Office, to make independent determinations and establish positions and opinions of the office regarding:

(i) disclosure of information maintained by the LTCOP;

(ii) recommendations to changes in laws, regulations, policies, and actions; and

(iii) provision of information to public and private agencies, legislators, the media, and others, regarding the problems and concerns of residents and recommendations related to those problems and concerns.

_____ (l) providing for the certification and training of local LTCO to carry out LTCOP services of investigating and resolving complaints, conducting consultations, and providing information about the LTCOP;

_____ (m) through adoption of memoranda of understanding and other means, the SLTCO shall lead state-level coordination and support appropriate local ombudsman entity coordination, between the Ombudsman Program and other entities with responsibilities relevant to the health, safety, well-being, or rights of residents of long-term care facilities.

(3) Fiscal Management.

(a) the SLTCO shall determine the use of fiscal resources appropriated or otherwise available for the operation of the Office by:

(i) where local ombudsman entities are designated, the ombudsman shall approve the allocations of Federal and State funds provided to such entities, subject to applicable Federal and State laws and policies; and

(ii) the ombudsman shall determine that program budgets and expenditures of the Office and local ombudsman entities are consistent with laws, policies, and procedures governing the Ombudsman Program.

(4) Annual Report.

(a) the SLTCO shall independently develop and provide final approval of an annual report. Such report shall:

_____ (i) describe the activities carried out by the Office in the year for which the report is prepared;

_____ (ii) contain analysis of Ombudsman Program data;

_____ (iii) describe evaluation of the problems experienced by, and the complaints made by, or on behalf of, residents of long-term care facilities;

_____ (iv) contain policy, regulatory, and/or legislative recommendations for improving quality of the care and life of the residents; protecting the health, safety, welfare, and rights of the residents; and resolving resident complaints and identified problems or barriers;

_____ (v) contain analysis of the success of the Ombudsman Program. Including success in providing services to residents of long-term care facilities (nursing homes and assisted living facilities);

_____ (vi) describe barriers that prevent the optimal operation of the Ombudsman Program; and

_____ (vii) be provided to the following committees of the Utah State Legislature:

_____ (A) House Health and Human Services Committee;

_____ (B) Senate Health and Human Services Committee; and

_____ (C) Social Services Appropriations Committee.

_____ (b) in order to complete the required annual report, the SLTCO shall collect an annual report from each local ombudsman entity. Such report shall adhere to the guidelines set forth in this section.

_____ (5) Information and Assistance.

_____ (a) the SLTCO shall provide information and referrals regarding long-term care issues and the LTCOP to the general public, residents, community organizations, and other agencies.

_____ (6) Technical Assistance.

_____ (a) the SLTCO shall:

_____ (i) provide specialized technical assistance, consultation, training, and resources to local LTCOs, provider agencies, and the Division related to the operation of the LTCOP;

_____ (ii) provide statewide LTCOP data as available;

_____ (iii) monitoring of the local LTCOP;

_____ (iv) maintain activities and complaint data for the statewide LTCOP regarding Program components; and

_____ (v) may make site visits or assign a designee to evaluate local LTCO Entities.

_____ (7) Central Registry.

_____ (a) the SLTCO shall maintain a central registry of all local ombudsmen. The registry shall retain the following information on each:

_____ (i) the ombudsman's name, address, and telephone number;

_____ (ii) a summary of the ombudsman's qualifications;

_____ (iii) the AAA with which the ombudsman is associated;

_____ (iv) the most recent date of certification;

_____ (v) any conflict of interest; and

_____ (vi) any information pertaining to any decertification actions and the results of those actions.

R510-200-5. Program Components.

_____ (1) Program Components.

_____ (a) each local LTCOP shall provide services to protect the health, safety, welfare and rights of residents.

_____ (b) the following services, known as Program Components, shall be performed in accordance with the following procedures and standards and as directed by the Office of the SLTCO:

_____ (i) intake, investigation, and complaint processing;

_____ (ii) access to resident's records;

_____ (iii) preparation and maintenance of records;

_____ (iv) information and assistance;

_____ (v) community education;

_____ (vi) routine visits;

_____ (vii) advocacy;

_____ (viii) interagency coordination;

_____ (ix) resident and family council activities;

_____ (x) advisory council development;

_____ (xi) volunteer management; and

_____ (xii) consultations.

R510-200-6. Area Agency on Aging/Provider Agency Responsibilities.

_____ (1) The AAA/Provider Agency shall:

_____ (a) administer the contract for the daily operation of the local LTCOP in its service area, including:

_____ (i) meet the criteria to administer the local LTCOP contract;

_____ (ii) fiscal and Program monitoring of the local LTCOP in order to assess provision of LTCO services pursuant to the contract;

_____ (iii) provide annually a fiscal report to the SLTCO;

_____ (iv) provide an annual report to the SLTCO. Such report shall:

_____ (A) describe the activities carried out by the AAA/Provider Agency for the year in which the report is prepared;

_____ (B) contain analysis of the LTCOP data for the area covered by the AAA/Provider Agency;

_____ (C) describe evaluation of the problems experienced by, and the complaints made by, or on behalf of, residents of long-term care facilities for the area covered by the AAA/Provider Agency;

_____ (D) contain analysis of the successes and failures of the LTCOP for the area covered by the AAA/Provider Agency; and

_____ (E) describe barriers that prevent the optimal operation of the LTCOP in the area covered by the AAA/Provider Agency.

_____ (v) monitoring local LTCOP attainment of its goals and objectives as stated in the Local LTCOP Annual Plan; and

_____ (vi) ensure that all long-term care facilities in the coverage area of the AAA/Provider Agency are visited at least quarterly for a non-complaint related walk-through.

_____ (b) support the local LTCOP by:

_____ (i) providing opportunities for the local LTCOP and other aging and social services organizations to collaborate to promote the health, safety, welfare and rights of residents;

_____ (ii) making referrals to the local LTCOP;

_____ (iii) promoting awareness of LTCO services to consumers and the general public within the service area; and

_____ (iv) supporting the local LTCOP in systems advocacy on behalf of residents of long-term care facilities.

_____ (c) assure that local LTCOP data is provided to the Office of the SLTCO in the format required;

_____ (d) prohibit disclosure of the identity of any complainant or resident of a long-term care facility with respect to LTCO files or records;

_____ (e) provide a transition plan to minimize disruption in LTCO services to residents of long-term care facilities when the contract for the local LTCOP is terminated or not renewed;

- _____ (f) perform each of its responsibilities in administering the local LTCOP in accordance with all applicable Federal and State laws, regulations, and rules, as directed by the SLTCO;
- _____ (g) act as the sole provider of LTCO services in the service area designated through contract;
- _____ (h) operate the local LTCOP in accordance with the provisions of the contract for LTCOP services with the Division;
- _____ (i) provide LTCO staff in addition to the LTCO Supervisor if necessary in order to fulfill the program components and maintain or exceed the level of services provided in the service area during the previous fiscal year;
- _____ (j) restrict access to records located with the Provider Agency to certified LTCO staff only;
- _____ (k) assure LTCO attendance at certification training and all mandatory statewide LTCO trainings;
- _____ (l) provide professional development opportunities for LTCO staff;
- _____ (m) provide staff support as needed for the operation of the LTCOP such as fiscal management, clerical, and telephone coverage;
- _____ (n) arrange, in consultation with the SLTCO, for temporary provision of LTCO services in the service area when the LTCO staff of the AAA/Provider Agency are unavailable or the staff position is vacant;
- _____ (o) request a temporary waiver from the SLTCO if, due to unusual circumstances, it anticipates it will be unable to comply with any of these responsibilities;
- _____ (p) shall not have or maintain personnel policies or practices which prohibit a representative of the LTCOP from performing the required duties; and
- _____ (q) may require that representatives of the LTCOP adhere to the other personnel policies and procedures of the AAA/Provider Agency, which are otherwise lawful.

R510-200-7. Long-Term Care Ombudsman Responsibilities.

- _____ (1) Certified Long-Term Care Ombudsman Responsibilities.
- _____ (a) the SLTCO and representatives of the Office shall be excluded from abuse reporting requirements including when the reporting would disclose identifying information of a resident or complainant without consent or court order, with the exception of:
 - _____ (i) if the SLTCO or LTCO personally witnesses suspected abuse, gross neglect, or exploitation of a resident, the ombudsman shall seek communication of informed consent from such resident to disclose resident-identifying information to appropriate agencies; or
 - _____ (ii) if resident is unable to communicate consent, the ombudsman shall follow the consent protocol outlined in section R510-200-20.
- _____ (b) providing LTCO services to protect the health, safety, welfare and rights of residents of long-term care facilities in accordance with the provisions of the Federal and State laws governing the LTCO and in accordance with the provisions of the Provider Agency contract for LTCO services;
- _____ (c) fulfilling the program components outlined in contractual agreement;
- _____ (d) documenting LTCO activities and case work as required by the rules, regulations, and requests by the SLTCO;
- _____ (e) visit all long-term care facilities in the coverage area of the AAA/Provider Agency at least quarterly for a non-compliant related walk through;

- _____ (f) prohibiting inappropriate access to LTCO records in the possession of the LTCOP;
- _____ (g) completing data entry into the ombudsman computer program by:
 - _____ (i) including case information in all fields of:
 - _____ (A) case management;
 - _____ (B) activities;
 - _____ (C) consultations; and
 - _____ (D) other required information.
 - _____ (h) assuring all data is updated, completed, and dispensed to the SLTCO for NORs and other reporting requests or requirements;
 - _____ (i) performing each responsibility in accordance with all applicable Federal and State laws, regulations, and policies, and keeping the SLTCO informed of all critical issues as they arise; and
 - _____ (j) follow complaint process procedures as follows:
 - _____ (i) investigate complaints and develop an action plan to resolve the complaint;
 - _____ (ii) provide supervision over the implementation of the action plan and any follow-up determined necessary;
 - _____ (iii) set complaint response priorities;
 - _____ (iv) assign complaints to staff, including volunteers; and
 - _____ (v) provide case consultations as requested.
 - _____ (k) actions that are outside the scope of authority of a LTCO and are not the responsibility of a LTCO include:
 - _____ (i) transporting a client;
 - _____ (ii) providing clients services that should be provided by the facility in which they reside;
 - _____ (iii) acting as a guardian;
 - _____ (iv) acting as a payee;
 - _____ (v) signing consent forms for survey, medication, or restraints;
 - _____ (vi) signing medical directives; and
 - _____ (vii) receiving client power of attorney.

R510-200-8. Volunteer Management.

- _____ (1) This rule incorporates by reference UC 62A-3-203; UC 62A-3-204.
- _____ (2) AAA/Provider Agency Role.
 - _____ (a) the local Provider Agency of the LTCOP shall develop written procedures for recruitment, training, and oversight of volunteers with the express approval of the SLTCO.
 - _____ (b) the procedures shall be consistent with the Ombudsman Program including training and certification requirements as set forth by the SLTCO.
- _____ (3) SLTCO Role.
 - _____ (a) the SLTCO shall provide technical assistance to assist each local LTCOP in developing and maintaining its volunteer program.
- _____ (4) LTCO Staff Role.
 - _____ (a) LTCO staff must ensure direct supervision of the LTCO volunteer program; include all LTCO volunteers within their defined geographic area of the AAA or Provider Agency.
- _____ (5) LTCO Volunteer Role.
 - _____ (a) a volunteer who has met the certification requirements shall:
 - _____ (i) work under the direct supervision of a LTCO staff person as designated by the LTCO supervisor;
 - _____ (ii) be qualified to perform ombudsman responsibilities including provision of the program components;

(iii) provide appropriate documentation and reporting requirements to the local LTCOP of all activities done on behalf of the LTCOP; and

(iv) perform his or her responsibilities in accordance with all applicable Federal and State laws, rules, regulations, policies, and procedures.

R510-200-9. Designation of Service Providers.

(1) This rule incorporates by reference UC 62A-3-204.

(2) Designation of Ombudsman Programs: the SLTCO may designate provider agencies to provide ombudsman services throughout Utah.

(3) Criteria for Designation as a Provider Agency: to be eligible for designation as a Provider Agency, an entity must:

(a) be a government agency or nonprofit entity;

(b) not have any organizational conflicts of interest identified in R510-200-14 without an appropriate remedy of conflict of interest approved by SLTCO.

(c) have demonstrated to the satisfaction of the SLTCO personally, or a representative of the Office with final approval from the SLTCO, the capability to carry out the responsibilities of the Office; and

(d) meet all requirements of this Rule.

(4) Process for Designation when the AAA Serves as the Provider Agency.

(a) the SLTCO may designate the AAA as the Provider Agency where:

(i) the AAA meets the criteria for designation;

(ii) the AAA is not otherwise prohibited from fulfilling the duties of the Provider Agency; and

(iii) the execution date (State fiscal year) of the AAA's contract with the Division to provide LTCOP services shall constitute the effective date of the designation.

(5) Process by which the AAA sub-contracts with and designates another entity as the Provider Agency.

(a) the AAA may enter into a contract with a Provider Agency for the provision of the LTCOP services in their designated geographical service area. Said contract must:

(i) specify the service area;

(ii) require the Provider Agency to adhere to all applicable Federal and State laws, regulations, and policies; and

(iii) provide that the contract automatically terminates if the AAA or the Provider Agency is de-designated by the SLTCO.

(b) the execution date (State fiscal year) of the Provider Agency's contract with the AAA to provide LTCOP Services shall constitute the effective date of the designation.

(c) should the contract between the Provider Agency and the AAA to provide LTCOP services not be renewed or be terminated for any reason, the AAA shall immediately notify the SLTCO.

(6) Process for designation of a Provider Agency, where the Division contracts directly with the Provider Agency.

(a) where the contract for the LTCOP services is not with or through the AAA, the SLTCO may designate a Provider Agency as follows:

(i) Division shall issue a Request for Proposal (RFP), approved by the SLTCO, seeking an entity to provide LTCOP services within a particular service area. The RFP shall identify the criteria for designation as a Provider Agency and shall request submission of documents supporting the entity's claim to meet these criteria; and

(ii) Division shall require that all responding entities develop an ombudsman services plan setting forth:

(A) the goals and objectives of such entity in providing LTCOP services;

(B) a description of how each Program Component, from section R510-200-5, SLTCOP Program Administration, shall be met including its staffing plan for the local LTCOP; and

(C) a description of the resources, which will be provided to assist in the operation of the local LTCOP.

(b) Division may contract with a Provider Agency to provide LTCOP services. Such contract must:

(i) specify the service area;

(ii) require the Provider Agency to adhere to all applicable Federal and State laws, regulations, and policies; and

(iii) state that the contract will be automatically terminated if the provider is de-designated by the SLTCO.

(c) the execution date of the Provider Agency's contract with the Division to provide ombudsman services shall be the effective date of the designation.

R510-200-10. De-Designation of Service Providers.

(1) Criteria for De-designation.

(a) the SLTCO may de-designate an entity, including an AAA, as a Provider Agency for one or more of the following reasons:

(i) failure to continue to meet the criteria for designation;

(ii) existence of a conflict of interest with the LTCOP as outlined in section R510-200-14, Conflicts of Interest;

(iii) failure to disclose any conflict of interest;

(iv) violation of SLTCO confidentiality requirements as outlined in section R510-200-24, Confidentiality;

(v) failure to provide adequate LTCO services;

(vi) failure to fill a vacant ombudsman position;

(vii) failure to use funds designated for the LTCOP for LTCO services or as directed by the SLTCO as outlined in section R510-200-4, Program Administration;

(viii) failure to adhere to the terms of the contract for the provision of ombudsman services; or

(iv) failure to adhere to applicable Federal and State laws and regulations.

(2) Process for De-designation of a Provider Agency.

(a) when an AAA serves as a Provider Agency, the process to de-designate the Provider Agency shall be as follows:

(i) the SLTCO shall send notice of the intent to de-designate to the AAA. Notice shall include the reason for de-designation;

(ii) the Provider Agency shall respond in writing to the notice within ten business days, outlining its plan to reach compliance; and

(iii) after ten business days have passed, and at its sole discretion, SLTCO may amend or terminate the contract between the AAA and the Division.

(b) when an AAA contracts with a Provider Agency, the process to de-designate the Provider Agency shall be as follows:

(i) the SLTCO shall send notice of the intent to de-designate to the AAA and the Provider Agency. Notice shall include the reason for de-designation;

(ii) the AAA and SLTCO shall provide for the continuation of ombudsman services by ensuring that either the SLTCO or the AAA are providing services to that specific area;

(iii) the Provider Agency shall respond within ten business days, outlining its plan to reach compliance; and

(iv) after ten business days have passed, and at the discretion of the AAA and the SLTCO, an AAA may terminate its contract for LTCO services with the Provider Agency.

(c) when a Provider Agency contracts directly with the Division, the process to de-designate the Provider Agency shall be as follows:

(i) the SLTCO shall send notice of the intent to de-designate to the Provider Agency. Notice shall include the reason for de-designation;

(ii) the SLTCO shall ensure the provision of continued ombudsman services;

(iii) the Provider Agency shall respond in writing to the notice within ten business days, outlining its plan to come into compliance;

(iv) after ten business days have passed, and at its sole discretion, the SLTCO may terminate the contract with the Provider Agency; and

(v) when immediate de-designation is deemed necessary, the Provider Agency shall respond in writing to the notice of immediate de-designation within five business days, outlining its plan to come into compliance.

(3) Voluntary Withdrawal of a Provider Agency.

(a) a Provider Agency may voluntarily relinquish its designation by:

(i) providing written notice 90 days in advance of the date of relinquishment of designation to the SLTCO and AAA; and

(ii) maintaining and performing program activities during the 90 days.

(4) Continuation of Ombudsman Services.

(a) when a Provider Agency is in the process of appealing its de-designation or has relinquished its designation:

(i) the SLTCO or the AAA, if applicable, may arrange for the provision of ombudsman services until a new Provider Agency is designated;

(ii) the Provider Agency shall, at the sole discretion of the SLTCO, surrender any equipment and supplies purchased with State or Federal funds designated for LTCO services; and

(iii) the Provider Agency shall surrender the balance of any advanced State or Federal monies to the AAA, or to the SLTCO where the AAA serves as the Provider Agency.

(5) Appeal Procedures of De-Designation.

(a) the Provider Agency may file an appeal with the Director of the Division to have complaints heard regarding any de-designation activities by:

(i) contacting the Director in writing within ten business days of the SLTCO final decision for de-designation; and

(ii) address directly:

(A) the stated reason for de-designation;

(B) how the Provider Agency has made corrections and come into compliance;

(C) how said corrections qualify the Provider Agency for re-designation; and

(D) sub-contracted agencies must use this process to appeal directly to the AAA.

(b) where the Director of the Division denies the appeal for re-designation, final appeal may be made to the State of Utah Department of Human Services Deputy Director by:

(i) contacting the Deputy Director in writing within ten business days of the Division Director's denial; and

(ii) address directly:

(A) the stated reason for de-designation;

(B) the stated reason for denial of appeal for re-designation;

(C) how the Provider Agency has made corrections and come into compliance; and

(D) how said corrections qualify the Provider Agency for re-designation.

R510-200-11. Certification of an Individual as an Ombudsman.

(1) Criteria for certification as an ombudsman.

(a) to be certified as a LTCO, an individual must:

(i) demonstrate ability to carry out the responsibilities of a LTCO;

(ii) ombudsman staff, with the exception of volunteers and staff hired prior to July 1, 2018, must have a bachelor's degree in social work or related field and/or three years of experience in a related field or approval from the SLTCO if the best candidate does not have the degree or experience;

(iii) have taken and passed a criminal background check through the Utah Department of Public Safety Bureau of Criminal Identification (BCI) paid for by the individual, or the corresponding AAA, or the contract provider;

(iv) be reviewed in the Adult Protective Services (APS) Perpetrator registry as incorporated by reference UC 62A-3-311 to ensure APS has not registered a supported finding against the individual for abuse, neglect, or exploitation;

(v) be free of conflicts of interest;

(vi) meet the minimum qualifications for the applicable LTCO position;

(vii) complete the certification training requirements;

(viii) complete the certification testing requirement as soon as possible, but no later than six months after beginning the certification training that is approved by the SLTCO; and

(ix) must have a general knowledge of long-term care facilities and/or gerontology, long-term care, health care, legal or human service programs, advocacy, complaint and dispute resolution, mediation, or investigation.

(2) Notification of Certification.

(a) provided that all certification requirements have been met, the SLTCO shall:

(i) send a State authorized certification badge to the individual being designated as a LTCO within 30 days of completion of certification requirements.

(3) Training and Certification Requirements for ombudsman.

(a) there is one tier of Ombudsmen, the following requirements apply for both paid staff and volunteers:

(i) to become a certified ombudsman, 40 hours of classroom training is required in addition to any previous classroom training and 20 hours of job shadowing. Appropriate training shall be established by and at the sole discretion of the SLTCO; and

(ii) the position of certified ombudsman requires multiple examinations. These exams:

(A) require scores of 70% or higher;

(B) failure to achieve 70% will result in the opportunity for the examinee to retake the exams once within 30 days;

_____ (C) failure to achieve 70% on a second attempt will result in a requirement to receive further training; or

_____ (D) failure to achieve 70% on a third attempt will result in the examinee's disqualification for certification.

_____ (4) Recertification.

_____ (a) the SLTCO will provide for a minimum of 24 hours LTCO specific training annually including:

_____ (i) a two day annual mandatory training for all certified LTCO; or

_____ (ii) an attendance exception may be granted by the SLTCO at his discretion.

_____ (b) for first year LTCO, the required initial training will accrue toward the annual training requirement.

_____ (c) with documentation of attendance, community training related to the long-term care population can serve to meet annual training requirements in lieu of State sponsored LTCO training.

_____ (d) to be re-certified as a LTCO, an individual must:

_____ (i) fulfill LTCO responsibilities as outlined in R510-200-7, Long-Term Care ombudsman Responsibilities;

_____ (ii) renew certification each year by completing a minimum of 24 hours of continued education, as approved by SLTCO; and

_____ (iii) pass a criminal background check through the Utah Department of Public Safety BCI every three years, or at the request of the SLTCO, paid for by the corresponding AAA or contract provider.

_____ (e) after any absence of 12 months or more, the LTCO must complete the full required certified ombudsman training

R510-200-12. De-Certification of an Individual as an Ombudsman.

_____ (1) Criteria for de-certifying an ombudsman.

_____ (a) the SLTCO shall de-certify a LTCO for any of the following reasons:

_____ (i) failure of the individual to meet and/or maintain the criteria for certification;

_____ (ii) existence of a conflict of interest;

_____ (iii) intentional failure of the individual to disclose any conflict of interest;

_____ (iv) performing a function not recognized or sanctioned by the LTCOP;

_____ (v) violation of the confidentiality requirements;

_____ (vi) failure to fulfill LTCO responsibilities as outlined in R510-200-7, Long-Term Care Ombudsman Responsibilities;

_____ (vii) falsifying records;

_____ (viii) failure to follow the direction of the SLTCO, or designee, regarding LTCO procedures and practices;

_____ (ix) a change in employment duties which is incompatible with LTCO duties; or

_____ (x) separation from the LTCOP including:

_____ (A) termination of employment by the Provider Agency;

_____ (B) non-fulfillment of job responsibilities;

_____ (C) termination or non-renewal of Provider Agency's contract for provision of LTCO services; or

_____ (D) failure to act in accordance with applicable Federal and State laws and regulations.

_____ (2) Process to de-certify an ombudsman.

_____ (a) prior to de-certifying, the SLTCO shall:

_____ (i) consult with the relevant AAA and/or Provider Agency to consider remedial actions that could be taken to avoid de-certification; and

_____ (ii) discuss with the relevant AAA and/or Provider Agency the impact of the action which led to de-certification.

_____ (b) the SLTCO shall provide written notice of intent to the LTCO to be de-certified and the Provider Agency. Such notice shall:

_____ (i) specify the reasons for the intended de-certification; and

_____ (ii) set for the effective date of the de-certification.

_____ (3) Upon completion of the decertification actions, the SLTCO shall record the actions and results in the central registry.

R510-200-13. Refusal to Certify an Individual as an Ombudsman.

_____ (1) Criteria for Refusal to Certify an Individual as an ombudsman.

_____ (a) the SLTCO shall refuse to certify an individual as a LTCO for any of the following reasons:

_____ (i) it is determined by the SLTCO that the individual does not exhibit the necessary skills for the position;

_____ (ii) failure of the individual to meet and/or maintain the criteria for certification;

_____ (iii) existence of a conflict of interest;

_____ (iv) failure of the individual to disclose any conflict of interest; or

_____ (v) falsifying records.

_____ (2) Process for Refusal to Certify an Individual as an ombudsman.

_____ (a) prior to refusing to certify, the SLTCO shall:

_____ (i) consult with the relevant AAA and/or Provider Agency to consider remedial actions that could be taken to avoid refusal to certify.

_____ (b) the SLTCO shall refuse to certify an individual as a LTCO by providing written notice of such refusal to the administrating agency supervisor. Such notice shall:

_____ (i) specify the reasons for the refusal to certify; and

_____ (ii) set forth the effective date of such refusal.

R510-200-14. Conflicts of Interest.

_____ (1) A conflict of interest exists in the LTCOP when interests intrude upon, interfere with, or threaten to negate the ability of the LTCO to advocate without compromise on behalf of long-term care facility residents. The LTCO shall have no conflict of interest that would interfere with performing the function of this position.

_____ (2) Organizational Conflicts.

_____ (a) organization conflicts arise when the LTCOP is placed with a service provider that:

_____ (i) is responsible for licensing, surveying, or certifying long-term care facilities (45 CFR 1324.21(a)(1));

_____ (ii) is an association (or an affiliate of such an association) of long-term care facilities, or of any other residential facilities for older individuals or individuals with disabilities ((OAA Sec. 712(f)(2)(A)(ii)) and (45 CFR 1324.21(a)(2)); NOTE: OAA citation does not have "or individuals with disabilities";

_____ (iii) is responsible for licensing, certifying, or surveying long-term care services in the State (OAA Sec. 712(f)(2)(A)(i));

_____ (iv) has any ownership or investment interest (represented by equity, debt, or other financial relationship) in, or receives grants or donations from, a long-term care facility (45 CFR 1324.21(a)(3));

_____ (v) has governing board members with any ownership, investment or employment interest in long-term care facilities (45 CFR 1324.21(a)(4));

_____ (vi) provides long-term care to residents of long-term care facilities, including the provision of personnel for long-term care

facilities or the operation of programs which control access to or services for long-term care facilities (45 CFR 1324.21(a)(5));

(vii) provides long-term care services, including programs carried out under a Medicaid waiver approved under section 1115 of the Social Security Act (42 U.S.C. 1315) or under subsection (b) or (c) of section 1915 of the Social Security Act (42 U.S.C. 1396n), or under a Medicaid State plan amendment under subsection (i), (j), or (k) of section 1915 of the Social Security Act (42 U.S.C. 1396n) (OAA Sec. 712(f)(2)(A)(iii));

(viii) provides long-term care case management (OAA Sec. 712(f)(2)(A)(iv));

(ix) provides long-term care coordination or case management for residents of long-term care facilities (45 CFR 1324.21(a)(6));

(x) sets reimbursement rates for long-term care facilities (45 CFR 1324.21(a)(7));

(xi) sets rates for long-term care services (OAA Sec. 712(f)(2)(A)(v));

(xii) provides adult protective services (OAA Sec. 712(f)(2)(A)(vi) and (45 CFR 1324.21(a)(8));

(xiii) is responsible for eligibility determinations for the Medicaid program carried out under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (OAA Sec. 712(f)(2)(A)(vii));

(xiv) is responsible for eligibility determinations regarding Medicaid or other public benefits for residents of long-term care facilities (45 CFR 1324.21(a)(9));

(xv) conducts preadmission screening for placements in facilities described in clause (ii) (OAA Sec. 712(f)(2)(A)(viii); 45 CFR 1324.21(a)(10) language has essentially the same meaning;

(xvi) makes decisions regarding admission or discharge of individuals to or from such facilities (OAA Sec. 712(f)(2)(A)(ix); 45 CFR 1324.21(a)(11) language has essentially the same meaning);

(xvii) provides guardianship, conservatorship or other fiduciary or surrogate decision making services for residents of long-term care facilities (45 CFR 1324.21(a)(12));

(xviii) any other service (e.g., Name of Service) provided by the agency that could pose a potential or actual conflict of interest, including other work done by LTCOP employees;

(xix) any other perceived or actual conflicts of interest from the resident/consumer/general public perspective with the LTCOP; or

(xx) where there is a shared "front door" to the agency where the LTCOP is located, how the agency determines where to direct calls, emails, or other contacts that come in to the agency.

(3) Individual ombudsman conflicts.

(a) conflicts for a LTCO include the following:

(i) involvement in the licensing or certification of a long-term care facility or provision of a long-term care service, including solicitation of employment by LTCO or a member of his/her immediate family;

(ii) ownership, operational, or investment interest (represented by equity, debt, or other financial relationship) in an existing or proposed LTC facility or LTC service by LTCO or a member of his/her immediate family;

(iii) employment or solicitation of employment of LTCO or a member of his/her immediate family by a LTC facility; participation in the management of a LTC facility by LTCO or a member of his/her immediate family;

(iv) receipt of, or right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement

with an owner or operator of a LTC facility by LTCO or a member of his/her immediate family;

(v) accepting any gifts or gratuities, including meals, from a LTC facility or resident or resident representative or being named as the beneficiary of an estate, will, or trust of resident, or resident representative;

(vi) accepting money or any other consideration from anyone other than the Provider Agency or other entity designated by the Office for the performance of an act in the regular course of LTC ombudsman duties;

(vii) provision of services with conflicting responsibilities while serving as a LTCO, such as adult protective services; discharge planning; serving as guardian, agent under power of attorney or other surrogate decision-maker for LTC residents in the service area;

(viii) participation in pre-admission screening or case management for LTC residents;

(ix) serving residents of a facility in which an immediate family member resides; or

(x) participation in activities which negatively impact the LTCO's ability to serve residents, or are likely to create a perception that the LTCO's interest is other than as a resident advocate.

(b) under no circumstances shall a LTCO be appointed or employed who has been employed by or participating in the management of a long-term care facility within the previous twelve months.

(4) Completing a Conflict of Interest Agreement.

(a) to ensure compliance with conflict of interest standards:

(i) all staff and volunteers requesting ombudsman certification will update their conflict of interest information upon hiring and then annually at the beginning of the Federal Fiscal Year (FFY), and on an as needed basis as determined by the SLTCO, to affirm that they are in compliance; and

(ii) SLTCO will review conflict of interest with all LTCO annually at the beginning of FFY.

(5) Remediating Conflict.

(a) where an actual or potential conflict of interest within the LTCOP has been identified, all agents of the AAAs, provider agencies, and LTCOs have an affirmative duty to notify the SLTCO of said conflict.

(b) the SLTCO shall determine whether appropriate actions may be taken to sufficiently remedy the conflict.

(c) a conflict can be sufficiently remedied only:

(i) where the existence of the conflict does not and cannot interfere with any duties of the LTCOP; and

(ii) where the conflict is not likely to alter the perception of the LTCOP as an independent advocate for residents of long-term care facilities.

(6) Remediating Organizational Conflict.

(a) where organizational conflicts have been identified within an AAA, Provider Agency, or governing board, the following steps shall be taken to ensure the conflict can be sufficiently remedied:

(i) a written remedial plan shall be developed within ten business days of identification of the conflict to the SLTCO;

(ii) the remedial plan must identify the actual conflict and provide assurances, which shall mitigate the negative impact of the conflict on the LTCOP;

(iii) the AAA, Provider Agency, or governing board shall cease all LTCO activities during the remedial period; and

(iv) the remedial plan must be mutually agreed upon and signed by the agency in which the conflict exists and by the SLTCO.

(7) Remediating individual ombudsman conflicts.

(a) where individual conflicts have been identified, the following steps shall be taken to ensure the conflict can be sufficiently remedied:

(i) development of a written remedial plan:

(A) where the individual is an applicant for a position as a LTCO, a plan shall be developed before the individual is hired for the position;

(B) where the individual is an applicant for certification as a volunteer ombudsman, a plan shall be developed before the individual is certified; or

(C) where the individual is a LTCO staff or volunteer, a plan shall be developed within ten business days of identification of the conflict to the SLTCO. No action shall be taken by the individual on behalf of the LTCOP until the plan is submitted to the SLTCO.

(ii) the remedial plan must:

(A) identify the actual conflict; and

(B) provide assurances, which shall mitigate the negative impact of the conflict on the LTCOP.

(iii) the remedial plan must be mutually agreed upon between the individual LTCO and the SLTCO; and

(iv) ombudsmen are not permitted to serve residents in facilities with which they have a conflict of interest except at the determination of the SLTCO.

(8) Failure to Identify or Remedy a Conflict of Interest.

(a) failure on the part of a LTCO or Provider Agency to identify and report to the SLTCO a conflict of interest may:

(i) be grounds for refusal to certify;

(ii) may result in the de-certification of the LTCO and/or the AAA/Provider Agency; or

(iii) may result in the termination of the LTCO or termination of the contract between the LTCOP and the AAA/Provider Agency.

(b) existence of an un-remedied conflict of interest could be grounds for:

(i) the de-certification of the LTCOP headed by the AAA/Provider Agency and termination of the contract between the AAA/Provider Agency and the LTCOP;

(ii) de-certification of an LTCO; or

(iii) termination of an LTCO.

(c) appeals may be made following the Grievance Procedure process found in part R510-200-16.

(9) Division, AAAs, and Provider Agencies.

(a) when considering the employment or appointment of an individual as the LTCO, Division, AAAs and Provider Agencies shall:

(i) take reasonable steps to avoid employing or appointing an individual who has an unremedied conflict of interest or who has a member of the immediate family with an unremedied conflict of interest;

(ii) take reasonable steps to avoid assigning an individual to perform duties which would constitute an unremedied conflict of interest;

(iii) establish a process for periodic review and identification of conflicts of the ombudsman and representatives of the Office; and

(iv) take steps, as outlined, to remove or remedy conflicts.

R510-200-15. Records.

(1) This rule incorporates by reference UC 62A-3-206.

(2) Access to resident/facility records:

(a) the SLTCOP is a Health Oversight Agency, thus the Health Insurance Portability and Accountability Act of 1996 (HIPAA) does not preclude release by covered entities of resident private health information or other resident identifying information to the Ombudsman program, including residents:

(i) medical records;

(ii) social records;

(iii) room numbers;

(iv) names;

(v) administrative records;

(vi) policies;

(vii) documents to which the resident or general public has access;

(viii) all long-term care facility licensing and certification records maintained by the State; and

(ix) other resident records.

(b) each LTCO has access to records of the local LTCOP for which he or she serves; and

(c) for the purpose of providing temporary coverage for another local LTCOP, a LTCO may have access to the LTCO records of the other local LTCOP to the extent necessary to provide such coverage.

(3) Division, AAA, and Provider Agency access to records:

(a) the Department of Human Services (DHS), Division, and the relevant AAA and/or Provider Agency may review records, which reflect the activities of the LTCOP;

(b) Division, AAA, or Provider Agency may not review records that disclose the identity of any resident or complainant, except for the SLTCO; and

(c) no State agency, AAA, or Provider Agency may require a LTCO to disclose the identity of a complainant or resident except as specifically provided by Federal or State law.

(4) Maintenance of LTCO records and the LTCO reporting system:

(a) maintaining records through an ombudsman computer program, a statewide uniform reporting system to collect and analyze data relating to complaints, cases, and activities in long-term care facilities;

(b) any paper documentation shall be scanned into the ombudsman computer program.

R510-200-16. Grievance Procedures.

(1) Concerns.

(a) all concerns that individuals may have regarding the LTCOP shall be documented and include:

(i) outcomes; and

(ii) relevant actions.

(2) Timeliness.

(a) all grievances shall be submitted in writing to the Division/AAA/Provider Agency administering the LTCOP.

(b) the procedure for submitting a grievance is as follows:

(i) LTCO:

(A) complaints about LTCO shall be directed to the local LTCOP Supervisor;

(B) program supervisor shall notify the SLTCO as soon as the complaint is made;

(C) program supervisor shall investigate the complaint within ten business days;

(D) nature of complaint and investigation shall be documented;

(E) response back to the complainant shall be given within ten business days following the completion of the initial complaint investigation;

(F) response shall include name and contact information of the SLTCO to ensure ease of appeal;

(G) all confidential information shall be withheld from the Director of the AAA/Provider Agency to ensure that the LTCOP operates independently of the AAA/Provider Agency;

(H) outcome shall be documented; and

(I) program supervisor shall notify the SLTCO of the outcome.

(ii) SLTCO:

(A) a complaint regarding the SLTCO shall be forwarded to the Director of the Division;

(B) the Director shall investigate the complaint within ten business days;

(C) the nature of the complaint and the investigation shall be promptly documented by the office of the Director of the Division;

(D) all confidential information shall be withheld from the Director of the Division to ensure that the LTCOP operates independently of the Division;

(E) response back to the complainant shall be given within ten business days following the completion of the initial complaint investigation;

(F) the outcome shall be documented.

R510-200-17. Legal Counsel.

(1) Provision of Adequate Legal Counsel.

(a) Division shall provide for the services of a Legal Services Developer.

(b) the Division hired Legal Services Developer shall not represent or provide legal advice to an AAA/Provider Agency or a local LTCO, or individual resident. However, the Legal Services Developer ensures legal representation for individuals using licensed attorneys, not employed by the Division, throughout the State.

(c) the State Attorney General's Office shall act as legal counsel to the SLTCOP and the SLTCO.

(d) the State Attorney General's Office shall not represent or provide legal advice to an AAA/Provider Agency or a local LTCOP.

(e) the AAA/Provider Agency is required to provide legal representation for their local LTCO for programmatic purposes.

(f) the SLTCOP shall not provide legal representation for residential matters.

R510-200-18. Guardianship.

(1) Long-Term Care Ombudsman Program Responsibilities to a Guardian.

(a) if a resident has a legal guardian, the LTCO must work with the guardian.

(b) if the LTCO believes that the guardian is not acting in the best interest of the resident, they will contact their immediate supervisor, AAA, or the SLTCO for assistance to advocate for resident rights.

R510-200-19. Emergency Preparedness.

(1) Emergency Preparedness Planning.

(a) the SLTCO together with the local LTCO throughout the State shall develop a plan to assist residents of long-term care facilities in the event of an emergency. Such a plan includes:

(i) coordinating activities and developing emergency preparedness plans relevant to the particular service areas;

(ii) supporting the local ombudsman entity with emergency preparedness including:

(A) information sharing;

(B) resource sharing;

(C) training;

(D) participation in exercises; and

(E) facilitation of relationships with local healthcare coalitions, public health agencies, and any other relevant agencies prior to, during, and after an emergency.

(iii) the SLTCO shall coordinate with representatives of the LTCOP to determine capacity and the support needed to plan and prepare for emergencies.

R510-200-20. Intake, Investigation, and Complaint Processing.

(1) This rule incorporates by reference UC 62A-3-206.

(2) General.

(a) the local LTCOP shall identify, investigate and attempt to resolve validated complaints made by or on behalf of residents of long-term care facilities.

(3) Response to the Complaint.

(a) when a LTCO receives information regarding a complaint, the LTCO shall determine:

(i) the type of complaint using the National Ombudsman Reporting System (NORS) complaint categories as provided in the ombudsman computer program;

(ii) what outcome the complainant or resident of the long-term care facility is seeking;

(iii) what attempts have already been made to resolve the complaint;

(iv) whether the complaint is appropriate for LTCO activity;

(v) examples of complaints which are not appropriate for LTCO activity include those which:

(A) do not directly impact a resident of a long-term care facility;

(B) are outside the scope of authority of the LTCOP; or

(C) would place the LTCOP in the position of having an actual or perceived conflict of interest with a resident or residents.

(vi) the LTCO may seek resolution of complaints in which the rights of one resident and the rights of another resident appear to be in conflict.

(b) determine/affirm the following with the complainant:

(i) alternatives for handling the complaint;

(ii) option of complainant to personally take appropriate action, with LTCO assistance if needed;

(iii) communicate that the LTCO role is to act in accordance with the long-term care facility resident's wishes; and

(iv) maintain the resident's confidentiality.

(c) source of complaint made directly to the LTCO:

(i) complaints may be filed with the LTCOP by residents of long-term care facilities, families or friends of residents, long-term care facility staff, or any other person or agency; and

(ii) complaints may be made anonymously to the LTCOP.

_____ (d) ombudsman-generated complaints:
_____ (i) a LTCO shall file a complaint when the LTCO has personal knowledge of an action, inaction, or decision that may adversely affect the health, safety, or rights of residents of long-term care facilities and no other person has made a complaint.
_____ (e) timeliness of responses to complaints:
_____ (i) LTCO investigations shall be initiated within three business days;
_____ (ii) the LTCOP is not an emergency response system. Emergency situations should be referred to local law enforcement by calling 911.
_____ (f) ombudsman advocacy is resident focused:
_____ (i) the LTCO shall discuss the complaint with the resident of the long-term care facility in order to:
_____ (A) determine the resident's perception of the complaint;
_____ (B) determine the resident's wishes with respect to resolution of the complaint;
_____ (C) advise the resident of his/her resident rights;
_____ (D) work with the resident in developing a plan of action; and
_____ (E) when resident consent is refused or withdrawn, the LTCO shall record the refusal or withdraw of consent.
_____ (g) resident is unable to provide consent:
_____ (i) the LTCO shall advocate for the wishes of a resident of a long-term care facility to the extent that the resident can express them, even if the resident has limited decision-making capacity; or
_____ (ii) where a resident is unable to provide consent to a LTCO to work on a complaint directly involving the resident, the LTCO shall:
_____ (A) seek advice from the resident's representative, guardian, POA, spouse, or family member; or
_____ (B) if the LTCO determines that the resident's representative, guardian, POA, spouse, or family member is not acting in the resident's best interest, the LTCO shall seek evidence to indicate what the resident would have desired and, where such evidence is available, work to effectuate that desire.
_____ (4) Investigation Procedures.
_____ (a) the LTCO is not required to verify a complaint in order to seek a resolution on behalf of the resident of a long-term care facility. Resident perception is a sufficient basis upon which an LTCO can seek resolution.
_____ (b) the LTCO investigates a complaint in order to verify the accuracy and truth of the complaint:
_____ (i) a complaint is verified when the LTCO determines that the circumstances described in the complaint are substantiated or generally accurate; and
_____ (ii) because a LTCO works on behalf of residents of long-term care facilities, the LTCO gives the benefit of the doubt to the resident's perspective.
_____ (c) the LTCO shall seek any information required on an as needed basis to complete the investigation.
_____ (d) to verify a complaint, the LTCO shall take one or more of the following steps, as appropriate given the nature of the complaint:
_____ (i) research relevant laws, rules, regulations, and policies;
_____ (ii) personally observe and analyze the evidence;
_____ (iii) interview the resident and/or complainant;
_____ (iv) interview staff, administration, other residents and families;
_____ (v) identify relevant agencies and interview and/or obtain information from their staff; and

_____ (vi) examine relevant records.
_____ (e) facility visits can be unannounced, and occur at any hour provided the LTCO identifies him/herself upon entering the premises as a person authorized to investigate complaints.
_____ (f) the local LTCO may choose to give notice if deemed appropriate, in either case the ombudsman shall:
_____ (i) upon arrival at the facility or agency, present official identification to the administration or designated person in charge;
_____ (ii) identify any factors that may interfere with the investigation;
_____ (iii) start the investigatory process to establish as clearly as possible what has happened, why it has happened, who or what is responsible for resolving the complaint, and possible solutions to the problem;
_____ (iv) interview the resident, as well as other residents, staff, family, friends and physicians as deemed necessary;
_____ (v) make phone calls, on-site observation, review resident records, and make collateral contacts with other agencies and professionals;
_____ (vi) take any other appropriate investigatory actions within the purview of the LTCOP;
_____ (vii) during the course of the investigation, the local LTCO shall look for credible evidence, which supports or refutes the complaint. Evidence may be directly observed by the LTCO or indirectly gathered from statements from reliable sources; and
_____ (viii) LTCO shall be provided privacy by the facility or agency during all aspects of the investigative process.
_____ (5) Plan of Action.
_____ (a) upon verifying a complaint, the LTCO shall determine a plan of action to resolve the complaint.
_____ (b) the LTCO advocates on behalf of or with the resident in discussing the complaint with the appropriate facility, staff, or other relevant party and together, they develop an agreement that resolves the complaint.
_____ (c) the LTCO shall attempt to resolve the dispute directly with the appropriate staff of the facility unless the LTCO and the resident determine that another strategy would be more advantageous.
_____ (6) Complaint Referrals.
_____ (a) a LTCO shall make a referral to another agency when:
_____ (i) the resident gives permission, or, if resident is unable, responsible party gives permission, or, if the LTCO determines that the resident's representative, guardian, POA, spouse, or family member is not acting in the resident's best interest, the LTCO shall seek evidence to indicate what the resident would have desired and, where such evidence is available, work to effectuate that desire; and
_____ (ii) one or more of the following applies:
_____ (A) another agency has statutory responsibility to support or assist the resident (e.g. Adult Protective Services (APS) or Medicaid Fraud);
_____ (B) the action to be taken in the complaint is outside of the LTCO's scope of authority (e.g. Department of Health, Licensing);
_____ (C) the LTCO needs additional assistance in order to achieve resolution of the complaint; or
_____ (D) if it is determined that additional expertise may benefit the resident (e.g. mental health or disability services, etc.).
_____ (b) a LTCO may encourage resident or complainants to directly contact the appropriate regulatory agency to file a complaint and offer information and assistance to residents or complainants in making such contact.

(7) Closing a Complaint or Case.

(a) the complaint or case may be closed when any of the following occurs:

(i) the complaint has been resolved to the satisfaction of the resident of the long-term care facility;

(ii) the LTCO has determined, after investigation, that the complaint:

(A) cannot be verified; or

(B) was made in bad faith.

(iii) further activity by the LTCO is unlikely to produce satisfaction for the resident;

(iv) the complaint is not appropriate for LTCO activity;

(v) after referral the LTCO anticipates no further response regarding the complaint from the agency to which the referral was made;

(vi) the resident, who has capacity, requests that the LTCO close the case; or

(vii) when the resident lacks capacity and the LTCO determines that the resident's representative, guardian, POA, spouse, or family member is not acting in the resident's best interest, the LTCO shall seek evidence to indicate what the resident would have desired and, where such evidence is available, work to effectuate that desire.

(8) Abuse, Neglect, and Exploitation Complaints.

(a) upon receiving an abuse, neglect or exploitation complaint the LTCO shall inform the complainant that in order to meet the State of Utah mandated reporting requirement he/she must:

(i) directly call APS Intake; or

(ii) directly call local law enforcement.

(b) if the case also involves resident rights issues, the LTCO shall provide ombudsman services to the identified client.

(9) Documentation of Complaints.

(a) all LTCO complaints and documentation shall be entered into the ombudsman computer program.

(10) Consent.

(a) in order to access resident files maintained in a facility, the resident or resident representative must communicate informed consent orally, visually, written, or through auxiliary aids.

(b) the date and method of obtaining the verbal consent shall be documented in the case file.

(c) if a request for verbal consent is denied by the resident or their legal representative, the LTCO shall not access the records.

(d) if the request for verbal consent is unsuccessful for any reason other than specific denial by the resident or legal representative, the LTCO may proceed to access the records. The reasons for not obtaining consent shall be documented in the case file.

(e) if the request for verbal consent cannot be given by the resident and it is determined that the resident's legal representative is not acting in the resident's best interest, the LTCO may proceed to access the records. Such attempts shall be documented.

R510-200-21. Public Education.

(1) In addition to receiving and investigating complaints, local LTCOPs are mandated by Federal and State statute to provide public education regarding long-term care issues.

(2) Public education may include activities such as frequent presence in facilities, community advocacy, attendance at family or resident councils, technical assistance and in service to long-term care facilities, community organizations, and public information presentations.

R510-200-22. Resident and Family Councils.

(1) The LTCO shall offer assistance with the development of resident and family councils.

(2) The LTCO shall promote resident councils in each long-term care facility in the service area by ongoing education and trainings.

(3) Where a long-term care facility does not have an active resident council, the local LTCO shall assist the residents and the facility in developing said council.

(4) Where a long-term care facility does not have an active family council, the local LTCO shall assist family members in developing an active family council.

R510-200-23. Routine Visits.

(1) The LTCO shall monitor the condition of residents during routine visits.

(a) routine visits to facilities may, and occasionally should, be unannounced.

(b) timing of routine visits shall be staggered so that facilities have no basis to predict the timing of the visit.

(c) the LTCO shall provide information regarding services offered by the LTCOP during routine visits.

(2) LTCO observations of conditions in the facility which adversely affect the health, safety, welfare, or rights of residents of the long-term care facility shall be documented as ombudsman-generated complaints if no other person has lodged a complaint.

(3) The LTCO shall assure that the facility posts the LTCOP posters, provided by the SLTCO, in the facility so they are visible to all residents, family, and staff.

(4) The LTCO shall ensure resident access to an ombudsman.

(a) LTCO presence in facilities should be as frequent as possible to ensure that all residents have access to an ombudsman.

(b) LTCO presence should be increased in facilities with a history of serious and/or frequent complaints.

(c) the local LTCO shall visit every long-term care facility in their service area at least one time per quarter.

R510-200-24. Confidentiality.

(1) Disclosure of identifying information

(a) all record requests shall be processed in accordance with UC 62A-3-207.

(b) the SLTCO shall have the sole authority in making decisions concerning the disclosure of the files, records, and other information (physical, electronic, or other formats) maintained by the Ombudsman program (includes cases and activities of the LTCOP). No disclosure of such information shall be done without the prior approval of the SLTCO or his/her representative. This includes information maintained by local ombudsmen and volunteer ombudsmen. Such files, records and other information are the property of the Office

(c) disclosure of identifying information of any resident with respect to whom the ombudsman program maintains files, records, or information is strictly prohibited, unless:

(i) the resident or resident representative communicates informed consent orally, visually, written, or through auxiliary aids and such consent is documented contemporaneously by a LTCO; or

(ii) if the SLTCO determines that the resident's representative, guardian, POA, spouse, or family member is not acting

in the resident's best interest, the LTCO shall seek evidence to indicate what the resident would have desired and, where such evidence is available, work to effectuate that desire; or

(iii) the disclosure is required by court order.

(2) Disclosure of complainant information

(a) this rule incorporates by reference UC 62A-3-207.

(b) disclosure of identifying information of any complainant with respect to whom the ombudsman program maintains files, records, or information is strictly prohibited, unless they provide approval of informed consent. Informed consent can be obtained either orally, visually, written, or through auxiliary aids and such consent is documented contemporaneously by a LTCO.

KEY: elderly, ombudsman, LTCO

Date of Enactment or Last Substantive Amendment: [~~October 23, 2006~~]2018

Notice of Continuation: June 30, 2017

Authorizing, and Implemented or Interpreted Law: 62A-3-201 to 208; 62A-3-104

Human Services, Recovery Services R527-303 Automatic Payment Withdrawal

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 42638

FILED: 03/07/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Pursuant to Subsection 62A-11-703(6), the purpose of this rule is to specify how the Office of Recovery Services (ORS) will determine the eligibility of an obligor to make child support payments via automatic payment withdrawal from a bank account in lieu of income withholding.

SUMMARY OF THE RULE OR CHANGE: The first section of this rule provides the authority of the Office of Recovery Services (ORS) to create rules pursuant to Sections 62A-1-111 and 62A-11-107, as well as pursuant to Subsection 62A-11-703(6) requiring rules on how ORS will determine the eligibility of an obligor to make child support payments to ORS via automatic payment withdrawal. (While the statute has been in place for several years, the technology changes allowing this alternative payment method will finally be implemented in spring of 2018.) The second section explains that pursuant to Section 62A-11-703, ORS may enter into an agreement with an obligor to automatically withdraw from an obligor's account at a financial institution a specified dollar amount on a specified date(s) each month, via electronic funds transfer, for payment of the obligor's child support obligation. This section outlines the criteria established by ORS which must be met for a case to qualify for automatic payment withdrawal. Finally, this section allows the ORS Director discretion to terminate any agreement for abuse or

cause.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-1-111 and Section 62A-11-107 and Section 62A-11-703

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This proposed rule is not expected to have any fiscal impact on state government revenues or expenditures, because this rule outlines the qualifications for an individual parent to pay child support via electronic funds transfer in lieu of income withholding.

◆ **LOCAL GOVERNMENTS:** This proposed rule is not expected to have any fiscal impact on local government revenues or expenditures, because administrative rules of the Office of Recovery Services (ORS) do not apply to local governments.

◆ **SMALL BUSINESSES:** This proposed rule is not expected to have any fiscal impact on small businesses revenues or expenditures, because this rule outlines the qualifications for an individual parent to pay child support via electronic funds transfer in lieu of income withholding.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This proposed rule is not expected to have any fiscal impact on persons other than small businesses, businesses, or local government entities because this rule outlines the qualifications for an individual parent to qualify to pay child support via electronic funds transfer in lieu of income withholding. Payment via electronic funds transfer in lieu of income withholding is an option available to paying parents if they choose, not a requirement.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with this rule as this rule outlines the qualifications for an individual parent to pay child support via electronic funds transfer in lieu of income withholding.

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

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

HUMAN SERVICES

RECOVERY SERVICES

515 E 100 S

SALT LAKE CITY, UT 84102-4211

or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Casey Cole by phone at 801-741-7523, by FAX at 801-536-8509, or by Internet E-mail at cacole@utah.gov
 ♦ Jonah Shaw by phone at 801-538-4225, by FAX at 801-538-3942, or by Internet E-mail at jshaw@utah.gov
 ♦ Scott Weight by phone at 801-741-7435, by FAX at 801-536-8509, or by Internet E-mail at sweigh2@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2018

AUTHORIZED BY: Liesa Stockdale, 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	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 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 is not expected to have any fiscal impacts on state government or small businesses revenues or expenditures, because the rule outlines the qualifications for an individual parent to pay child support via electronic funds transfer in lieu of income withholding.

This proposed rule is not expected to have any fiscal impacts on local government revenues or expenditures, because administrative rules of the Office of Recovery Services (ORS) do not apply to local government.

This proposed rule is not expected to have any fiscal impacts on persons other than small businesses, businesses, or local government entities, because the rule outlines the qualifications for an individual parent to qualify to pay child support via electronic funds transfer in lieu of income withholding. Payment via electronic funds transfer in lieu of income withholding is an option available to paying parents if they choose, not a requirement.

R527. Human Services, Recovery Services.

R527-303. Automatic Payment Withdrawal.

R527-303-1. Authority and Purpose.

1. The Department of Human Services is authorized to create rules necessary for the provision of social services by Section 62A-1-111 and 62A-11-107. Pursuant to Section 62A-11-703(6), the Office of Recovery Services/Child Support Services (ORS/CSS) shall make rules specifying eligibility requirements to enter into alternative payment agreements.

2. The purpose of this rule is to specify how ORS/CSS will determine the eligibility of an obligor to make child support payments via automatic payment withdrawal from a bank account in lieu of income withholding.

R527-303-2. Automatic Payment Withhdrawal.

1. Pursuant to Section 62A-11-703, ORS/CSS may enter into an alternative payment agreement with an obligor which provides for payment of child support via electronic funds transfer from the obligor's account at a financial institution in lieu of income withholding.

2. In order to be eligible to enter into an alternative payment agreement with ORS/CSS, an obligor:

a. must have a verified address in the Office of Recovery Services Information System;

b. must not have been disqualified from using the alternative payment agreement in the last 12 months; and,

c. may not be an obligor on an active outgoing intergovernmental case.

3. The ORS/CSS Director or designee may exercise his/her discretion to terminate any agreement for abuse or cause.

KEY: child support, electronic funds transfer, automatic payment withdrawal

Date of Enactment or Last Substantive Amendment: 2018

Authorizing, and Implemented or Interpreted Law: 62A-1-111; 62A-11-107; 62A-11-703

**Public Service Commission,
Administration
R746-1-201
Complaints**

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 42670
FILED: 03/08/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to clarify the informal complaint process with the Division of Public Utilities before a formal complaint is filed with the Public Service Commission.

SUMMARY OF THE RULE OR CHANGE: This minor clarification to the Public Service Commission's rule on complaints against a utility should streamline the process for both complainants and utilities. This rule amendment prevents any potential need to adjudicate a complaint twice. It clarifies the separate roles of the Division of Public Utilities, to provide an informal dispute resolution process, and the Public Service Commission, to adjudicate a dispute that cannot be resolved informally.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 54-1-1 and Section 54-1-3 and Section 54-1-6 and Section 54-3-21 and Section 54-4-1 and Section 54-4-1.5 and Section 54-4-2 and Section 54-7-17 and Title 63G, Chapter 4

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** Because this clarification only streamlines the current complaint process for all involved, there should be no anticipated cost or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** Because this clarification only streamlines the current complaint process for all involved, there should be no anticipated cost or savings to local governments.
- ◆ **SMALL BUSINESSES:** Because this clarification only streamlines the current complaint process for all involved, there should be no anticipated cost or savings to small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Because this clarification only streamlines the current complaint process for all involved, there should be no anticipated cost or savings to persons other than small businesses, businesses or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because this clarification only streamlines the current complaint process for all involved, there should be no compliance cost to affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This minor clarification to the Public Service Commission's rule on complaints against a utility should streamline the process for both complainants and utilities. This rule amendment prevents any potential need to adjudicate a complaint twice. It clarifies the separate roles of the Division of Public Utilities, to provide an informal dispute resolution process, and the Public Service Commission, to adjudicate a dispute that cannot be resolved informally. Because this clarification only streamlines the current complaint process for all involved, there should be no compliance cost to affected persons.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
◆ Michael Hammer by phone at 801-530-6729, or by Internet E-mail at michaelhammer@utah.gov
◆ Sheri Bintz by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at sbintz@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2018

AUTHORIZED BY: Michael Hammer, Administrative Law Judge

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 minor clarification to the Public Service Commission's rule on complaints against a utility should streamline the process for both complainants and utilities. The rule amendment prevents any potential need to adjudicate a complaint twice. It clarifies the separate roles of the Division of Public Utilities, to provide an informal dispute resolution process, and the Public Service Commission, to adjudicate a dispute that cannot be resolved informally. Because this clarification only streamlines the current process for all involved, there should be no measurable regulatory impact.

Public Service Commission Chair Thad LeVar has reviewed and approved this fiscal analysis.

**R746. Public Service Commission, Administration.
R746-1. Public Service Commission Administrative Procedures Act Rule.
R746-1-201. Complaints.**

A person ~~[that]~~who files a complaint with the Commission shall demonstrate:

- (1) ~~[that]~~the person has attempted to work with the utility to resolve the complaint;
- (2) ~~[that]~~the Division has reviewed the complaint and determined that ~~[Commission action is warranted]~~the person has exhausted the Division's informal complaint resolution process; and
- (3) ~~[that]~~the complaint has been served on the public utility, pursuant to R746-1-203(1)(f).

KEY: public utilities, administrative proceedings, electronic filings and meetings, confidential information
Date of Enactment or Last Substantive Amendment: ~~[October 19, 2017]~~2018

Authorizing, and Implemented or Interpreted Law: 54-1-1; 54-1-3; 54-1-6; 54-3-21; 54-4-1; 54-4-1.5; 54-4-2; 54-7-17; 63G-4

**School and Institutional Trust Lands,
Administration
R850-40
Easements**

**NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 42678
FILED: 03/13/2018
RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The School and Institutional Trust Lands Administration (SITLA) wishes to more efficiently manage easements across trust lands to maximize revenue and to protect the interests of its beneficiaries. Certain rules have proven unnecessarily burdensome and can be improved through revision or elimination. These amendments will help reduce or eliminate the expenditure of SITLA resources for activities that are nominal revenue-generating activities.

SUMMARY OF THE RULE OR CHANGE: The current rule requires a 90-day notice and advertising period for a party claiming a temporary easement to acquire a permanent easement. By amending this to a 30-day notice and advertising period, adequate time is provided for interested parties to submit a road claim prior to temporary easements, or rights of entry across trust property are extinguished while allowing the agency to transact business on behalf of its beneficiaries in a more timely manner. The requirement to file a written notice prior to entering a trust parcel to perform a survey for an easement is unnecessary and is being repealed as it provides little to no benefit to any of the parties. The easement assignment fee requirement is being amended to facilitate assignments that are made for no money consideration between certain individuals or within a restructured company. The final change is to remove the requirement for an administrative fee to be paid every three years throughout the term of an easement as a means for the agency to determine abandonment of the easement. The agency no longer issues easements for terms longer than 30 years, except in specific exceptions, therefore, the need to determine abandonment is rarely necessary.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53C-1-302 and Section 53C-4-203 and Subsection 53C-2-201(1)(a)

ANTICIPATED COST OR SAVINGS TO:
 ♦ **THE STATE BUDGET:** There may be a very minimal cost to the state budget as a result of these amendments due to removing the requirement for a permittee to submit an administrative fee every three years throughout the term of

the easement. Since this fee is as little as \$10 per easement, the savings in staff time to monitor this activity will probably outweigh the loss of the fee.

♦ **LOCAL GOVERNMENTS:** Local governments will only be affected if they have an easement across trust lands. Easements owned by local governments are usually permanent and there is little likelihood that the easement will be abandoned. The savings to local governments will be very minimal considering the small amount of the administrative fee that has been required every three years.

♦ **SMALL BUSINESSES:** Any savings to small businesses with an easement over trust lands would be very minimal as a result of removing the administrative fee requirement as the amount is so small and required only every three years.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Any savings to persons other than small businesses, businesses, or local government entities with an easement over trust lands would be very minimal as a result of removing the administrative fee requirement as the amount is so small and required only every three years.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons as a result of these amendments being made to this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Any fiscal impact on businesses will be to their benefit. Certain nominal fees will be eliminated, along with administrative costs in paying those fees. Certain assignments of easements will be less costly because these proposed rule amendments do not create any additional requirements. Therefore, there will be no additional costs to businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 SCHOOL AND INSTITUTIONAL TRUST LANDS
 ADMINISTRATION
 ROOM 500
 675 E 500 S
 SALT LAKE CITY, UT 84102-2818
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Kim Christy by phone at 801-538-5183, by FAX at 801-355-0922, or by Internet E-mail at kimchristy@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2018

AUTHORIZED BY: David Ure, Director

Subsection 53C-1-201(3)(c) exempts the School and Institutional Trust Lands Administration from the requirement to conduct a thorough analysis, consistent with the criteria established by the Governor's Office of Management and Budget, of the fiscal impact a rule may have on businesses, as required in Subsection 63G-3-301(5).

R850. School and Institutional Trust Lands, Administration.

R850-40. Easements.

R850-40-250. Determination of the Status of Temporary Easements and Rights-of-Entry.

1. In order to determine the existence and continuation of any temporary easements or rights-of-entry granted pursuant to Section 72-5-203 on a specific parcel of trust land (the subject property), the agency may undertake the notification process set forth in R850-40-250(2). This evaluation does not adjudicate the status of any highway crossing the subject property that may have been established pursuant to any federal statute, such as R.S. 2477. Highways established in accordance with the requirements of federal law, including R.S. 2477, prior to the state taking title to the subject property are recognized as valid existing rights.

2. In order to determine the existence of a statutory temporary easement or right-of-entry on the subject property, the agency shall give notice to responsible authorities, as defined in Subsection 72-5-202(1). This notice is intended to provide information to any responsible authority wishing to assert a temporary easement or right-of-entry on the process used to file an application to make such temporary easement or right-of-entry permanent (the "application"). The application must contain a description of the facts which lead the applicant to believe that a statutory temporary easement or right-of-entry exists on the subject property, and other information that may be required by the agency to verify the assertion. Notice shall be provided as follows:

(a) Certified notice shall be mailed by the agency to the Attorney General and the executive body of the county in which the subject property is located. This notice shall include the legal description of the subject property and a map showing its location. The executive body of the county shall have [90]30 days from the date of the notice within which to submit an application.

(b) Notice to other responsible authorities who may have an interest in the subject property shall be given through publication at least once a week for three consecutive weeks in one or more newspapers of general circulation in the county where the subject property is located. In addition to the legal description of the subject property, the advertisement shall put responsible authorities on notice that the agency may take action extinguishing the temporary easement or right-of-entry. Other responsible authorities shall have [90]30 days from the first date of publication within which to submit the application.

3. Upon the receipt of an application to convert a temporary easement or right-of-entry into an authorized easement or right-of-entry, the agency shall evaluate the request pursuant to the fiduciary responsibilities of the agency. Prior to the agency approving or rejecting an application, if any, the agency shall review the supporting documentation submitted by the applicant. The agency shall consider material submitted by any responsible authority pursuant to the applicant's appropriate statutory authority. If no application is received after notice is given pursuant to R850-40-250(2), or if an application to make the temporary easement or right-of-entry permanent is not approved, any statutory temporary easement or right-of-entry on the subject property shall automatically be extinguished. The agency will

not sell trust lands for at least [30]14 days after a final decision to disapprove an application to make a statutory temporary easement or right-of-entry permanent.

~~R850-40-500. Surveys.~~

~~1. Anyone desiring to perform a survey on trust land with the intent of filing an application for an easement, shall prior to entry for surveying activities, file with the agency written notice of intent to conduct a survey of the proposed location of the easement.~~

~~2. The notice, which may be in letter form, shall describe the proposed project, including the purpose, general location, potential resource disturbances of the proposed easement and survey, and projected construction time for any improvements.~~

~~3. The notice shall also contain an agreement to indemnify and hold the agency and any authorized lessees harmless against liability and damages for loss of life, personal injury and property damage occurring due to survey activities and caused by applicant, his employees, his agents, his contractors or subcontractors and their employees. In lieu of an agreement the applicant may submit a surety bond in an amount agreeable to the director.~~

~~4. The written notice shall be reviewed by the agency. The agency may require the applicant to obtain a right-of-entry agreement.]~~

R850-40-1600. Easement Assignments.

1. An easement may be assigned to any person, firm, association, or corporation qualified under R850-3-200, provided that:

(a) the assignment is approved by the agency;

(b) if the easement term is perpetual, the easement shall be amended so that the term is 30 years beginning as of the original effective date. However, if the remaining number of years on an easement so amended is less than 15 years, the ending date of the easement shall be set so that there will be 15 years remaining in the easement; and

(c) payment is made of either:

i) the difference in easement rental between what was originally paid for the easement and what the agency would charge for the easement at the time the application for assignment is submitted, or

ii) ~~[an alternate fee]~~alternate consideration established by, and at the discretion of, the director. In allowing for any alternate ~~[fee]~~consideration the director may consider the following factors:

A) the ~~[fee]~~consideration established under R850-40-1600(1)(c)(i) would create an undue financial burden upon the applicant, or

B) the assignment facilitates an agency objective.

2. An assignment shall take effect the date of the approval of the assignment. On the effective date of any assignment, the assignee is bound by the terms of the easement to the same extent as if the assignee were the original grantee, any conditions in the assignment to the contrary notwithstanding.

3. An assignment must be a sufficient legal instrument, properly executed and acknowledged, and should clearly set forth the easement number, land involved, and the name and address of the assignee and, for the purpose of this rule shall include any agreement which transfers control of the easement to a third party.

4. An assignment shall be executed according to agency procedures.

5. An assignment is not effective until approval is given by the agency. Any assignment made without such approval is void.

6. Assignments made for no consideration in money, services, or goods, to include assignments made to affiliates (e.g. wholly owned subsidiaries) of the easement grantee, and to include inter vivos or testamentary assignments made to immediate family members (parents, spouse, children, grandchildren, and full siblings) and assignments from and to business entities wholly owned by an immediate family member or members, may be exempt from the requirement to pay the difference in easement rental established under R850-40-1600(1)(c)(i).

R850-40-1800. Abandonment.

1. ~~[In order to]~~To facilitate the determination of an abandonment of easement, the grantee shall pay an administrative charge every three years during the term of the easement as provided in R850-4. The requirement to pay this administrative charge shall apply if:

(a) the easement is an existing easement in agency records as of December 31, 2017, and

(b) the easement term is perpetual, and

(c) the requirement to pay this administrative charge was effective and included as a contract term at the time the easement was granted, and

(d) the grantee is not a governmental entity. Governmental entities include but are not limited to municipal or county governments or agencies of the state or federal government.

2. The grantee shall not be required to pay this administrative charge for all easements issued or renewed on or after January 1, 2018.

[2]3. This administrative charge shall not be construed as rent.

[3]4. ~~[In lieu of this charge, the agency may allow a grantee to pay a one-time negotiated charge.]~~The agency may accept payment of the administrative charge submitted by any easement grantee.

KEY: natural resources, management, surveys, administrative procedures

Date of Enactment or Last Substantive Amendment: ~~[October 22, 2009]~~May 8, 2018

Notice of Continuation: June 27, 2017

Authorizing, and Implemented or Interpreted Law: 53C-1-302; 53C-2-201(1)(a); 53C-4-203

**School and Institutional Trust Lands,
Administration
R850-50
Range Management**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42677

FILED: 03/13/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose for the amendments to this rule is to

bring consistency to the rule and to make clarifications in the rule to make it consistent with the grazing permit used by the agency.

SUMMARY OF THE RULE OR CHANGE: The amendment to Subsection R850-50-400(2)(a) is to clarify that if the agency determines there is a valid reason for a formerly permitted property to not be available for grazing purposes, the agency is not required to post the property on the agency's website by January 1 of the year in which the permit will terminate or the year following. Amendments to Subsection R850-50-600(2) provide clarity to the rule to make it consistent with the language in the agency's standard grazing permit. Other technical changes have been made to bring consistency of terms throughout this rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53C-5-102 and Subsection 53C-1-302(1)(a)(ii) and Subsection 53C-2-201(1)(a)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There will be no costs or savings to the state budget as a result of these amendments as they don't affect any monetary considerations.
- ◆ **LOCAL GOVERNMENTS:** It is not anticipated that there will be any cost or savings to local governments as there are no monetary considerations affected by these amendments.
- ◆ **SMALL BUSINESSES:** It is not anticipated that there will be any cost or savings to small businesses as there are no monetary considerations affected by these amendments.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** It is not anticipated that there will be any cost or savings to persons other than small businesses, businesses, or local government entities as there are no monetary considerations affected by these amendments.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no costs for affected persons as a result of these amendments as they are not monetary in nature.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Although the agency performed a comprehensive rewrite of its grazing rules two years ago, a discrepancy in the language of our grazing permits and our rules was recently identified. These proposed changes to this rule will provide the necessary consistency we intended. The balance of the changes are largely technical in scope. These changes will ensure the agency's ability to manage trust lands in the best interest of our beneficiaries and will not have any fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
SCHOOL AND INSTITUTIONAL TRUST LANDS
ADMINISTRATION
ROOM 500
675 E 500 S

SALT LAKE CITY, UT 84102-2818
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Kim Christy by phone at 801-538-5183, by FAX at 801-355-0922, or by Internet E-mail at kimchristy@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2018

AUTHORIZED BY: David Ure, Director

Subsection 53C-1-201(3)(c) exempts the School and Institutional Trust Lands Administration from the requirement to conduct a thorough analysis, consistent with the criteria established by the Governor's Office of Management and Budget, of the fiscal impact a rule may have on businesses, as required in Subsection 63G-3-301(5).

**R850. School and Institutional Trust Lands, Administration.
R850-50. Range Management.
R850-50-400. Permit Approval Process.**

1. On trust lands that are unpermitted and which are available for grazing, applications may be solicited through any method the agency determines appropriate, including notification of adjacent landowners and other permittees in an allotment.

2. On trust lands subject to an expiring grazing permit, competing applications shall be accepted from April 1 to April 30, or the next working day if either of these days is a weekend or holiday, of the year in which the permit terminates.

(a) All expiring and ~~expired~~terminated grazing permits shall be posted on the agency's website by January 1 of the year in which the permit expires or the year after the permit was ~~expired~~terminated, provided that the permitted property has been determined to be available for grazing by the agency. The website notice shall include any reimbursable investment made by an existing permittee on a range improvement. Notice that expiring grazing permits may be found on the agency's website may also be published.

(b) Grazing permits issued on trust lands acquired through an exchange with the federal government (after the expiration of the federal permit) shall not be subject to the provisions of this rule for two successive 15-year terms unless the permit has been sold or otherwise terminated.

3. A person holding an expiring grazing permit shall have the right to renew the permit, provided that no competing applications are received, by submitting a completed application along with the first year's rent and other applicable fees.

4. Persons desiring to submit a competing application must do so on forms acceptable to the agency. Forms are available at the offices listed in R850-6-200(2)(b) or from the agency's website. Applications must include:

- (a) a non-refundable application fee;
- (b) a one-time bonus bid; and
- (c) an amount determined by the agency pursuant to R850-50-1100(7), which will be required to reimburse the holder of an authorized range improvement project should the competing application be accepted.

5. Bonus bids and range improvement reimbursements shall be refunded to unsuccessful applicants. Upon establishment of the yearly rental rate, the successful applicant shall be required to submit the first year's rental and other required fees.

6. Applications shall be evaluated by the agency and may be accepted only if the agency determines that the applicant's grazing activity will not create unmanageable problems of trespass, range and resource management, or access.

(a) For purposes of this evaluation, adjoining permittees and lessees, adjoining property owners, and adjoining federal permittees may be considered acceptable as competing applicants unless specific problems are demonstrated.

(b) Applicants not meeting the requirements in (a) above, whose uses would not unreasonably conflict with the uses of other permittees in the area, may nevertheless be accepted if the size of the grazing area, the access to the grazing area, and other factors demonstrate that the applicant is able to utilize the area without adverse impact on the range resources, adjoining lands, or beneficiaries of affected trust lands.

(c) For purposes of evaluating an applicant's acceptability as a grazing permittee, the agency may consider:

(i) the applicant's ability to maintain any water rights appurtenant to the lands described in the application;

(ii) the applicant's ownership of private land in the area;

(iii) the applicant's ownership of grazing privileges in the BLM or Forest Service allotment where the trust land is located;

(iv) the type and number of livestock owned by the applicant; and

(v) management costs to the agency should the application be approved.

7. The holder of a permit which is expiring, on which a competing application has been received, shall have a preference right to permit the property provided he agrees to pay an amount equal to the highest bonus bid submitted by a competing applicant.

(a) In the event that the existing permittee fails to match the highest bonus bid, the permittee may be refunded the value of the amount the permittee contributed to the cost of any approved range improvement project at the expense of the successful bonus bid applicant.

(b) In the event that all, or a portion of, the property on which a bonus bid was submitted is sold, exchanged, or otherwise made unavailable, the permittee shall receive the refund of a prorated amount of the bonus bid based on the AUMs lost to the use of the permittee.

R850-50-500. AUM Assessments and Annual Adjustments.

1. An annual assessment shall be charged for each AUM authorized by the agency. This assessment shall be established by the board and shall be reviewed annually and adjusted if appropriate.

2. The annual assessment for lands designated as "High Value Grazing Lands" will be at a higher amount than trust lands not so designated. High Value Grazing Lands are typically, but not necessarily, contained in a named land block. Blocked or scattered lands may be designated as High Value Grazing Land through a Director's Finding.

3. In the event that the agency acquires High Value Grazing Lands through an exchange with the federal government, the application of the agency's annual assessment to the holders of grazing privileges on the acquired land shall be phased in over a five-year

period in equal increments after the term of the federal permit has expired.

4. The application of the agency's annual assessment on lands acquired through an exchange with the federal government, and not designated as High Value Grazing Lands, shall be phased in over a three-year period in equal increments after the term of the federal permit has expired.

5. Failure to pay the annual assessment within the time prescribed shall automatically work a forfeiture and ~~[cancellation]~~ termination of the permit and all rights thereunder.

R850-50-600. Grazing Permit Terms.

1. Grazing permits shall be issued for a maximum of 15 years and shall contain the following:

(a) terms, conditions, and provisions that shall protect the interests of the trust beneficiaries with reference to securing the payment to the agency of all amounts owed;

(b) terms, conditions, and provisions that shall protect the range resources from improper and unauthorized grazing uses; and

(c) other terms, conditions, and provisions that may be deemed necessary by the agency or board in effecting the purpose of these rules and not inconsistent with any of its provisions.

2. The agency may ~~[cancel]~~ terminate or suspend grazing permits, in whole or in part, after 30 days' notice by certified mail to the permittee when:

(a) a violation of the terms of the permit, or of these rules, including trespass as defined in R850-50-1400, has occurred;

(b) ~~[a lease or permit has been issued for the permitted property, the purpose of which the agency has determined to be a higher and better use]~~ the agency, in its sole discretion, has identified a higher and better use for the permitted property;

(c) the agency ~~[has disposed]~~ intends to dispose of the permitted property; or

(d) any management problems arise as ~~[defined in R850-50-400(6)]~~ determined at the sole discretion of the agency.

R850-50-700. Reinstatements.

Trust land on which a grazing permit has been ~~[cancelled]~~ terminated and which is ineligible for reinstatement pursuant to R850-5-500(1)(c) may be advertised as available pursuant to R850-50-400(2). If the agency does not advertise the property, the person previously holding the permit may apply for a new permit by submitting an application and all applicable fees.

R850-50-1000. Assignment and Subleasing of Grazing Permits.

1. Permittee shall not assign, or sublease, in whole or in part, or otherwise transfer, dispose of, or encumber any interest in a permit without the written consent of the agency. To do so shall automatically, and without notice, work the forfeiture and ~~[cancellation]~~ termination of the permit.

2. The approval of a sublease shall be subject to the following restrictions:

(a) An annual assessment equal to 50% of the difference between the base AUM assessment established under R850-50-500, and the AUM payment received by the permittee through the sublease, multiplied by the number of AUMs subleased, or a \$1.00 per AUM minimum assessment, whichever is greater, shall be charged for the approval of any sublease.

(b) Applications to sublease a grazing permit shall only be approved after a determination that the sub-lessee meets the requirements of R850-50-400(6).

(c) Sublease approvals are valid for a maximum period of five years.

3. The approval of an assignment shall be subject to the following restrictions:

(a) A determination that the assignee meets the requirements of R850-50-400(6).

(b) A payment, based on the number of AUMs transferred multiplied by \$10.00, shall be paid to the agency prior to the approval of any assignment or partial assignment. Assignments made for no consideration in money, services, or goods, to include inter vivos or testamentary assignments made to immediate family members (parents, spouse, children, grandchildren, and full siblings) and assignments from and to business entities wholly owned by an immediate family member or members, may be exempt from this additional payment. In such cases, a minimum assignment fee as listed on the Master Fee Schedule shall be assessed.

(c) For purposes of this rule, a shareholder or member of a grazing association or cooperative shall be deemed a permittee and subject to the requirements of R850-50-1000(3)(a). In order to facilitate the enforcement of this rule, each grazing association or cooperative shall submit a list of all members to the agency annually prior to June 30. This list shall include each member's contact information and the number of AUMs allowed.

4. The agency's consent to allow a mortgage agreement or collateral assignment is for the convenience of the permittee.

5. The mortgage agreement or collateral assignment shall:

(a) not exceed the remaining term of the permit; and

(b) contain an acknowledgment by the lender that the grazing permit is ~~cancelable~~ terminable pursuant to R850-50-600(2) and R850-50-1000(1) and that the agency assumes no liability in providing such consent.

R850-50-1300. Rights Reserved to the Agency.

In all grazing permits, the agency shall expressly reserve the right to:

1. issue mineral leases, special use leases, timber sales, materials permits, easements, rights-of-entry, and any other interest in the trust land;

2. issue permits for the harvesting of seed from plants on the trust land. If loss of use occurs from harvesting activities, a credit for the amount of loss shall be made to the following year's assessment;

3. enter upon and inspect the trust land or to allow scientific studies upon trust land at any reasonable time;

4. allow the public the right to use the trust land for purposes and periods of time permitted by policy and rules. However, nothing in these rules purports to authorize trespass on private land to reach trust land;

5. require that all water rights on trust land be filed in the name of the agency and to require express written approval prior to the conveyance of water off trust land;

6. require a permittee, when an agency-owned water right is associated with the grazing permit, to ensure that the water right, to the extent allowed under the permit, is maintained in compliance with state law;

7. close roads for the purpose of range or road protection, or other administrative purposes;

8. dispose of the property without compensation to the permittee, subject to R850-50-1100(7); and

9. terminate ~~the~~ the grazing permit ~~[in order to facilitate management pursuant to R850-50-200 or for higher and better uses of trust lands]~~ pursuant to R850-50-600(2).

R850-50-1600. Modified Grazing Permit.

1. At the discretion of the director, the agency may issue modified grazing permits in instances where the proposed use is grazing related but is more intensive than livestock grazing alone and when improvements, if any, are primarily temporary in nature. Such uses may include camps, corrals, feed yards, irrigated livestock pastures, or other related uses.

2. Modified grazing permits shall be subject to the following terms and conditions:

(a) The term of a modified grazing permit shall be no longer than 15 years and contain terms, conditions, and provisions the agency, in its discretion, deems necessary to protect the interest of the trust beneficiaries.

(b) A modified grazing permit is subject to ~~[cancellation]~~ termination pursuant to R850-50-600(2).

(c) The annual rental for a modified grazing permit shall be based on the fair market value of the permitted property. Fair market value of the permitted property and annual rental rates shall be determined by the agency pursuant to R850-30-400. Periodic rental reviews may be completed pursuant to R850-30-400(5).

(d) Upon ~~[cancellation]~~ termination of the modified grazing permit, the permittee shall be allowed 90 days to remove any personal property.

(e) Prior to the issuance of a modified grazing permit, or for good cause shown at any time during the term of the modified grazing permit, the applicant or permittee may be required to post a bond with the agency in the form and amount as may be determined by the agency to assure compliance with all terms and conditions of the permit. Any bond posted pursuant to this rule is subject to R850-30-800(2) through (4).

KEY: administrative procedures, range management

Date of Enactment or Last Substantive Amendment: ~~[January 21, 2016]~~ May 8, 2018

Notice of Continuation: June 27, 2017

Authorizing, and Implemented or Interpreted Law: 53C-1-302(1)(a)(ii); 53C-2-201(1)(a); 53C-5-102

Transportation, Administration **R907-80** Disposition of Surplus Land

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 42688

FILED: 03/14/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Transportation (Department)

made this rule last year to provide the Department more ways to sell or exchange surplus real estate in hopes of maximizing opportunities for interested buyers and the value available to the state. The Department learned numerous lessons from conducting its first auction. This amendment is to execute the changes the Department believes are necessary to make the process more effective and efficient.

SUMMARY OF THE RULE OR CHANGE: This change is to increase the options available to the Department and alter the procedures the Department follows when selling or exchanging surplus real property. It adds authority the Department requires when it determines online or web-based auction sites or applications will best serve the needs of the Department; provides the Department authority to engage an agent or broker to assist in sales or exchanges; adds a definition for "bidder"; reworks the procedure the Department must follow when a holder of a first right of refusal has a claim; provides a procedure for dealing with multiple offers when conducting negotiated sales; eliminates several unnecessary sub-sections; makes several technical changes; and adds several checks to the procedures.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 23 CFR 710.409 and Section 72-5-111 and Section 72-5-117 and Section 72-5-404 and Section 78B-6-520.3

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The Department does not anticipate any costs to the state budget. This change does not require the Department to do anything that requires an additional expenditure. The Department is proposing this amendment in hopes of gaining additional net revenue from the sale of its surplus real property. However, the actual cost, saving, or additional revenue that results because of this amendment is prospective, speculative, and impossible to quantify.

♦ **LOCAL GOVERNMENTS:** The Department does not anticipate any costs to local governments. This change does not require local governments to do anything that requires an additional expenditure, and it does not provide any presently tangible benefits to local governments.

♦ **SMALL BUSINESSES:** The Department does not anticipate any costs to small businesses. This change does not require small businesses to do anything that requires an additional expenditure, and it does not provide any presently tangible benefits to small businesses. Some small businesses that are real estate brokerages may benefit from this rule change by having additional opportunities to compete for contracts with the Department, but any such opportunities are prospective and speculative.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Department does not anticipate any costs to persons other than small businesses, businesses, or local government entities. This change does not require persons other than small businesses, businesses, or local government entities to do anything that requires an additional expenditure, and it does not provide any presently tangible benefits to persons

other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons, nor will there be compliance costs for affected persons. This proposed amendment changes existing procedures to provide additional opportunities to affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will not have any fiscal impact on businesses.

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

TRANSPORTATION
ADMINISTRATION
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 05/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2018

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	\$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 change is to increase the options available to the Department and alter the procedures the Department follows when selling or exchanging surplus real property. It adds authority the Department needs to use online or web-based auction sites or applications and provides a procedure for the Department to follow when determining which online or web-based auction sites or applications best serve the needs of the Department; clarifies the Department's authority to engage an agent or broker to assist in sales or exchanges; adds a definition for "bidder;" reworks the procedure the Department must follow when a holder of a first right of refusal has a claim; provides a procedure for dealing with multiple offers when conducting negotiated sales; eliminates several unnecessary sub-sections from the existing rule; and makes several technical changes and adds several checks to the existing procedures.

This proposed amendment does not create a fiscal impact for individuals or firms with one possible exception. The existing rule requires bidders at live auctions to provide a 10% deposit with their bids. The Department wants to eliminate the mandatory 10% deposit because it requires persons bidding on high value parcels to provide deposits so large the requirement is burdensome in many ways and possibly unsafe for those bidders. In some cases, the required deposits are over \$1,000,000 under the existing rule. Moreover, the deposits must be in cash kind such a cashier's check, so security considerations require the Department to consider making changes. This proposed amendment eliminates the 10% deposit requirement and allows the executive director or designee to determine what the required deposits will be based upon what serves the best interest of the state. Possible fiscal impacts caused by this proposed change to the existing rule are to the benefit of those impacted and are impossible to estimate.

The Department believes specific industries that may be affected by this proposed amendment include Real Property Appraisers, NAICS No. 531320; Real Estate Agents and Brokers, NAICS No.531210; and Developers, NAICS No. 237210. The Department of Workforce Services Firm Finder database shows there are 259 Real Estate Appraiser, 252 are small businesses, 7 are non-small businesses; 2117 Real Estate Agents and Brokers, all of which are small businesses; and 122 Developers, 121 small businesses and 1 non-small business.

Businesses and individuals wishing to purchase parcels of the Departments surplus real property, such as Developers and Real Estate Agents and Brokers, may be affected by this proposed amendment because they may face more competition due to the use of online and web-based auction technology. Real estate Agents and Brokers may be affected by this proposed change because it clarifies the Department's authority to hire them to market the Departments surplus property in certain situations. Real estate Appraisers may be affected by this proposed amendment because it may alter the number of third party appraisals the Department procures.

Businesses in most industries will not be affected by the proposed amendment, but businesses from any industry may be affected if the business decides to participate in bidding for a parcel of the Department's surplus property. Whether an individual or business is affected in this proposed amendment is a function of the properties that are available for purchase at any given auction, and the interest, need, and resources of the individuals or businesses wanting to buy property. It is impossible to quantify or estimate the dollar value for these affects.

By rewriting the section of this rule that pertains to holders of first rights of refusal the Department hopes to clarify the procedures it must follow when a such a holder has a claim that burdens a parcel of the Department's surplus property. However, this rewrite does not affect the holders' legal rights. These rights are controlled by statute.

The Department's goal in making this proposed amendment is to make the processes delineated in the rule more efficient and effective thus saving taxpayers money.

The executive director of the Department of Transportation, Carlos E. Braceras, has reviewed and approved this fiscal analysis.

R907. Transportation, Administration.

R907-80. Disposition of Surplus Land.

R907-80-1. Authorities.

The Department of Transportation makes this rule pursuant to Utah Code sections 72-5-111, 72-5-117, 72-5-404, 78B-6-520.3, and 78B-6-521, which authorize the Executive Director to prescribe the terms and conditions for the sale or exchange of surplus right of way, and to make rules to ensure that the value of the real property is consistent with the proposed price and other terms of the purchase, sale, or exchange. Property or property interests that involve federal requirements must be sold or exchanged in accordance with the requirements of 23 C.F.R. 710.409.

R907-80-2. Definitions.

1. "Appraisal" means the same as it is defined in Utah Code section 61-2G-102(1)(a).

2. "Bidder" means a person who offers to pay a certain amount of money in exchange for title to an interest in real or personal property the Department offers for sale.

[2-]3. "Confirmable Delivery Method" means any method of delivering documents that provides a way to confirm they were delivered to the intended party or location.

[3-]4. The "Department" means the Utah Department of Transportation.

[4-]5. The "Director" means the Executive Director of the Utah Department of Transportation or the Executive Director's designee.

[5-]6. "First right of refusal" means the same as "right of first refusal" and "right of first consideration."

[6-]7. "Minimum acceptable selling price" means a price established by the Department based upon the market value of the property as established by an appraisal or other means; plus, costs associated with preparing the property for and executing the sale, such as the costs of advertising, appraising, performing environmental assessments, and processing the transaction.

[7-]8. As used in this rule, "surplus land," "surplus property," or "land" mean an estate in real property to which the Department is the owner and the Director has declared to be surplus.

[8-]9. The "Transportation Commission" or "Commission" means the Utah Transportation Commission.

[9-]10. A "Utah Public Entity" means a political subdivision of the State, an agency of the state, a county, a municipality, or a special services district of the state, a county, or municipality.

R907-80-3. Sales or Exchange Initiation Process.

In determining the appropriateness of a parcel of surplus land for sale or exchange, the Department may consider nominations by interested parties.

R907-80-4. Sales Deposits.

Should the Department evaluate a parcel of surplus land for sale or exchange due to a nomination by an interested party, the interested party making such nomination may be required to deposit funds in an amount determined by the Department to be used to offset costs incurred in preparing the parcel for sale. In the event the interested party making the deposit is the successful buyer of such Land, the Department will subtract the deposit amount from the total of the purchase price and fees charged to the buyer for preparing the Land for sale. In the event the person making the deposit is not the successful buyer of such property or the property is not offered for sale, the Department will refund the deposit.

R907-80-5. Methods of Sale.

1. The Department may sell Land or assets using one of the methods described below:

- (a) A public sale mail and live auction pursuant to R907-80-7,
- (b) A negotiated sale pursuant to R907-80-[9]10, or
- (c) A negotiated exchange pursuant to R907-80-1[0]1.
- (d) A public sale online or web-based auction pursuant to R907-80-8.

2. The Department will execute sales and exchanges pursuant to rule R933-1-4.

R907-80-6. Public Sale Notice and Advertising - Mail and Live Auctions.

~~1. At least 14 days prior to a public sale, the Department must send notice by Confirmable Delivery Method to:~~

- ~~(a) Persons holding a first right of refusal per Utah Code section 72-5-111, 78B-6-520.3, and 78B-6-521(2)(a); and~~
- ~~(b) Lessees and permit holders of record on the subject property.]~~

[2]1. The Department may notify the public about the sale of surplus property by commercially feasible methods, including publication of a notice in one or more newspapers of general circulation in the county in which the sale is proposed at least [30] 15 days before the deadline to submit bids pursuant to the requirements of R907-80-7.

[3]2. The notice and any associated advertising will include a general description of the parcel including township, range, and section, and any other information that may create interest in the sale. The Department must also identify the desired form of payment[; whether money, in kind, or both].

[4]3. The Department may advertise public sales using any other methods the Director has determined may increase the potential for additional competition at the sale.

R907-80-7. Public Sale - Mail and Live Auctions.

~~[The public sale auction is the Department's preferred method of disposing of its surplus property because it maximizes transparency, opportunities for persons and entities wishing to obtain the Department's surplus property, fairness and impartiality in the disposal process and it fosters competition, which maximizes the value~~

~~the Department receives for its property.]~~ Public sale, mail and live auctions will be conducted as follows:

1. The Comptroller's Office of the Department will accept sealed bids by any means of delivery until 5:00 P.M. the day prior to the auction.

2. The officer conducting the auction will accept sealed bids by personal delivery on the day of the auction up until the beginning of the auction.

3. A sealed bid must contain deposit funds in an amount ~~[equal to at least 10% of the total bid amount offered]~~ determined and advertised by the Department, as required by R907-80-4 to purchase the subject property, ~~[and]~~ The Department may [be-]require[4] this deposit to consist of certified funds. Bids and bid deposits must be a specified dollar amount. The Department has the right to reject any bid however submitted.

4. The Department may require buyers who have defaulted on certificates of sale in the past to make larger deposits or submit sealed bids in the form of certified funds even if such a requirement is not contained in the notice of sale.

5. The officer conducting the auction will open all sealed bids after declaring that the auction has started. After determining which ~~[are the]~~ sealed bid is highest[three bids], the officer will allow ~~[the persons submitting the three highest bids, and bids that are within 20% of the third highest sealed bid,]~~ all bidders willing to bid more than the highest sealed bid received to ~~[enter into]~~ participate in [oral]live bidding. ~~[oral]~~ Live bids must be for more than the amount of the highest sealed bid, subject to those terms and conditions set forth in R907-80-7(6). Persons who submit sealed bids eligible to participate in the ~~[oral]~~ live bidding will also be allowed to participate by telephone, subject to the terms and conditions of R907-80-7(6).

6. Bids less than the minimum acceptable selling price will be disqualified, and the bidder will not be eligible for ~~[oral]~~ live bidding even if such bids would otherwise meet those requirements in R907-80-7(4) or (6).

7. All bids, whether sealed or ~~[oral]~~ live, constitute a valid offer to purchase. An attempt to withdraw a sealed bid after the first sealed bid has been opened, or an attempt to withdraw or amend an ~~[oral]~~ live bid may result in the forfeiture of the bid deposit and any other remedy afforded the Department at law or equity.

8. At the conclusion of the auction and subject to the terms of R907-80-8, the successful bidder must sign a written offer agreement prepared by the Department that states the terms included in the public sale notice.

9. If the successful bidder defaults on the offer agreement, or otherwise fails to meet the requirements of R907-80-1[4]2, and upon approval by the Director, the property may be offered for sale to the person whose bid was second highest at the auction provided that the terms of the sale meet or exceed the minimum acceptable selling price established for the subject property. The second highest bidder will have 30 days from the date of the Department's offer to submit the purchase price balance plus costs required by R907-80-[9]10(5).

10. Third parties owning authorized improvements on the parcel at the time of the sale will be allowed 90 days from the date of the sale to remove the improvements. This provision is not applicable when such improvements are permitted under a valid existing right of record when such right survives the sale of the parcel, or the improvements are subject to a separate lease agreement.

[R907-80-8. First Right of Refusals.

~~1. The Department will notify individuals holding a first right of refusal at the close of the auction about the auction pursuant to Utah Code sections 72-5-111, 78B-6-520.3, 78b-6-521.~~

~~2. The Department will notify the holder of a first right of refusal by registered mail of the amount and terms of the highest offer as soon as practicable after the end of a public sale auction. The holder of the first right of refusal will have 90 days after being so notified to inform the Department, in writing, whether the holder agrees to the amount and terms of the highest offer or to waive the right. If the Department does not receive such written notification at the end of 90 days, the Department will consider the right waived.~~

~~3. If a holder of a first right of refusal waives the right, the bidder making the highest offer at the close of a public sale auction will enter into a purchase contract with the Department.~~

~~4. If a holder of a first right of refusal exercises the right, the holder will enter into a purchase contract with the Department for a price and at terms not lower than the highest offer made at the close of a public sale auction, and the Department will notify the bidder making the highest offer of the holder's decision to exercise the right.~~

~~5. Closings will be executed according to the requirements of R907-80-13.]~~

R907-80-8. Online or Web-based Public Sale Auctions.

The Department may establish an online or web-based application to use in conducting public sale auctions. The Department may subscribe to or use a commercially available online or web-based service to use in conducting public sale auctions, or it may subscribe to or use an online or web-based service provided by a public entity for conducting public sale auctions. The executive director or designee must provide written approval to use the online or web-based application or service the Department uses for public sale auctions.

R907-80-9. First Right of Refusal.

(1) ~~If the Department does not use any portion of a parcel of property it acquires from a private party for transportation purposes, the Department must allow the original grantor an opportunity to repurchase the property at the original purchase price to the grantor before the Department may sell the parcel of property to another buyer as required by Utah Code Section 72-5-111.~~

~~(a) The Department must send a written offer by certified mail to the original grantor at the original grantor's last known address, to sell the acquired property to the original grantor at the Department's acquisition price.~~

~~(b) The original grantor of the parcel of property may assign this first right of refusal to another person before the Department may sell the parcel of property to another buyer. The original grantor or the assignee must notify the department of an assignment of the first right of refusal by certified mail to the current office address of the executive director.~~

~~(c) The original grantor or the assignee must accept the Department's offer by certified mail within 90 days of the date the original grantor receives the Department's offer. If the Department does not receive an acceptance of its offer within 90 the days, it is free to sell or exchange the parcel to someone other than the original buyer or assignee.~~

~~(d) The original grantor or the assignee may waive the first right of refusal at any time.~~

~~(2) The Department must offer to sell property or an interest in property that it acquired by condemnation or threat of condemnation to the original grantor before it may sell to another buyer as required by Utah Code Section 78B-6-521.~~

~~(a) The Department will offer the holder of this first right of refusal the opportunity to purchase the property or property interest for a price equal to the highest offer received at auction plus all costs associated with preparing and bringing to auction the property or property interest.~~

~~(b) The Department may contact the holder of this first right of refusal of its decision to sell at auction the property or property interest to provide the holder an opportunity to purchase the property or property interest for an amount equal to the appraised value plus all costs associated with preparing the property or property right for sale or waive the right by providing the Department a written waiver.~~

~~(c) Should the holder refuse to accept the Department's offer to sell or waive the right, the Department will contact the holder as soon as reasonably possible after the auction ends and offer the property or property interest to the holder for a price equal to the highest offer received at auction plus all associated costs.~~

~~(d) The holder of the right will have 90 days to accept or assign the offer to another buyer. Assigning the right will not extend the 90 days allowed to accept the offer.~~

~~(e) If the holder of the right does not accept or assign the Department's offer within the 90 days, the Department is free to sell the property or property interest to the highest bidder.~~

~~(f) If the holder accepts the Department's offer, the holder must close the purchase in accordance with R907-80-14.~~

R907-80-[9]10. Negotiated Sales, Justifications, Procedures, and Public Notice.

1. The Department may dispose of surplus land by negotiated sale when the Executive Director or designee determines such a sale serves the best interests of the State. The Department may sell surplus land or other property by negotiated sale if:

(a) The buyer is a Utah public entity, and the property is being transferred for a public use,[-or]

(b) the buyer of the surplus land also owns adjoining land[-], or

(c) the executive director or designee determines a negotiated sale is in the best interest of the state and the Department.

~~2. Before the Department may close on a negotiated sale, the Department must publish a Notice of Negotiated Sale. The Notice of Negotiated Sale must include:~~

~~(a) A general description of the subject property including the street address and a brief description of the location of the subject property;~~

~~(b) Contact information of the Department office where interested parties can obtain more information;~~

~~(c) The identity of and contact information for the Utah Public Entity buying the property;~~

~~(d) The public purpose for which the Utah Public Entity will use the property; and~~

~~(e) The terms of the sale.~~

3. The Department must publish a Notice of Negotiated Sale on the Department's Internet website, on the Utah Public Notice website, or in a newspaper of general circulation as defined by Utah Code section 45-1-201 for 14 consecutive days before the sale.]

~~2. The Department may list, or contract with an agent or broker to list for sale a property or property interest on a commercial listing service if the executive director or designee determines doing so is in the best interest of the state. The Department will utilize a standard procurement process to select an agent or broker.~~

~~[4]3. In the event a party submits a competing offer or offers to purchase the property from the Department, the Department must evaluate the offer or offers and accept the offer that best serves interests of the State. If the Department receives multiple offers, the executive director or designee may determine that the best interests of the state requires the Department to request best and final offers from all offerors. A written justification statement that articulates the reasoning used to determine the offer that best serves the interests of the State must be a part of all negotiated sales files.~~

~~[5]3. The Department may require a buyer of surplus land purchased through a negotiated sale to reimburse the Department for costs incurred in preparing the parcel for sale. These costs may include, but are not limited to costs for advertising, appraisal, environmental assessments, and a sale processing charge.~~

R907-80-11[0]. Negotiated Exchanges.

1. The Department may exchange real property for other real property with a Utah Public Entity, an individual, business, private enterprise, or not-for-profit organization.

2. The Transportation Commission must approve exchanges made to acquire land the Department needs for highway use as required by Utah Code Section 72-5-111(1)(c).

3. Real property exchange transactions are not subject to competitive solicitation procedures.

4. Exchanges of surplus real property must comply with state law. Exchanges of real property involving the Department and a Utah public entity must follow the requirements of the Interlocal Cooperation Act, Utah Code sections 11-13-101 through 608.

5. The financial consideration received for any real property exchange to an individual, business, private enterprise, or not-for-profit organization must be equal to or higher than the current market value of the Department's real property, as determined by any reasonable means.

6. Real property received in an exchange must be free from all liens, encumbrances, and clouds on title unless the Director determines after review that accepting the property is in the best interests of the State. The Director's justification for accepting property with a lien, encumbrance, or cloud on title must be in writing.

R907-80-12[4]. Contracts of Sale or Exchange.

1. The Department will prepare and deliver a contract of sale to the buyer following a public auction sale or upon concurrence of the parties in a negotiated sale or an exchange. This contract must contain the legal description of all subject property or properties, and include:

- (a) Information regarding the amount paid or the values of the properties exchanged;
- (b) The identities of buyer of the land or the entity or entities participating in the exchange with the Department;
- (c) Provisions for remedies the Department may elect in the event of a default; and
- (d) Any other terms, covenants, deed restrictions, or conditions that the Department considers appropriate.

2. Buyers or persons participating in a property exchange must execute contracts of sale or exchange and return them to the Department within 20 days from the date the Department delivers the contract. If the Department does not receive the contract within the 20-day period, the Department will send notice by a confirmable delivery method to the buyer or exchanging party giving notice that after 10 days the transaction may be canceled with all monies received by the Department, including any deposit made, will be forfeited to the Department. Notification of this forfeiture provision must accompany the transmittal of the contract.

~~3. [The Director must sign a contract of sale or exchange after the buyer has signed and returned the contract to the Department. The contract may not be final and no rights may vest in the buyer until the Director signs the contract.]~~The Department ~~[must]~~ reserves the right to cancel a sale or exchange of surplus land for any reason prior to execution of the contract by the Director.

~~4. [A contract of sale or exchange may be assigned to any person qualified to purchase surplus lands, provided that the assignment is approved by the Director, and that no assignment is effective until the Director approves the assignment in writing.~~

~~5. An assignment of a contract of sale or exchange must be consistent with these rules, executed by all necessary parties and acknowledged, and must clearly set forth the contract of sale or exchange number, the Land involved, and the name and address of the assignee.~~

~~6. Assignment of a contract of sale or exchange does not relieve the assignor from any obligations under the original contract of sale.~~

~~7.]~~The Department will issue a quit claim deed to the appropriate person upon payment in full or all amounts owed to the Department and surrender of the original contract of sale or exchange for any tract of land sold or exchanged.

R907-80-13[2]. Competition Protection.

1. Collusion between bidders or between a bidder and an employee or agent of the Department to affect a public sale auction is prohibited. Anyone having reason to believe that a public sale auction conducted under this rule may have been affected by collusion between bidders or between one or more bidders and an employee or agent of the Department must report that information to the attorney general as soon as reasonably possible.

2. Should an adjudicative body determine that collusion intended to affect a public sale auction conducted under this rule has occurred, the resulting sale will be voidable by the Department.

R907-80-14[3]. Closings.

1. All auction sales, negotiated sales, or negotiated exchanges must go through this closing process.

2. Transactions must be closed within ~~[3]~~60 days after the date of the contract unless good cause exists to delay the closing. Information intended to show that good cause that warrants delaying a closing exists must be provided in writing to the Director within 30 days after the date of the contract. The Director must determine if good cause to delay exists.

3. A minimum of 3% security deposit on a negotiated sale will be required to be held in escrow.

4. If closing does not complete within ~~[3]~~60 days after the date of the contract, the deposit money becomes non-refundable if the Director decides good cause to delay does not exist.

5. If closing is not complete within the [3]60 days after the date of the contract and the Director determines that good cause to delay does not exist, the buyer still wishes to buy the property, and the Department agrees to allow the buyer more time to complete the purchase, the buyer must provide an additional 7% security deposit to the Department to be held in escrow and the parties will have an additional 30 days after the date of the contract to close.

6. If the buyer does not provide the additional 7% security deposit required by R907-80-13(5) within 5 business days after the date the Department agrees to allow the buyer more time to complete the purchase, the purchase contract is voidable, and the Department may contact the next highest bidder who will then have an opportunity to purchase the property.

7. If closing is not complete within the additional [3]60 days allowed by R907-80-13(5), all deposit money becomes non-refundable, the contract becomes voidable and the Department may provide the next highest bidder an opportunity to purchase the property.

8. The executive director or designee has authority to extend time frames allowed to close a transaction if he or she determines that doing so serves the best interest of the state.

9. The closing of a real property transaction may be conducted at a title company provided the buyer pays for all related costs. If a title company is used for closing, the Department will instruct the company to record the deed, and after recording, send it to the Department of Transportation, Director of Right of Way.

[9]10. Only the Executive Director or designee is authorized to sign closing papers, real property contracts, or deeds.

[10. The Executive Director must approve all property sales or exchanges in writing prior to completion of the closing.]

KEY: surplus land, negotiated exchanges, public sales auctions, negotiated sales

Date of Enactment or Last Substantive Amendment: [~~May 22, 2017~~]2018

Authorizing, and Implemented or Interpreted Law: 72-5-117; 72-5-111; 72-5-404

Transportation, Operations, Construction **R916-2** Prequalification of Contractors

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 42690
FILED: 03/14/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These proposed rule amendment make technical changes to the existing rule and the procedures it delineates.

SUMMARY OF THE RULE OR CHANGE: In addition to the technical changes, these proposed rule amendments make,

these amendments attempt to clarify the requirements for contractors seeming to pre-qualify to compete for contracts with the Department of Transportation (Department). The amendments also add a requirement that contractors seeking prequalification have an average contractor rating over the past 5 projects of 70% or higher, and restate the requirements for bidding as a one-time joint venture and a continuing joint venture.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-1-201 and Subsection 63G-6a-106(3)(a)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The Department does not anticipate any costs to the state budget. These changes do not require the Department to do anything that requires an additional expenditure. The Department is proposing these amendments in hope of making its prequalification process more efficient and effective. Any savings to the Departments budget these proposed amendments may cause are prospective and speculative.

◆ **LOCAL GOVERNMENTS:** The Department does not anticipate any costs to local governments. These changes do not require local governments to do anything that requires an additional expenditure, and they do not provide any presently tangible benefits to local governments.

◆ **SMALL BUSINESSES:** The Department does not anticipate any costs to small businesses. These changes do not require small businesses to do anything that requires an additional expenditure, and they do not provide any presently tangible benefits to small businesses. These proposed amendments attempt to clarify and streamline requirements in the existing rule.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Department does not anticipate any costs to persons other than small businesses, businesses, or local government entities. These changes do not require persons other than small businesses, businesses, or local government entities to do anything that requires an additional expenditure, and they do not provide any presently tangible benefits to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons, nor will there be compliance costs for affected persons. These proposed amendments change existing procedures to provide additional opportunities to affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change will not have any fiscal impact on businesses.

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

OPERATIONS, CONSTRUCTION
 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 05/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2018

AUTHORIZED BY: Carlos Braceras, Executive Director

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

In addition to the technical changes this proposed amendment makes, it attempts to clarify the requirements for contractors seeking to pre-qualify to compete for contracts with the Department. It adds a requirement that contractors seeking prequalification must have an average contractor rating over the past 5 UDOT projects of 70% or higher, and it restates the requirements for bidding as a one-time joint venture and a continuing joint venture. This proposed amendment also adds the applicants' safety record to the list of activities that serve as a basis for the prequalification rating.

The industry that will be affected by this proposed amendment is Highway, Street, and Bridge Construction. The Department of Workforce Services' Firm Find database lists 176 firms under NCAIS No. 237310, Highway, Street, and Bridge Construction category. Of these, 155 reported having 0 to 49 employees and are considered small businesses, which leaves 21 firms that report employing 50 to 499 employees and are, by definition, large businesses.

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

This rule only applies to firms wanting to compete for contracts valued at more than \$3,000,000. These firms may be small businesses or non-small businesses. These are also the firms that may be affected by this proposed amendment. Firms most likely to be affected are those firms that fail to achieve an average contractor rating over their past 5 UDOT projects of 70% or higher and those that have a poor safety record. These are under-performing firms that the Department cannot have working on larger public road projects unless they improve. However, these under-performing firms will not be able to compete for contracts valued at \$3,000,000 or higher but may still compete for smaller contracts. If an underperforming firm can maintain an average contractor rating of 70% or higher for 5 consecutive UDOT projects valued at less than \$3,000,000, the Department will allow it to apply for prequalification to compete for the larger contracts. If the affected contractors are also able to improve their safety records they will receive a higher prequalification rating.

The Department does not know which firms might ultimately become underperforming firms, and thus affected by this proposed amendment. The Department also has no way of quantifying or estimating the fiscal impact these firms may experience. For firms that are fiscally impacted by this proposed amendment the impact will not necessarily be continuing. The impacted firms can perform their way out of the fiscal impact by scoring over 70% on smaller projects until they are again eligible to prequalify for larger projects.

The Department has made other changes in this proposed amendment to clarify requirements included in the existing rule. The Department does not anticipate these changes will have any fiscal impact on firms to which this rule applies. The Department does not anticipate this proposed amendment will have a fiscal impact on local governments because nothing in it applies to a function of local governments.

The executive director of the Department of Transportation, Carlos E. Braceras, has reviewed and approved this fiscal analysis.

R916. Transportation, Operations, Construction.

R916-2. Prequalification of Contractors.

R916-2-1. Authority and Purpose.

This rule establishes procedures for prequalifying contractors desiring to submit bids and proposals for Utah Department of Transportation construction projects. This rule is authorized under Utah Code Ann. Sections 72-1-201 and 63G-6a-106(3)(a).

R916-2-2. Definitions.

(1) Terms used in this rule are defined in Section 72-1-102.

(2) "Board" means the prequalification board, consisting of 4 positions: Department of Transportation Comptroller, Director of Construction and Materials, an engineer for construction, and the Prequalification Specialist, or designees.

(3) "Applicant" means any person who submits an application for prequalification.

R916-2-3. Prequalification.

(1) Contractors desiring to submit bids or proposals for construction contracts shall be prequalified by the Department to ensure they have the resources and capability to successfully complete awarded contracts. Prequalification is not required for projects that have an advertised estimate of \$3,000,000 or ~~under~~ less.

(a) Prequalification information is due at least ~~[+]~~20 calendar days before submitting a proposal or bid on projects of more than \$3,000,000.

(b) The Department may change an Applicant's prequalification status at any time if the Department receives favorable or unfavorable information about the Applicant's job work performance or financial performance.

(c) The prequalification amount limits the size of individual contracts and type of work for which a prequalified contractor may submit proposals or bids.

(2) Qualification ratings establish the type of construction work contractors may be permitted to perform and the maximum total dollar value of contracts ~~[they]~~ contractors are allowed to undertake at any one time if not classified as unlimited.

(3) Applicants who attain a total prequalification of \$50,000,000 ~~[shall]~~ will be classified as unlimited. The Department will audit or review~~[E]~~ each Applicant's prequalification ~~[shall be reviewed]~~ at least annually; more often if circumstances ~~[so]~~ warrant, as determined by the Department or the Applicant.

(4) The Department will base an Applicant's ~~[Q]~~ prequalification ratings ~~[shall be based]~~ on ~~[evaluation of]~~ the Applicant's:

- (a) experience;
- (b) past performance and safety record;
- (c) personnel; and
- (d) analysis of certified audited or reviewed financial statements, including balance sheet, income statements, assets including equipment, cash flow, and changes in financial condition.

(e) If current financial statements on file are reviewed and not audited, the Department may accept financial statements for the same ~~[time]~~ period ~~[may be accepted]~~ in lieu of the required certified audited financial statements; ~~[;]~~ however, providing ~~[these documents shall]~~ reviewed financial statements will result in a ~~[lower]~~ prequalification rating ~~[of]~~ based on one-half ~~[of]~~ the financial factor allowed if the applicant provides audited financial statements ~~[under the usual procedure]~~.

(5) An applicant may submit a guaranty of financial support provided by an affiliated but independent entity. The Department ~~[shall]~~ will provide applicants a guarantee agreement form for this purpose. Applicants that submit a guaranty of financial support must submit the Department's guarantee agreement form with their applications. The guarantee may increase an applicant's adjusted equity by a maximum of 50% of the applicant's calculated adjusted equity in the formula, as determined by the Department.

(6) The applicant may~~[shall]~~ only provide the experience and past performance of the applicant~~[;]~~ and must submit financial

reports~~[documents]~~ that accurately represent the past financial performance and present financial condition of the applicant.

(7) The Department may reject an application and not pre-qualify an Applicant if the Applicant:

- (a) fails to provide all requested information;
- (b) provides false, misleading, or incorrect information;
- (c) has now or in the past had an officer, member or owner who was convicted of a felony;
- (d) is now or has been suspended or debarred by any governmental entity;
- (e) has failed to complete a construction contract as the prime contractor;

(f) has an average contractor rating over the past 5 projects that falls below 70%;

~~[(f)g]~~ has been convicted or held liable for any crime or civil offense that involved collusive or deceptive activity related to a procurement process; or

~~[(g)h]~~ otherwise fails to meet the Department's requirements.

(8) This rule shall be administered to ensure that Applicants possess adequate financial resources to provide complete performance of contracts awarded to them by the Department, and to foster and protect competition in the Department's bidding processes.

(9) The Department will not accept any pledges.

R916-2-4. Joint Venture.

(1) Joint ventures must submit a letter of intent to the Department's Prequalification Board Specialist ~~[that states the exact name of the joint venture and identifies the joint venture's designated administrative partner before submitting a joint proposal on a project. Joint ventures must submit their joint proposals at least four working days before the scheduled bid opening. The Department will consolidate individual prequalification amounts for joint venture bids or proposals.]~~ prior to bidding as a joint venture. The letter must state whether the joint venture partners intend to bid on a single project, or on multiple projects. If the intent is to bid on a single project, the letter of intent must identify the project by the Department's project number. If the intent is to bid on multiple projects, the letter must request approval to bid as a continuing joint venture. Approval to bid as a continuing joint venture will expire one year after the date the Department grants approval. Joint ventures must submit their letter of intent together with an executed copy of their joint venture agreement at least 20 working days before the scheduled bid opening, or the first scheduled bid opening a continuing joint venture intends to bid. The Department will consolidate individual prequalification amounts for joint venture bids or proposals.

(2) Applicants must~~[shall]~~ obtain the following under the joint venture designation before bid openings:

- (a) Bid bond; and
- (b) UDOT Contractor identification and password.

R916-2-5. Prequalification Board.

(1) The Prequalification board is established to:

- (a) direct the prequalification of contractors;
- (b) review and analyze prequalification applications; and
- (c) establish the amount and type of prequalification work classifications to be granted to contractors.

KEY: bids, contracts, prequalification, contractor rating
Date of Enactment or Last Substantive Amendment: [~~December 8, 2014~~2018
Notice of Continuation: August 3, 2016
Authorizing, and Implemented or Interpreted Law: 72-1-102; 72-1-201; 63G-6a-106(3)(a)

Transportation, Operations, Traffic and Safety

R920-6

Snow Tire and Chain Requirements

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42689

FILED: 03/14/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment is a complete replacement of the existing administrative rule. This change is needed to update the rule to reflect the availability, and require the use of, traction device technology and drive train technology that was not invented or available to the public when this rule was last amended. The purpose of this amendment is to establish the conditions under which the Utah Department of Transportation (UDOT) and law enforcement agencies will require traction devices to traverse highway segments impacted by winter weather. The use of traction devices when conditions warrant increases the likelihood that drivers safely traverse the road and reduces the likelihood that drivers create a hazard or hamper road maintenance.

SUMMARY OF THE RULE OR CHANGE: This amendment changes the definition from Commercial/Bus/Recreational vehicle to vehicles over 12,000 GVW. This definition matches left lane restrictions for heavy vehicles and is more descriptive. This change is likely to have little net effect since the visual cues used by law enforcement to identify these vehicles will not change. Changes to allowed traction devices as follows: All Vehicles - the rule expands traction options, allowing drivers to pick the one that meets the owners needs. Since chains are relatively inexpensive, this will not likely change out-of-pocket costs significantly, but some drivers will be able to substitute traction devices. Removes the M/S designation from being acceptable for two-wheel drive vehicles. 3PMSF tires still allowed. This amendment will require two-wheel-drive vehicles that in the past had M/S tires to either buy chains or 3PMSF tires. This is the biggest increase in cost. Changes affecting AWD/4WD: clarifies requirements - no significant change from prior rule. Changes when chains are required - existing rule requires chains in the vehicle between October 1 and April 30. This

amendment requires operators to have traction devices in the vehicle when UDOT or the Utah Highway Patrol (UHP) has determined that conditions warrant them, and the traction devices must be mounted, not just in the vehicle. This means that travelers who choose to avoid inclement weather are not required to buy traction devices. This should be a minor reduction in statewide costs. This change accommodates chain restrictions for heavy vehicles only. Certain segments of road that previously required chains will not require traction devices on all passenger cars/light trucks. This amendment makes several changes with minor effects - mostly to reduce cost, and one significant cost increase, which is for non-AWD/4WD vehicles traveling during storms. This amendment requires these vehicles to have traction devices installed or proper snow tires.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 41-6a-1636 and Section 41-6a-302 and Section 72-1-201 and Section 72-3-102 and Section 72-6-114 and Sections 72-4-101 through 72-4-137

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** UDOT believes this rule change should lead to reduced costs to the state budget because it will be less burdensome for the Department of Public Safety, local law enforcement, and UDOT to enforce. The amount of these cost savings is not quantifiable now because it is speculation.
- ◆ **LOCAL GOVERNMENTS:** UDOT believes this rule change should lead to reduced costs for local governments because it will be less burdensome for the local governments' law enforcement agencies to enforce. The amount of these cost savings to local governments is not quantifiable now because it is speculation.
- ◆ **SMALL BUSINESSES:** UDOT believes this rule change should lead to reduced costs for small businesses because they are less likely to need traction devices on their passenger vehicles, and the traction devices that are required for commercial trucks allowed by this rule are less costly than the devices required under the present rule. The amount of these cost savings to small businesses is not quantifiable now because it is speculation.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** UDOT believes this rule change should lead to reduced costs for persons other than small businesses, businesses, or local government entities because they are less likely to need traction devices on their passenger vehicles, and the traction devices that are required for larger and commercial-type trucks allowed by this rule are less costly than the devices required under the present rule. The amount of these cost savings is not now quantifiable because it is speculation.

COMPLIANCE COSTS FOR AFFECTED PERSONS:

Persons affected by this rule change will be individuals and businesses that need to travel on roads where vehicle travel is restricted due to adverse weather conditions, predominantly in canyons and high mountain passes. Compliance costs for outfitting a passenger vehicle with

traction devices when they are required will be in the range of approximately \$30 to \$60 per vehicle. Compliance costs for outfitting a commercial truck with traction devices when they are required will be in the range of approximately \$150 to \$300 per vehicle. These may be one-time costs, or these costs may be experienced multiple times as the traction devices wear out or are damaged. Moreover, many businesses and individuals may not experience these costs at all. Vehicles with all-wheel or four-wheel drive with all-weather tires may not need to purchase traction devices. Summary of approximate aggregate costs for businesses: The Department of Workforce Services (DWS) lists approximately 97,600 businesses operating in Utah and registered with DWS. Of this number, approximately 94,047 are small businesses, which are considered by the applicable statute to be those businesses with less than 50 employees. This leaves 3,553 businesses that are are not small businesses, or those businesses with 50 or more employees. If this rule change were to require every business registered with DWS to buy traction devices for one passenger vehicle and one commercial truck the total cost would be approximately \$2,928,000 to \$5,856,000 for passenger vehicles and \$14,640,000 to \$29,280,000 for commercial trucks, or \$17,550,000 to \$35,136,000 total. If this rule change were to require every small business registered with DWS to buy traction devices for one passenger vehicle and one commercial truck the total cost would be approximately \$2,821,410 to \$5,642,820 for passenger vehicles and \$14,107,050 to \$28,214,100 for commercial trucks, or \$16,928,460 to \$33,856,920 total. If this rule change were to require every non-small business registered with DWS to buy traction devices for one passenger vehicle and one commercial truck the total cost would be approximately \$106,590 to \$213,180 for passenger vehicles and \$532,950 to \$1,065,900 for commercial trucks, or \$639,540 to \$1,279,080 total. However, all of these figures are estimates and are speculation. UDOT provides the figures only to provide an idea of what actual costs may be.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Most businesses should realize reduced costs because of this rule change. However, this rule change may lead to increased costs for some businesses.

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

TRANSPORTATION
OPERATIONS, TRAFFIC AND SAFETY
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 05/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2018

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	\$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

Quantifying the costs and savings this amendment to rule R920-6 will generate is

impossible with any degree of certainty. Enforcement of this rule is triggered by the weather. Moreover, enforcement will only be needed on limited portions of certain roads in areas of the state affected by snowy weather conditions at times dictated by the weather.

While the Department believes this amendment will affect small and non-small businesses, state and local governments, and persons who are not businesses or governments, it will not affect all businesses, governments, or others equally. It will not affect many local governments and most businesses and individuals at all.

Businesses and individuals affected by administrative rule R920-6 are those that must operate vehicles in affected areas during severe weather events and, therefore, must purchase traction assisting devices or M+S (all-season) or 3 peak mountain snowflake (3PMSF) snow tires for all wheels, or the drive wheels on their vehicles. Local governments affected by this rule are those that must assign law enforcement officers to patrol the areas of the roads affected by this rule during severe weather events to enforce this rule. This proposed amendment does not include any additional burdens on businesses, local governments or individuals. The purpose of the proposed amendment is to bring the rule's requirements into line with presently existing technologies and lessen the burden on affected persons and governments.

The Department's research found the cost for traction devices for passenger vehicles such as cars and light trucks to range from approximately \$30 to \$200. Traction devices for commercial trucks range in price from approximately \$200 to \$2000.

However, these figures are based on data found through Internet searches. The Department provides the figures only to give readers an idea of what actual costs may be. Businesses and individuals may find conforming devices for lower prices, or they may find that they do not need to carry traction devices because the vehicles they are using in the affected areas already conform to the requirements of the proposed amendment.

The Department does not refer to NAICS codes in this analysis. Since this rule may affect every vehicle operator driving through any mountain pass in Utah while it is snowing, including I-80 in Parleys Canyon, I-40 going through Soldier Summit and past Strawberry Reservoir, and every access road to a Utah ski resort it is impossible to determine which industries, small and non-small businesses and which other persons the amendment will affect.

The Department made rule R920-6 long ago. Many of the businesses and other persons that will be affected by this proposed amendment have been following the requirements of the rule for some time. Traction device technology, vehicle drive-train technology, and tire technology have changed in recent years. Certain all-weather tires now on the market, when installed on four-wheel-drive or all-wheel-drive vehicles, eliminate the need for any additional traction devices under this amendment. This is a change from the existing rule and should lead to cost savings for affected persons.

The Department believes enforcement of this proposed amendment will lead to significant cost savings to operators of all vehicles traveling on roads in areas affected by severe weather conditions and the local governments. Vehicles not equipped with proper all-weather tires, traction improvement technology, traction assisting devices, or a combination thereof that become stuck in snow, or that slide off the roadway, impede the flow of traffic. Operators of vehicles behind vehicles stuck in the snow, or those that must be rescued after sliding off the road have their travel obstructed or stopped. These operators lose time, which leads to added costs for all businesses regardless of size. Non-business operators arrive at their destinations later than planned. Local governments must dispatch law enforcement and other public assets to rescue operators in need of rescue and attempt to maintain traffic flow.

This proposed amendment makes a useful administrative rule more cost effective and updates it to allow business, governments, and the public benefit from existing technologies. The benefits of having this rule outweigh the possible costs.

The executive director of the Department of Transportation, Carlos E. Braceras, has reviewed and approved this fiscal analysis.

R920. Transportation, Operations, Traffic and Safety.
R920-6. ~~[Snow Tire and Chain]~~Traction Device/Tire Chain Requirements.
R920-6-1. Purpose.

~~[The purpose of this rule is to allow a Region Director of the Utah Department of Transportation to designate travel restrictions on certain state highways located in the State of Utah, that may not be~~

~~safely traversed by the public or which would tend to create a hazard or hamper road maintenance activities, unless the vehicle traversing said highway is adequately equipped with certain safety devices.]~~The purpose of this rule is to establish the conditions under which the Utah Department of Transportation and law enforcement agencies will require traction devices to traverse highway segments impacted by winter weather. The use of traction devices when conditions warrant increases the likelihood that drivers safely traverse the road and reduces the likelihood that drivers create a hazard or hamper road maintenance.

R920-6-2. Authority.
~~[The authority for this rule is in Sections 72-1-201 and 72-3-102; Title 72, Chapter 4, Part 1, Transportation Code, and Sections 41-6a-302 and 41-6a-1636.]~~The Department promulgates this rule pursuant to Utah Transportation Code sections 72-1-201, 72-3-102, 72-6-114, and 72-4-101 through 72-4-137; and Utah Motor Vehicle Act sections 41-6a-302 and 41-6a-1636.

R920-6-3. Definitions.
 As used in this rule:
 (1) "UDOT" means the Utah Department of Transportation
 (2) "UHP" means Utah Highway Patrol
 (3) "Traction Devices" are devices that improve traction of tires on icy or snowy road by placing high friction objects between the tires and the road. Examples include tire chains, sand distribution devices, tire studs and other devices similar in function.

(4) "Traction Device Equipped" describes a vehicle equipped as follows:
 (a) Any size vehicle with traction devices on all drive tires. An exception is allowed in the case of dual tires, where traction devices are required for at least one of the two tires in the dual mounting.

(b) As an alternative to R920-6-3(4)(a), a vehicle less than 12000 GVW equipped with Three Peak Mountain Snowflake (3PMSF) snow tires on all wheels will be considered traction device equipped.

(5) "Four wheel drive" for the purposes of this rule consists of four-wheel and all-wheel drive autos and light trucks with mounted M+S (all-season) or 3 peak mountain snowflake (3PMSF) snow tires on all wheels.

(6) "Class I Traction Segment" is a defined part of a highway where UDOT, UHP or designated local law enforcement may require vehicles over 12,000 GVW to provide traction devices.

(7) "Class II Traction Segment" is a defined part of a highway where UDOT, UHP or designated local law enforcement may require traction devices or four-wheel-drive for all vehicles. Class II traction segments may also be operated as a Class I when conditions warrant.

R920-6-3]4. Provisions.
~~(1) Locations shall be designated by the Department of Transportation's Region Director after coordinating with the local Utah Highway Patrol office. The designations by the Region Director shall be established through a Traffic Engineering Order (TEO) from the Division of Traffic and Safety to the Region Director's office wherein the designated highway is located.~~

~~_____ (2) The Utah Department of Transportation's Division of Traffic and Safety shall maintain and annually publish a listing of those highways so designated for distribution to:~~

- ~~_____ (a) Utah Department of Transportation Region Offices;
 _____ (b) Utah Highway Patrol;
 _____ (c) county offices; and
 _____ (d) local law enforcement officials.~~

~~_____ (3) When any designated highway is so restricted no vehicle shall be allowed or permitted the use of the highway, during the period between October 1 and April 30, or when conditions warrant due to adverse, or hazardous weather or roadway conditions, as determined by the Utah Department of Transportation, unless:~~

- ~~_____ (a) said vehicle is equipped with either:
 _____ (i) steel link chains or have chains in possession;
 _____ (ii) mounted snow tires; (tires with an M/S designation with or without studs);
 _____ (iii) elastomeric tire chains, designed for use with radial tires; or~~

~~_____ (iv) four-wheel drive vehicles with a minimum of two mounted snow tires.~~

~~_____ (4) Radial tires without snow tread do not meet the requirements:~~

~~_____ (5) An operator of a commercial vehicle with four or more drive wheels, other than a bus, shall affix tire chains to at least four of the drive wheel tires.~~

~~_____ (6) An operator of a bus or recreational vehicle shall affix tire chains to at least two of the drive wheel tires. (1) At the request of one of UDOT's Region Directors or their designee, UDOT's Traffic and Safety Division will issue a Traffic Engineering Order (TEO) that establishes each designated traffic segment and identifies its class.~~

~~_____ (2) UDOT's Division of Traffic and Safety will maintain and publish a list of designated traction segments and their class on UDOT's website. UDOT will communicate any changes to the list to:~~

- ~~_____ (a) UDOT Region offices,
 _____ (b) UHP,
 _____ (c) county offices, and
 _____ (d) local law enforcement agencies.~~

~~_____ (3) When road surface conditions warrant, as determined by UDOT, UHP or designated local law enforcement agency, no vehicle will be allowed or permitted the use of the highway unless:~~

~~_____ (a) For Class I Traction Segments, vehicles over 12,000 GVW shall be traction device equipped, and~~

~~_____ (b) for Class II Traction Segments, all vehicles shall be traction device equipped or four-wheel drive as defined in this rule.~~

~~_____ (4) Travelers are notified when traction devices are required via road signs and UDOT's traveler information systems.~~

R920-6-[4]5. Responsibilities.

~~_____ (1) Authorized personnel on location to enforce this rule, may permit vehicles not equipped with the traction aids defined in the preceding paragraph to travel a designated state highway if, in the opinion of said personnel, the vehicle may do so without endangering the public safety or creating a hazard to or interference with, highway maintenance operations.~~

~~_____ (2) The Utah Department of Transportation requests the Utah Highway Patrol, or designated local law enforcement agency, to enforce this rule. The Utah Highway Patrol may request to enforce this rule by contacting the Region Director, or designated Department of Transportation representative where designated highway is located.~~

~~_____ (3) The Utah Department of Transportation will notify the county officials of counties in which highways are so restricted, as outlined above.~~

~~_____ (4) All authority shall rest with the Executive Director or his designee to control use of highways where avalanche danger and other threats to the public safety are concerned.~~

~~_____ (5) The Region Director or designee shall work with the Utah Highway Patrol in establishing working criteria for the adequate enforcement of the above provisions. (1) The decision to require traction devices is made by UDOT, UHP or a designated local law enforcement agency. The agency deciding to require traction devices notifies the other agencies involved.~~

~~_____ (2) UHP and/or a designated local law enforcement agency enforces the traction device requirements.~~

~~_____ (3) UDOT communicates traction device requirements to the public.~~

~~_____ (4) Personnel authorized to enforce this rule may permit vehicles that do not meet traction device requirements to travel a traction segment of the highway if authorized person believes they may do so without endangering public safety, creating a hazard, or interfering with highway maintenance operations.~~

~~_____ (5) UDOT notifies relevant public agencies when traction segment designations change.~~

~~_____ (6) All authority shall rest with the Executive Director of UDOT or his designee to control use of highways where avalanche danger and other threats to the public safety are concerned.~~

~~_____ (7) The UDOT Region Director or their designee work with UHP and/or local law enforcement agencies in establishing working criteria for enforcement of this rule.~~

KEY: tires, snow, designated highways, traction devices

Date of Enactment or Last Substantive Amendment: [~~November 21, 2011~~]2018

Notice of Continuation: July 7, 2017

Authorizing, and Implemented or Interpreted Law: 41-6a-1636; 72-1-201; 72-3-102; 72-6-114; 41-6a-302

Workforce Services, Employment Development **R986-600** Workforce Innovation and Opportunity Act

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42693

FILED: 03/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to formalize and clarify eligibility requirements, initial reporting requirements, and enforcement mechanisms for the Utah Eligible Training Provider List (ETPL), and to make technical and grammatical changes.

SUMMARY OF THE RULE OR CHANGE: Under the Training and Workforce Improvement Act, Section 35A-5-101 et seq., the Department of Workforce Services (Department) is granted authority to apply for retraining, community assistance, and technology transfer funds made available by the federal government. Under the same Act, the Department also has specific authority to contract with eligible education and training providers to implement the state workforce services plan. Federal funds for these purposes are made available to the states through Title I the federal Workforce Innovation and Opportunity Act (WIOA), 29 U.S.C. 3101 et seq., and its accompanying regulations, 20 CFR Part 677. In compliance with these authorities, the Department maintains the ETPL, which lists all training providers eligible to receive Title I funding for vocational and similar training programs within the state. The Department has determined that several aspects of existing Department policy and practice in relation to the ETPL program should be enacted in rule in order to have the force of law for enforcement purposes. Specifically, the proposed rule formalizes the initial and continuing eligibility criteria that were previously contained solely in the "terms and conditions" between the Department and each provider. This proposed rule amendment also formalizes the Department's existing positions regarding the requirement that ETPL funds wrongly or fraudulently paid to a provider must be repaid, and the application of ETPL standards to successor training providers and contractors and subcontractors of training providers. In addition, the proposed amendment formalizes the criteria and timeframes for suspension or disqualification from the ETPL as they exist in Department policy and in compliance with 20 CFR 677. Further, the proposed amendment clarifies that training provider appeals from Department decisions may be heard by Administrative Law Judges and reviewed by the Department as part of its general administrative review process for public assistance cases. Previously, such appeals were to be heard by the State Workforce Development Board or its designee; the Board had, as a matter of practice, always designated an Administrative Law Judge within the Department to hear these appeals. The proposed amendment clarifies that this will be the official procedure for such appeals going forward. The Department has authority for this rulemaking pursuant to Section 35A-1-104.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 20 CFR 677 and 29 U.S.C. 3101 et seq. and Section 35A-1-104 and Section 35A-5-101 et seq.

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** No costs or savings are anticipated to the state budget because this proposed amendment codifies and clarifies existing Department policy, procedure, and practice and does not require any new expenditure of funds.

◆ **LOCAL GOVERNMENTS:** No costs or savings are anticipated to local government because the ETPL program is a state-level program and the state does not require any local government entities to hold hearings or otherwise engage in enforcement efforts, and because this proposed amendment

codifies and clarifies existing Department policy, procedure, and practice and does not require any new expenditure of funds.

◆ **SMALL BUSINESSES:** No costs or savings are anticipated to small businesses because this proposed amendment codifies and clarifies existing Department policy, procedure, and practice and does not require training providers or others to comply with requirements beyond those already being enforced by the Department.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No costs or savings are anticipated to persons other than small businesses, businesses, or local government entities because this proposed amendment codifies and clarifies existing Department policy, procedure, and practice and does not require training providers or others to comply with requirements beyond those already being enforced by the Department.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance costs or savings are anticipated for affected persons because this proposed amendment codifies and clarifies existing Department policy, procedure, and practice and does not require training providers, or others, to comply with requirements beyond those already being enforced by the Department.

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

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 WORKFORCE SERVICES
 EMPLOYMENT DEVELOPMENT
 140 E 300 S
 SALT LAKE CITY, UT 84111-2333
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Nathan White by phone at 801-526-9647, or by Internet E-mail at nwhite@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/01/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/08/2018

AUTHORIZED BY: Jon Pierpont, 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 in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

The proposed rule is not expected to have any fiscal or non-fiscal impacts on non-small businesses.

R986. Workforce Services, Employment Development. R986-600. Workforce Innovation and Opportunity Act. R986-600-652. ~~Initial~~ Eligibility Requirements for Training Providers and Programs.

(1) Training providers must apply for a specific program/s, and be found eligible, to be included on the Utah Eligible Training Provider List (ETPL).

(2) The following training providers can apply to be included in the ETPL;

- (a) post-secondary institutions,
- (b) registered apprenticeship programs,
- (c) other public or private providers of training services, or
- (d) providers of adult education and literacy activities including English as a Second Language.

(3) Training provider requirements.

(a) All training providers seeking initial eligibility must have been in business as a training provider and have provided training to students for at least two years.

(b) Training providers, with the exception of government entities and basic education providers, must be registered with the Utah Division of Consumer Protection as a Post-Secondary Proprietary School. The only acceptable reasons for exemption from registration as a post-secondary proprietary school are for those schools governed by an accrediting body which oversees program instruction.

(4) Training providers must apply for eligibility for each training program they wish to have included on the ETPL.

(5) Training programs are defined as one or more courses or classes, or a structured regimen that leads to;

- (a) an industry recognized post-secondary credential,
- (b) employment,
- (c) high school diploma or GED, or

(d) a measurable skill gain toward credential or employment.

(6) Training programs can be delivered in-person, online or in a blended approach.

(a) Online training is only eligible if it;

(i) is part of a curriculum where lessons are assigned, completed and returned,

(ii) requires students to interact with instructors, and

(iii) requires students to take periodic tests.

(b) Self-directed online training that is not instructor-led is not eligible.

(7) Training programs must submit performance data[-] that includes data from at least one training class that has completed and/or graduated from the program and the students have been tracked for at least 3 months after completing the program. If a training program has not operated for at least three months after the first class has graduated, the provider must submit letters verifying the need for trained employees from at least three local businesses that hire employees that need the type of training offered.

(8) Out of state training providers that do not have a training location in Utah may apply to be on the Utah ETPL only if they maintain provider and program eligibility on the ETPL in the state where their main or corporate office is located.

(9) Utah may enter into reciprocal agreements with other states to utilize the ETPL from those states. The agreement allows Utah clients to select a training program from another state's ETPL.

(10) The Department will not pay for training costs that are incurred prior to the training program being found eligible.

(11) when applying and while on the ETPL, training providers must agree to abide by the Training Provider Terms and Conditions Agreement which is provided as part of the application process.

(12) A training provider shall not be eligible to be included on the ETPL if:

(a) The training provider was previously removed from the ETPL due to noncompliance with these rules or is a successor to a training provider that was previously removed from the ETPL due to noncompliance with these rules, and the removal period has not expired or the conditions for reinstatement have not been met;

(b) The training provider was previously removed from another state's ETPL due to noncompliance with that state's ETPL rules or is a successor to a provider that was previously removed from

another state's ETPL due to noncompliance with that state's ETPL rules, and the training provider has not been reinstated to that state's ETPL;

(c) The training provider lacks the required accreditation, licensing, registration, and certification to operate any program the training provider seeks to operate;

(d) The training provider has lost its good standing status, or is a successor to a training provider that has lost its good standing status, with the Division of Consumer Protection; or

(e) The training provider owes an overpayment to the Department or is a successor to a training provider that owes an overpayment to the Department.

(13) Notwithstanding Subsection (12)(c) above, the Department may include on the ETPL a training provider that owes an overpayment to the Department if:

(a) The overpayment did not result from the training provider intentionally supplying inaccurate information or substantially violating Title I of WIOA or the WIOA regulations; and

(b) The training provider has entered into a payment plan approved by the Department and is current in making required payments on the overpayment.

(14) For purposes of these rules, the following definitions apply:

(a) "Acquire" means to come into possession or control of, or obtain the right to use, an asset by any legal means, including gift, lease, repossession, or purchase. For purposes of this section, "acquire" does not include a purchase of an asset through a bankruptcy proceeding if the court places restrictions on the transfer of liabilities to the purchaser.

(b) "Asset" means any property, tangible or intangible, that has value, including but not limited to the acquisition of a business or trade name, customers, accounts receivable, intellectual property rights, goodwill, employees, or an agreement by a predecessor not to compete.

(c) "Control" means to have the right to direct the general operations of a training provider.

(d) "Manage" means to have the right to control or direct the day-to-day educational or training operations of a training provider.

(e) "Substantially all" means ninety percent or more of the value of a training provider.

(f) "Successor" means a person or entity that acquires the business or substantially all of the assets of a current or former training provider, or that is owned, managed, or controlled by the same principal(s) as a current or former training provider.

R986-600-653. Applying for Initial Training Provider and Program Eligibility.

(1) Training providers must submit the following information for each program for which they are seeking eligibility:

- (a) training provider contact information,
- (b) training program description and requirements,
- (c) connection with in-demand industry sectors and occupations,
- (d) license or accreditation, if applicable,
- (e) equal opportunity grievance procedure,
- (f) aggregate performance data for every graduating class in the last full school year for every student,

(g) a list of all contractors or subcontractors the training provider intends to utilize for any aspect of the program, together with contact information for each contractor or subcontractor,

(h) the cost of attendance for the program, including tuition, fees, and any other costs, and

([g]i) any other information, documentation and/or verification requested by the Department.

(2) The training provider will be notified once an eligibility decision is made. If an application is denied, the notification will include information on the appeals process as described in R986-600-659.

R986-600-654. Registered Apprenticeships.

(1) All U.S. Department of Labor (DOL) Registered Apprenticeships located in Utah are eligible to be included on the ETPL. In order to provide funding for classroom training, the registered apprenticeship sponsor must be listed on the ETPL.

(2) Registered apprenticeship program sponsors must request to be included on the list verbally, through email or hard copy.

(3) Registered apprenticeship sponsors must submit information on the sponsor, program and training provider. Registered apprenticeship sponsors are not required to submit performance standards.

(4) Any registered apprenticeship will be removed from the ETPL if it loses its registration voluntarily or involuntarily.

(5) If a registered apprenticeship program sponsor is determined to have provided inaccurate information or to have substantially violated any provision of WIOA, they will be removed from the ETPL.

R986-600-655. Informed Client Choice.

The ETPL contains information for a client to make an informed choice based on performance data, the connections the training has with in-demand occupations, and cost.

R986-600-656. Continued Eligibility Requirements for Training Providers and Programs.

(1) Training programs receive initial eligibility for up to one year. To remain on the ETPL, the training provider must complete an application for continued eligibility and submit it before the expiration of the last month of eligibility.

(2) Training providers must renew eligibility annually or more often as instructed by the Department.

(3) If a training provider already on the list adds a new program, it must apply for approval of that program. The renewal date for the new program will be coordinated with the provider's other program or programs so all programs for that provider renew at the same time.

(4) If any of the information provided in R986-600-653 changes, the provider must notify the Department.

(5) To remain eligible for the ETPL, training providers must continually comply with the following obligations:

(a) Provide services in an ethical, professional and timely manner;

(b) Not rely solely on funds from the Department to remain in business, which is defined as not having more than 20% of students funded by the Department at any one time;

(c) Not use the Department's logo, or market, advertise, or imply the existence of a relationship with the Department, without express written approval by the Department;

(e) Not recruit on Department premises without Department Manager or Director approval;

(f) Not use Department approval or prospective approval as a condition for accepting a student, reviewing a student's application, assessing a cost or fee to a student, or otherwise making any type of decision regarding a student's enrollment or standing in the training program;

(g) Acknowledge and accept responsibility for all actions or inaction of any contractor or subcontractor the training provider uses, including not charging students directly for any costs imposed by a contractor or subcontractor's failure to provide services or make payments to the training provider;

(h) Not contact Department employment counselors unless the contact is regarding an individual student in common and the student has signed a Department Release of Information form;

(i) Submit to and cooperate with all Department audits and requests for information, including site visits;

(j) Not expect or require a minimum number of Department referred customers;

(k) Follow all applicable laws to operate as a school, including having any required accreditation, licensing, registration, and certification;

(l) Respond to Department complaints and requests within 48 hours of receiving the complaint or request;

(m) Notify the Department within 10 days of any change to the services the training provider is providing, including but not limited to:

(i) Material changes in the coverage or availability of the courses or programs being offered;

(ii) Changes in the location(s) where courses or programs are being offered or held;

(iii) Changes in the cost of attendance, including changes in tuition, fees, or any other cost imposed or required by the training provider;

(iv) Changes in accreditation, approval, certification, or licensing, including the commencement of formal or informal action or investigation to potentially remove or change accreditation, approval, certification, or licensing;

(v) Changes in the identity or status of contractors or subcontractors being used;

(vi) Changes in the ownership, management, or control of the training provider; and

(vii) Changes to the provider's refund policy, grievance procedure, or limited English proficiency plan;

(n) Ensure that all physical facilities necessary for operation as a school are adequate for that purpose and are compliant with all applicable laws, including the Americans with Disabilities Act and related authorities;

(o) Abide by the Department's Equal Opportunity Clause and equal opportunity and nondiscrimination requirements contained in Section 188 of the Workforce Innovation and Opportunity Act, including allowing yearly Equal Opportunity monitoring by the Department;

(p) Post the Department's Equal Opportunity Notice;

(q) Notify the State of Utah Finance Division of any changes to the training provider's bank account or mailing information;

(r) Provide Department-approved students with progress and attendance reports upon request;

(s) Comply with all applicable consumer protection laws, including but not limited to the Utah Postsecondary Proprietary School Act, Utah Code Ann. Section 13-34-101 et seq., and the Utah Postsecondary School State Authorization Act, Utah Code Ann. Section 13-34a-101 et seq.;

(t) Remain in good standing with the Division of Consumer Protection;

(u) Report to the Department within 10 days any action or investigation by the Division of Consumer Protection of which the training provider becomes aware;

(v) Report to the Department within 10 days any adverse action or investigation against the training provider in any other state;

(w) Submit annual performance data on WIOA-funded students as required by the Department and according to deadlines set by the Department;

(x) Not report any false or inaccurate information to the Department; and

(y) Abide by the Training Provider Terms and Conditions Agreement.

(6) Contracted and subcontracted providers must meet the same requirements as a primary training provider.

R986-600-657. Applying for Continued Eligibility Training Provider and Program Eligibility.

(1) Training providers must certify that all the information previously provided for each program for which they are seeking continued eligibility is current and correct.

(2) As part of continued eligibility the provider must submit performance data by program according to the deadlines set by the Department, including aggregate data for all students participating in or attending ETPL-approved programs [~~for the last school year for every WIOA student enrolled in the program~~].

(3) The Department will also consider the provider's past compliance with the Training Provider Terms and Conditions Agreement when determining continued eligibility.

(4) Programs that do not meet the minimum standards or provide the required information by the renewal date will be removed from the ETPL. If a provider is unable to complete the renewal requirements, an extension may be granted if the delay is due to exceptional circumstances or circumstances that are beyond the provider's control. The request for an extension must be submitted 30 days before the renewal deadline or as soon as possible.

(5) Training providers will be notified of the decision on continued eligibility. If an application is denied, the notification will include information on the appeals process as described in R986-600-659.

R986-600-658. Training Provider Terms and Conditions, Noncompliance.

(1) Training providers must agree to comply with the Training Provider Terms and Conditions Agreement. If a training provider does not follow the Terms and Conditions Agreement, the provider and all of its programs will be removed from the ETPL.

(2) If a training provider reports false or inaccurate information during the initial or continued eligibility process or

substantially violates a provision of Title I of WIOA or its implementing regulations, including Equal Opportunity (EO)

regulations, the training provider and all of its programs will be removed from the ETPL. The Department may also do an onsite visit to ensure compliance with WIOA and EO regulations. Removal from the ETPL under this subsection shall be for a period of at least two years.

(3) If a provider has been removed from the ETPL the Department will not pay for any additional training costs for any current or future clients until the training provider is eligible to reapply for ETPL initial eligibility.

(4) If a training provider has been removed from the ETPL, they will be notified if they will be eligible to reapply for initial eligibility and when they can submit a new application.

(5) If a training provider or program fails to comply with these rules, the Department may:

(a) Remove the training provider or program from the ETPL for a set period of time, not to exceed two years;

(b) Remove the training provider or program from the ETPL until the training provider or program can establish compliance with these rules and any rehabilitative measures established by the Department; or

(c) Take any lesser action.

(6) Any removal from the ETPL under these rules applies to the training provider or program that is removed as well as any successor training provider or program.

(7) A training provider that receives Department funds during any period of noncompliance with these rules shall be liable to repay all Department funds received during the period of noncompliance. If the training provider's removal from the ETPL does not fall under Subsection (2) above, the Department may, in its discretion, suspend or waive all or part of an overpayment.

R986-600-659. Training Provider or Program [Right to] Appeals.

(1) A training provider or program may appeal a denial of eligibility, overpayment, removal from ETPL approved status, or other adverse action by submitting [If a Training Provider or Program is denied eligibility, or the training provider and/or program has been removed from the ETPL due to non-compliance, they have the right to appeal the decision.

(3) Training providers must provide] a written appeal to the Department within 30 days from the decision date.

(2) Appeal proceedings under this section are designated as informal proceedings for purposes of Utah Code Ann. Section 63G-4-202.

(3) Appeal hearings shall be conducted according to the procedures set forth in Rule R986-100-124 through R986-100-133, unless those procedures are incompatible with the nature of an ETPL hearing.

(4) Further appeals from the decision of an ALJ or hearing officer may be made as set forth in Rule R986-100-135. [The SWDB will review the appeal and make a final decision.]

(5) EO findings are reviewed by the Department executive director for a final decision.

(6) Training providers and programs will be notified of the final decision.

(7) Actions taken by the Department against a training provider or program shall remain in force during the pendency of an appeal unless the appeal results in the reversal of the Department action.

KEY: Workforce Innovation and Opportunity Act, [WIOA], SNAP

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

Notice of Continuation: September 3, 2015

Authorizing, and Implemented or Interpreted Law: 35A-5

End of the Notices of Proposed 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 <https://rules.utah.gov/>. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

REVIEWS are governed by Section 63G-3-305.

**Corrections, Administration
R251-114
Offender Long-Term Health Care -
Notice**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42637
FILED: 03/07/2018

**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 63G-3-201, 64-13-10, and 64-13-39.5 require governmental entities to follow a consistent process of notification to facilities, and the public, when a chronically or terminally ill offender is placed in a Utah Department of Corrections (UDC) assisted care facility.

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: The purpose of this rule is to define the UDC policy for a consistent format and procedure of notification to facilities, and the public, when a chronically or terminally ill offender is placed in an assisted living or nursing care facility by the UDC, and provide a training program for facility residents and employees to help ensure safety. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Steve Gehrke by phone at 801-545-5617, or by Internet E-mail at sgehrke@utah.gov

AUTHORIZED BY: Rollin Cook, Executive Director

EFFECTIVE: 03/07/2018

**Environmental Quality, Air Quality
R307-102
General Requirements: Broadly
Applicable Requirements**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42639
FILED: 03/08/2018

**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 enacted under Subsection 19-2-104(1)(a). Subsection 19-2-104(1)(a) authorizes the Air Quality Board to promulgate rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air pollutants that may be emitted by an

air pollutant source." Subsection 19-2-104(1)(c) sets forth the kinds of information that sources of air pollution must provide as addressed in Section R307-102-1. Section R307-102-4 is authorized by Section 19-2-113, and sets forth conditions under which the Air Quality Board may authorize variances from Title R307. The federal Clean Air Act, 42 U.S.C. 7401, requires that sources of air pollution not reduce the pay of any employee under certain circumstances, as addressed in Section R307-102-5.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There were no comments in opposition to or in support of this rule since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-102 was amended on time since the last five-year review. In 2015, the rule was amended to replace the word "contaminant" with "pollutant." No comments were received during the public comment period of the rule amendment. Rule R307-102 is needed to specify the conditions for issuing variances, for confidentiality of information submitted, and to require that information be made available to the Air Quality Board. In addition, Rule R307-102 is a component of Utah's State Implementation Plan (SIP), and cannot be removed from the SIP without EPA approval. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Thomas Gunter by phone at 801-536-4419, or by Internet
 E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 03/08/2018

Environmental Quality, Air Quality
R307-107
General Requirements: Breakdowns

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE NO.: 42640
 FILED: 03/08/2018

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: Subsection 19-2-104(1)(a) allows the Air Quality Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources....," and Subsection 19-2-104(1)(c)(iii) allows the Board to write rules that require persons engaged in operation that result in air pollution to provide access to records relating to emissions that cause or contribute to air pollution. Rule R307-107 reduces the incidence of breakdowns that contribute to air pollution, and reduce the emissions that occur during breakdowns.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There were no comments in opposition to or in support of this rule since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Typically, startups and shutdowns in industrial operations cause more emissions of air pollutants than are emitted during normal operations. Breakdowns in processing equipment can cause excess emissions. This rule is needed to ensure that excess emissions are promptly reported so that the Division of Air Quality can take action to protect public health and require that the operator do everything possible to reduce excess emissions. In addition, this rule is part of Utah's State Implementation Plan and cannot be deleted without EPA approval. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Thomas Gunter by phone at 801-536-4419, or by Internet
 E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 03/08/2018

Environmental Quality, Air Quality
R307-115
 General Conformity

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**

DAR FILE NO.: 42641
 FILED: 03/08/2018

**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: As specified in Subsection 19-2-104(3)(q), the Air Quality Board may "meet the requirements of federal air pollution laws." One of those laws is 40 CFR Part 93, Subpart B, which is incorporated by reference by Rule R307-115. 40 CFR Part 93 Subpart B requires that no agency of the federal government support in any way any activity, with some exceptions, that does not conform to any state's implementation plan to protect air quality. 40 CFR 93.150 states that the provisions of 40 CFR Part 93 Subpart B "...establish the conformity criteria and procedures necessary to meet the (Clean Air) Act requirements until such time as the required conformity revision (by the State) is approved by the Environmental Protection Agency (EPA). A state's conformity provisions must contain criteria and procedures that are no less stringent than the requirements established in this subpart." Utah chose to meet this requirement by incorporating by reference the federal provisions.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There were no comments in opposition to or in support of this rule since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-115 is required by 40 CFR Part 93, Subpart B. In addition, Rule R307-115 is a component of Utah's State Implementation Plan (SIP), and cannot be removed from the SIP without EPA approval. Therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
 AIR QUALITY
 FOURTH FLOOR
 195 N 1950 W

SALT LAKE CITY, UT 84116-3085
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 03/08/2018

Environmental Quality, Air Quality
R307-123
 General Requirements: Clean Fuels
 and Vehicle Technology Grant and
 Loan Program

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**

DAR FILE NO.: 42642
 FILED: 03/08/2018

**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 Clean Fuels and Vehicle Technology Program Act, Sections 19-1-401 through 19-1-405, creates the Clean Fuels and Vehicle Technology Fund (Fund) in Section 19-1-403. Section 19-1-405 authorizes the Air Quality Board to make rules to establish state-wide eligibility requirements for technologies qualified to be awarded grant and loan monies from the Fund.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: After being adopted in 2008 and reviewed in 2013, Rule R307-123 was amended in December 2013. The amendments added language throughout the rule, allowing for intermediate and out-of-useful-life vehicles to be converted to run on alternate fuels, such as natural gas. Demonstration of eligibility requirements for vehicles converted to electricity were added to the rule. Furthermore, criteria was added for demonstration of eligibility for retrofitted vehicles in order to verify that the condition of the vehicle prior to the installation of the retrofit was compliant with the retrofit's certification criteria.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Air Quality Board created Rule R307-123 to specify the requirements of the program as outlined in

Sections 19-1-401 through 19-1-405. This rule defines certification criteria and proof of purchase requirements for eligible technology. Rule R307-123 allows the Division of Air Quality to administer this program. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 03/08/2018

**Environmental Quality, Air Quality
 R307-170
 Continuous Emission Monitoring
 Program**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 42643
 FILED: 03/08/2018

**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 Air Quality Board is allowed by Subsection 19-2-104(1)(c) to make rules "...requiring persons engaged in operations which result in air pollution to: (i) install, maintain, and use emission monitoring devices, as the board finds necessary; (ii) file periodic reports containing information relating to the rate, period of emission, and composition of the air contaminant; and (iii) provide access to records relating to emissions which cause or contribute to air pollution." Also, Subsection 19-2-104(3)(q) allows the Board to "...meet the requirements of federal air pollution laws." Federal provisions that require certain sources to conduct continuous monitoring include federal Clean Air Act Title IV, the Acid Rain program. In addition, 40 CFR Part 51, Appendix P, states that "This appendix P sets forth the minimum requirements for continuous emission monitoring and recording that each State Implementation Plan must include in order to be approved under the provisions of 40

CFR 51.165(b)." Rule R307-170 meets these provisions by specifying how certain sources of air pollution must comply with federal and state requirements to install and operate equipment that continuously monitors certain pollutants; it is approved by EPA as a part of Utah's state implementation plan.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There were no comments in opposition to or in support of this rule since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-170 ensures that large sources of air pollution do not exceed emission limits for air pollutants that are harmful to human health. In addition, Rule R307-170 is a component of Utah's State Implementation Plan (SIP), and cannot be removed from the SIP without EPA approval. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 03/08/2018

**Environmental Quality, Air Quality
 R307-208
 Outdoor Wood Boilers**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 42644
 FILED: 03/08/2018

**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 enacted under

Subsection 19-2-104(1)(a). Subsection 19-2-104(1)(a) authorizes the Air Quality Board to promulgate rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air pollutants that may be emitted by an air pollutant source." Rule R307-208 reduces PM2.5 emissions emitted from outdoor wood boilers by banning sales of outdoor wood boilers in PM nonattainment and maintenance areas, and restricting sales of outdoor wood boilers in attainment areas to EPA Phase 2 qualified units or wood pellet boilers with automatic feed.

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 in opposition to or in support of this rule since adoption.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-208 has not been amended since adoption. Rule R307-208 is needed to prohibit sales of outdoor wood boilers in PM nonattainment and maintenance areas, helping the state attain the PM2.5 National Ambient Air Quality Standards. Additionally, the rule minimizes the emission of PM2.5 from existing outdoor wood boilers. Rule R307-208 is a component of Utah's State Implementation Plan (SIP), and cannot be removed from the SIP without EPA approval. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 03/08/2018

Environmental Quality, Air Quality
R307-220
Emission Standards: Plan for
Designated Facilities

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42645
FILED: 03/08/2018

**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: Subsection 19-2-104(3)(q) allows the Air Quality Board to implement the requirements of federal air pollution laws. Under Section 111(d) of the Clean Air Act (42 U.S.C. 7411(d)), EPA issues standards of performance for existing sources at the time standards are issued for new sources, and states are required to prepare plans and rules to implement the standards for existing sources. Rule R307-220 incorporates by reference the Utah Plans written to meet this requirement.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There were no comments in opposition to or in support of this rule since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-220 is required by 42 U.S.C. 7411(d) (Clean Air Act 111(d)). Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 03/08/2018

**Environmental Quality, Air Quality
R307-221**

**Emission Standards: Emission
Controls for Existing Municipal Solid
Waste Landfills**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 42646
FILED: 03/08/2018

**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: Subsection 19-2-104(3)(q) allows the Air Quality Board to implement the requirements of federal air pollution laws. Under Section 111(d) of the Clean Air Act (42 U.S.C. 7411(d)), EPA issues standards of performance for existing sources at the time standards are issued for new sources, and states are required to prepare plans and rules to implement the standards for existing sources. Rule R307-221 implements the standards for existing Municipal Solid Waste Landfills, as required by 40 CFR 60.30c through 60.36c. The corresponding plan is incorporated by reference in Section R307-220-2. Rule R307-221 also includes necessary definitions, emission restrictions, control device specifications, and a compliance schedule, as required by 40 CFR 60.30c through 60.36c.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There were no comments in opposition to or in support of this rule since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-221 is required by 40 CFR 60.30c through 60.36c. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Thomas Gunter by phone at 801-536-4419, or by Internet
E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 03/08/2018

**Environmental Quality, Air Quality
R307-222**

**Emission Standards: Existing
Incinerators for Hospital, Medical,
Infectious Waste**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 42647
FILED: 03/08/2018

**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: Subsection 19-2-104(3)(q) allows the Air Quality Board to implement the requirements of federal air pollution laws. Under Section 111(d) of the Clean Air Act (42 U.S.C. 7411(d)), EPA issues standards of performance for existing sources at the time standards are issued for new sources, and states are required to prepare plans and rules to implement the standards for existing sources. Rule R307-222 implements the standards for existing Incinerators for hospital, medical, and infectious waste, as required by 40 CFR Subpart Ce. The corresponding plan is incorporated by reference in Section R307-220-3. Rule R307-222 also includes necessary definitions, emission restrictions, control device specifications, and a compliance schedule, as required by 40 CFR 60 Subpart Ce.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There were no comments in opposition to or in support of this rule since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-222 is required by 40 CFR Part 60, Subpart Ce and the Clean Air Act, 42 U.S.C. 7411(d). Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Thomas Gunter by phone at 801-536-4419, or by Internet
E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 03/08/2018

Environmental Quality, Air Quality **R307-223**

Emission Standards: Existing Small Municipal Waste Combustion Units

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 42648
FILED: 03/08/2018

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: Subsection 19-2-104(3)(q) allows the Air Quality Board to implement the requirements of federal air pollution laws. Under Section 111(d) of the Clean Air Act (42 U.S.C. 7411(d)), EPA issues standards of performance for existing sources at the time standards are issued for new sources, and states are required to prepare plans and rules to implement the standards for existing sources. Rule R307-223 implements the standards for existing incinerators for small municipal waste combustion units, as required by 40 CFR Part 60, Subpart BBBB. The corresponding plan is incorporated by reference in Section R307-220-4. Rule R307-223 also includes necessary definitions, emission restrictions, control device specifications, and a compliance schedule, as required by 40 CFR Part 60, Subpart BBBB.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There were no comments in opposition to or in support of this rule since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-223 is required by 40 CFR Part 60, Subpart BBBB. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Thomas Gunter by phone at 801-536-4419, or by Internet
E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 03/08/2018

Environmental Quality, Air Quality **R307-224**

Mercury Emission Standards: Coal- Fired Electric Generating Units

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 42649
FILED: 03/08/2018

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: As specified in Subsection 19-2-104(3)(b)(iii), the Air Quality Board may "meet the requirements of federal air pollution laws." Nationwide reductions of mercury (Hg) emissions from certain coal-fired electric generating units were required by 40 CFR Part 60, subparts B and HHHH, and by the Designated Facilities Plan for coal-fired electric generating units, incorporated by reference at Section R307-220-5. Rule R307-224 regulates mercury emissions from any coal-fired electric generating unit as defined in 40 CFR 60.24, dated June 9, 2006.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There were no comments in opposition to or in support of this rule since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-224 is necessary to reduce the emission of mercury through coal-fired electrical generation

units. The federal courts are still hearing Michigan et al. v. Environmental Protection Agency; therefore, it is necessary to keep Rule R307-224. If, at the conclusion of Michigan v. EPA, the Mercury and Air Toxic Standards remain, staff or the Air Quality Board may take actions to repeal the current rule. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 03/08/2018

**Environmental Quality, Air Quality
 R307-250
 Western Backstop Sulfur Dioxide
 Trading Program**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 42650
 FILED: 03/08/2018

**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: Subsection 19-2-104(1)(a) authorizes the Air Quality Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminant source." Subsection 19-2-104(3)(e) states that the board may "prepare and develop a comprehensive plan or plans for the prevention, abatement, and control of air pollution in this state". Rule R307-250 is required to implement the provisions of the State Implementation Plan (SIP), Section XX, the Regional Haze Plan (Plan). The Plan is required under 40 CFR Part 51, Subpart P, Protection of Visibility. The Plan requires a backstop trading program for emissions of sulfur dioxide from large sources, and Rule R307-250 sets forth the requirements sources will have to meet if the program is ever triggered.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There were no comments in opposition to or in support of this rule since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-250 is required to implement the provisions of the State Implementation Plan (SIP), Section XX, the Regional Haze Plan, required under 40 CFR Part 51, Subpart P. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 03/08/2018

**Environmental Quality, Air Quality
 R307-303
 Commercial Cooking**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 42651
 FILED: 03/08/2018

**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 enacted under Subsection 19-2-104(1)(a). Subsection 19-2-104(1)(a) authorizes the Air Quality Board to promulgate rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air pollutants that may be emitted by an air pollutant source". Rule R307-303 reduces PM2.5 and VOC emissions emitted from chain driven charbroilers in food service establishments by requiring installation, maintenance,

and operation of catalytic oxidizers that reduce uncontrolled PM_{2.5} and VOC emissions.

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 in opposition to or in support of this rule since the adoption of the 2015 amendments.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-303 was amended one time since the rule was created. In 2015, the rule was amended, changing the word "contaminants" to "pollutants". Rule R307-303 is needed to restrict chain driven charbroilers from emitting uncontrolled PM_{2.5} and VOC emissions. Rule R307-303 is a component of Utah's State Implementation Plan (SIP), and cannot be removed from the SIP without EPA approval. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 03/08/2018

Environmental Quality, Air Quality
R307-312

Aggregate Processing Operations for
PM_{2.5} Nonattainment Areas

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42652
FILED: 03/08/2018

**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 enacted under Subsection 19-2-104(1)(a). Subsection 19-2-104(1)(a) authorizes the Air Quality Board to promulgate rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air pollutants that may be emitted by an air pollutant source." Rule R307-312 reduces PM_{2.5} emissions emitted from aggregate processing operations by establishing reasonably available control technology (RACT) requirements within PM_{2.5} nonattainment areas, as well as clarifying regulatory requirements to the industry.

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 in opposition to or in support of this rule since the adoption of the 2016 amendments.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-312 was amended one time since the rule was created. In 2016, the rule was amended to clarify which records would be used to determine production. Rule R307-312 is needed to establish RACT controls in aggregate processing operations emitting PM_{2.5}. Rule R307-312 is a component of Utah's State Implementation Plan (SIP), and cannot be removed from the SIP without EPA approval. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 03/08/2018

Environmental Quality, Air Quality
R307-342

Adhesives and Sealants

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42653
FILED: 03/08/2018

**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 enacted under Subsection 19-2-104(1)(a). Subsection 19-2-104(1)(a) authorizes the Air Quality Board to promulgate rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air pollutants that may be emitted by an air pollutant source." Rule R307-342 establishes VOC emission limits and emission abatement requirements if emission levels are exceeded. Additionally, Rule R307-342 includes recordkeeping requirements, product application requirements, and container labeling requirements.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments in opposition to or in support of this rule since the 2014 amendments were adopted.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-342 was amended one time since the rule was adopted. In 2014, the rule was amended to exempt the Department of Defense (DOD) contractors throughout the state who must meet DOD military specifications for adhesive and sealants used in much of their products sold to the United States Armed Forces. Rule R307-342 is needed to specify the specific emission limits and controls necessary for VOCs in the manufacturing of adhesives and sealants, which are precursors to the formation of PM_{2.5}. In addition, Rule R307-342 is a component of Utah's State Implementation Plan (SIP), and cannot be removed from the SIP without EPA approval. Therefore, this rule should be continued.

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

ENVIRONMENTAL QUALITY
AIR QUALITY
FOURTH FLOOR
195 N 1950 W

SALT LAKE CITY, UT 84116-3085
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Thomas Gunter by phone at 801-536-4419, or by Internet
E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 03/08/2018

Environmental Quality, Air Quality
R307-344

Paper, Film, and Foil Coatings

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42654
FILED: 03/08/2018

**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 enacted under Subsection 19-2-104(1)(a). Subsection 19-2-104(1)(a) authorizes the Air Quality Board to promulgate rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air pollutants that may be emitted by an air pollutant source." Rule R307-344 reduces VOC emissions emitted from paper, film, and foil coating operations by establishing reasonably available control technology (RACT) requirements, as well as clarifying regulatory requirements to the industry.

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 in opposition to or in support of this rule since the 2014 amendments were adopted.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-344 was amended one time since the rule was created. In 2014, a series of source coating system rules were amended to clarify that the amount of control removal specified in each rule was based on the entire system, and inspection and recordkeeping requirements for these systems were expanded. Rule R307-344 is needed to establish RACT controls in the paper, film, and foil coating operations emitting VOCs, which are precursors to the formation of PM_{2.5}. Rule R307-344 is a

component of Utah's State Implementation Plan (SIP), and cannot be removed from the SIP without EPA approval. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 03/08/2018

Environmental Quality, Air Quality **R307-345** Fabric and Vinyl Coatings

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 42655
FILED: 03/08/2018

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 enacted under Subsection 19-2-104(1)(a). Subsection 19-2-104(1)(a) authorizes the Air Quality Board to promulgate rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air pollutants that may be emitted by an air pollutant source." Rule R307-345 reduces VOC emissions emitted from fabric and vinyl coating operations by establishing reasonably available control technology (RACT) requirements, as well as clarifying regulatory requirements to the industry.

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 in opposition to or in support of this rule since the adoption of the 2014 amendments.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY

DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-345 was amended one time since the rule was created. In 2014, a series of source coating system rules were amended to clarify that the amount of control removal specified in each rule was based on the entire system, and inspection and recordkeeping requirements for these systems were expanded. Rule R307-345 is needed to establish RACT controls in the fabric and vinyl coating operations emitting VOCs, which are precursors to the formation of PM_{2.5}. Rule R307-345 is a component of Utah's State Implementation Plan (SIP), and cannot be removed from the SIP without EPA approval. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 03/08/2018

Environmental Quality, Air Quality **R307-346** Metal Furniture Surface Coatings

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 42656
FILED: 03/08/2018

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 enacted under Subsection 19-2-104(1)(a). Subsection 19-2-104(1)(a) authorizes the Air Quality Board to promulgate rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air pollutants that may be emitted by an air pollutant source." Rule R307-346 reduces VOC emissions emitted from metal furniture surface coating operations by establishing reasonably available control technology (RACT) requirements, as well as clarifying regulatory requirements to the industry.

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 in opposition to or in support of this rule since the adoption of the 2014 amendments.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-346 was amended one time since the rule was created. In 2014, a series of source coating system rules were amended to clarify that the amount of control removal specified in each rule was based on the entire system, and inspection and recordkeeping requirements for these systems were expanded. Rule R307-346 is needed to establish RACT controls in the metal furniture surface coating operations emitting VOCs, which are precursors to the formation of PM2.5. Rule R307-346 is a component of Utah's State Implementation Plan (SIP), and cannot be removed from the SIP without EPA approval. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 03/08/2018

**Environmental Quality, Air Quality
 R307-347**

Large Appliance Surface Coatings

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 42657
 FILED: 03/08/2018

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 enacted under Subsection 19-2-104(1)(a). Subsection 19-2-104(1)(a)

authorizes the Air Quality Board to promulgate rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air pollutants that may be emitted by an air pollutant source." Rule R307-347 reduces VOC emissions emitted from large appliance surface coating operations by establishing reasonably available control technology (RACT) requirements, as well as clarifying regulatory requirements to the industry.

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 in opposition to or in support of this rule since the adoption of the 2014 amendments.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-347 was amended one time since the rule was created. In 2014, a series of source coating system rules were amended to clarify that the amount of control removal specified in each rule was based on the entire system, and inspection and recordkeeping requirements for these systems were expanded. Rule R307-347 is needed to establish RACT controls in the large appliance surface coating operations emitting VOCs, which are precursors to the formation of PM2.5. Rule R307-347 is a component of Utah's State Implementation Plan (SIP), and cannot be removed from the SIP without EPA approval. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 03/08/2018

**Environmental Quality, Air Quality
 R307-348**

Magnet Wire Coatings

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**DAR FILE NO.: 42659
FILED: 03/08/2018**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 enacted under Subsection 19-2-104(1)(a). Subsection 19-2-104(1)(a) authorizes the Air Quality Board to promulgate rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air pollutants that may be emitted by an air pollutant source." Rule R307-348 reduces VOC emissions emitted from magnet wire coating operations by establishing reasonably available control technology (RACT) requirements, as well as clarifying regulatory requirements to the industry.

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 in opposition to or in support of this rule since the adoption of the 2014 amendments.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-348 was amended one time since the rule was created. In 2014, a series of source coating system rules were amended to clarify that the amount of control removal specified in each rule was based on the entire system, and inspection and recordkeeping requirements for these systems were expanded. Rule R307-348 is needed to establish RACT controls in the magnet wire coating operations emitting VOCs, which are precursors to the formation of PM_{2.5}. Rule R307-348 is a component of Utah's State Implementation Plan (SIP), and cannot be removed from the SIP without EPA approval. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 03/08/2018

Environmental Quality, Air Quality
R307-349
Flat Wood Paneling Coatings

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**DAR FILE NO.: 42660
FILED: 03/08/2018**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 enacted under Subsection 19-2-104(1)(a). Subsection 19-2-104(1)(a) authorizes the Air Quality Board to promulgate rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air pollutants that may be emitted by an air pollutant source." Rule R307-349 reduces VOC emissions emitted from flat wood panel coating operations by establishing reasonably available control technology (RACT) requirements, as well as clarifying regulatory requirements to the industry.

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 in opposition to or in support of this rule since the adoption of the 2014 amendments.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-349 was amended one time since the rule was created. In 2014, a series of source coating system rules were amended to clarify that the amount of control removal specified in each rule was based on the entire system, and inspection and recordkeeping requirements for these systems were expanded. Rule R307-349 is needed to establish RACT controls in the flat wood panel coating operations emitting VOCs, which are precursors to the formation of PM_{2.5}. Rule R307-349 is a component of Utah's State Implementation Plan (SIP), and cannot be removed from the SIP without EPA approval. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Thomas Gunter by phone at 801-536-4419, or by Internet
 E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 03/08/2018

Environmental Quality, Air Quality
R307-350
Miscellaneous Metal Parts and
Products Coatings

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION
 DAR FILE NO.: 42661
 FILED: 03/08/2018

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 enacted under Subsection 19-2-104(1)(a). Subsection 19-2-104(1)(a) authorizes the Air Quality Board to promulgate rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air pollutants that may be emitted by an air pollutant source." Rule R307-350 reduces VOC emissions emitted from miscellaneous metal parts and products coating operations by establishing reasonably available control technology (RACT) requirements, as well as clarifying regulatory requirements to the industry.

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 in opposition to or in support of this rule since the adoption of the 2014 amendments.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-350 was amended one time since the rule was created. In 2014, a series of source coating system rules were amended to clarify that the amount of

control removal specified in each rule was based on the entire system, and inspection and recordkeeping requirements for these systems were expanded. Rule R307-350 is needed to establish RACT controls in the miscellaneous metal parts and products coating operations emitting VOCs, which are precursors to the formation of PM2.5. Rule R307-350 is a component of Utah's State Implementation Plan (SIP), and cannot be removed from the SIP without EPA approval. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Thomas Gunter by phone at 801-536-4419, or by Internet
 E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 03/08/2018

Environmental Quality, Air Quality
R307-351
Graphic Arts

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION
 DAR FILE NO.: 42662
 FILED: 03/08/2018

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 enacted under Subsection 19-2-104(1)(a). Subsection 19-2-104(1)(a) authorizes the Air Quality Board to promulgate rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air pollutants that may be emitted by an air pollutant source." Rule R307-351 prevents VOCs emissions by establishing limits on the amounts of pollutants that may be emitted by graphic arts printing operations. Owners and operators of rotogravure, flexographic, and specialty printing operations that have the potential to emit 25 tons per year of VOC can only operate if the volatile fraction of ink, as it is applied to substrate, contains 25% by volume or less of organic solvent and 75% by volume or more of water;

if the ink as it is applied to the substrate, less water, contains 60% by volume or more nonvolatile material; or if the owner or operator installs and operates either a carbon adsorption system or an incineration system. Owners and operators of flexible packaging printing operations that have the potential to emit 2 tons per year of VOC are required to comply with an 80% overall control efficiency or by using the low VOC content materials listed in the rule. Owners and operators of offset lithographic printing and letterpress printing operations that have the potential to emit 25 tons per year of VOC are required to comply with a 90% control efficiency for the control device on heatset dryers or the control device outlet concentration may be reduced to 20 ppmv as hexane on a dry basis to accommodate situations where the inlet VOC concentration is low or there is no identifiable measurable inlet. Various required alcohol percentages of on-press fountain solution for offset lithographic printing and sheet-fed offset lithographic printing operations that have the potential to emit 2.7 tons per year of VOC are established. Requirements for cleaning materials for offset lithographic printing and letterpress printing operations that emit at least 2.7 tons per year actual emissions of VOC are established. This rule also controls techniques and work practices that reduce VOC emissions as well as the requirements for when an add-on control device is used.

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 in opposition to or in support of this rule since adoption.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Graphic arts printing operations emit volatile organic compounds (VOCs), which are precursors to the formation of PM_{2.5}. Rule R307-351 reduces the VOCs emitted by graphic arts printing operations, is required under the State Implementation Plan, and cannot be changed without approval from EPA. Therefore, this rule should be continued.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 03/08/2018

Environmental Quality, Air Quality **R307-352** Metal Container, Closure, and Coil Coatings

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 42663
 FILED: 03/08/2018

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 enacted under Subsection 19-2-104(1)(a). Subsection 19-2-104(1)(a) authorizes the Air Quality Board to promulgate rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air pollutants that may be emitted by an air pollutant source." Rule R307-352 reduces VOC emissions emitted from metal container, closure, and coil coating operations by establishing reasonably available control technology (RACT) requirements, as well as clarifying regulatory requirements to the industry.

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 in opposition to or in support of this rule since the adoption of the 2014 amendments.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-352 was amended one time since the rule was created. In 2014, a series of source coating system rules were amended to clarify that the amount of control removal specified in each rule was based on the entire system, and inspection and recordkeeping requirements for these systems were expanded. Rule R307-352 is needed to establish RACT controls in the metal container, closure, and coil coating operations emitting VOCs, which are precursors to the formation of PM_{2.5}. Rule R307-352 is a component of Utah's State Implementation Plan (SIP), and cannot be removed from the SIP without EPA approval. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Thomas Gunter by phone at 801-536-4419, or by Internet
E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 03/08/2018

Environmental Quality, Air Quality **R307-353** Plastic Parts Coatings

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 42664
FILED: 03/08/2018

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 enacted under Subsection 19-2-104(1)(a). Subsection 19-2-104(1)(a) authorizes the Air Quality Board to promulgate rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air pollutants that may be emitted by an air pollutant source." Rule R307-353 reduces VOC emissions emitted from plastic parts coating operations by establishing reasonably available control technology (RACT) requirements, as well as clarifying regulatory requirements to the industry.

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 in opposition to or in support of this rule since the adoption of the 2014 amendments.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-353 was amended one time since the rule was created. In 2014, a series of source coating system rules were amended to clarify that the amount of

control removal specified in each rule was based on the entire system, and inspection and recordkeeping requirements for these systems were expanded. Rule R307-353 is needed to establish RACT controls in the plastic parts coating operations emitting VOCs, which are precursors to the formation of PM2.5. Rule R307-353 is a component of Utah's State Implementation Plan (SIP), and cannot be removed from the SIP without EPA approval. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Thomas Gunter by phone at 801-536-4419, or by Internet
E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 03/08/2018

Environmental Quality, Air Quality **R307-354** Automotive Refinishing Coatings

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 42665
FILED: 03/08/2018

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 enacted under Subsection 19-2-104(1)(a). Subsection 19-2-104(1)(a) authorizes the Air Quality Board to promulgate rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air pollutants that may be emitted by an air pollutant source." Rule R307-354 reduces VOC emissions emitted from automotive refinishing coating operations by establishing reasonably available control technology (RACT) requirements, as well as clarifying regulatory requirements to the industry.

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 in opposition to or in support of this rule since adoption.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-354 was amended one time since the rule was created. In 2014, a series of source coating system rules were amended to clarify that the amount of control removal specified in each rule was based on the entire system, and inspection and recordkeeping requirements for these systems were expanded. Rule R307-354 is needed to establish RACT controls in the automotive refinishing operations emitting VOCs, which are precursors to the formation of PM2.5. Rule R307-354 is a component of Utah's State Implementation Plan (SIP), and cannot be removed from the SIP without EPA approval. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 03/08/2018

**Environmental Quality, Air Quality
R307-355
Aerospace Manufacture and Rework
Facilities**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42666
FILED: 03/08/2018

**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 enacted under Subsection 19-2-104(1)(a). Subsection 19-2-104(1)(a) authorizes the Air Quality Board to promulgate rules "regarding the control, abatement, and prevention of air

pollution from all sources and the establishment of the maximum quantity of air pollutants that may be emitted by an air pollutant source." Rule R307-355 reduces VOC emissions emitted from aerospace manufacture and rework facilities coating operations by establishing reasonably available control technology (RACT) requirements, as well as clarifying regulatory requirements to the industry.

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 in opposition to or in support of this rule since the adoption of the 2014 amendments.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-355 was amended one time since the rule was created. In 2014, a series of source coating system rules were amended to clarify that the amount of control removal specified in each rule was based on the entire system, and inspection and recordkeeping requirements for these systems were expanded. Rule R307-355 is needed to establish RACT controls in the aerospace manufacture and rework facilities coating operations emitting VOCs, which are precursors to the formation of PM2.5. Rule R307-355 is a component of Utah's State Implementation Plan (SIP), and cannot be removed from the SIP without EPA approval. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 03/08/2018

**Environmental Quality, Air Quality
R307-356
Appliance Pilot Light**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42667
FILED: 03/08/2018

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 enacted under Subsection 19-2-104(1)(a). Subsection 19-2-104(1)(a) authorizes the Air Quality Board to promulgate rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air pollutants that may be emitted by an air pollutant source." Rule R307-356 prevents VOCs emissions by prohibiting all individuals in PM2.5 nonattainment areas from selling, distributing, offering for sale, or installing any natural gas-fired fan-type central furnaces, gas fireplaces, or gas stoves that require the use of a pilot light for ignition.

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 in opposition to or in support of this rule since adoption.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Natural gas pilot lights emit volatile organic compounds (VOCs) which are precursors to the formation of PM2.5. Rule R307-356 reduces the VOCs emitted by pilot lights in natural gas appliances by prohibiting their future sale and distribution in PM2.5 nonattainment areas, is required under the State Implementation Plan, and cannot be changed without approval from EPA. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 03/08/2018

**Environmental Quality, Air Quality
R307-357
Consumer Products**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 42668
FILED: 03/08/2018

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 enacted under Subsection 19-2-104(1)(a). Subsection 19-2-104(1)(a) authorizes the Air Quality Board to promulgate rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air pollutants that may be emitted by an air pollutant source." Rule R307-357 reduces VOC emissions emitted from consumer products by implementing control plan or variances on consumer products containing VOCs, and establishing bans on toxic and ozone depleting compounds that result in reduced VOC emissions.

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 in opposition to or in support of this rule since the adoption of the 2014 amendments.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-357 was amended one time since the rule was created. In 2014, an amendment corrected an error to align the content limits with federal rule and the California Air Resource Board rule. Rule R307-357 is needed to establish controls and limits on consumer products that emit VOCs, which are precursors to the formation of PM2.5, or contain toxic and ozone depleting compounds. Rule R307-357 is a component of Utah's State Implementation Plan (SIP), and cannot be removed from the SIP without EPA approval. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 03/08/2018

Environmental Quality, Air Quality
R307-801
Utah Asbestos Rule

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42669
FILED: 03/08/2018

**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: Subsection 19-2-104(1)(d) states that the Air Quality Board may make rules to implement Subchapter II, Asbestos Hazard Emergency Response, of the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); 40 CFR Part 763, Asbestos; 40 CFR Part 61 National Emission Standards for Hazardous Air Pollutants, Subpart M, National Emission Standard for Asbestos; and to review and approve asbestos management plans submitted by local education agencies. Subsections 19-2-104(3)(b) allow the Board to establish work practice, certification, and clearance air sampling requirements for persons who: (A) contract to conduct demolition, renovation, salvage, encapsulation work involving friable asbestos-containing materials, or asbestos inspections; or (B) conduct such work in areas to which the public has access or in school buildings subject to Asbestos Hazard Emergency Response Act of 1986 (ASHERA); and to establish certification requirements for inspectors, management planners, abatement project designers, contractors, or workers under ASHERA. Rule R307-801 establishes procedures and requirements for asbestos projects and training programs, for certification of persons engaged in asbestos activities, and work practice standards for such work.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: On 03/25/2015, H.B. 229, Air Quality Modifications, was signed into law. H.B. 229 (2015) revised the statutory definition of Asbestos and modified what suspect asbestos-containing materials need to be inspected for in residential structures. Rule R307-801 was amended to reflect the changes enacted by H.B. 229, as well as modifications recommended by the Division of Air Quality (Division) staff and the regulated community to help the Division administer the Utah Asbestos Program. Five comments were received and addressed during that rule amendment process. No comments have been received in support of or in opposition to this rule since the 2016 amendment was adopted.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Without Rule R307-801, Utah would not have authority to implement the federal asbestos requirements and implementation would be carried out by the Environmental Protection Agency. The specific authorizations in Subsections 19-2-104(1)(d) and 19-2-104(3)(a) and (b) clearly indicate that the Legislature prefers that the Division of Air Quality implement the program. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 03/08/2018

Insurance, Administration
R590-94
**Rule Permitting Smoker/Nonsmoker
Mortality Tables For Use in Determining
Minimum Reserve Liabilities and
Nonforfeiture Benefits**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42686
FILED: 03/14/2018

**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 31A-2-201 authorizes the Insurance Commissioner to write rules to implement the provisions of the Insurance Code, Title 31A. Section 31A-22-408 authorizes the Insurance Commissioner to adopt rules interpreting, describing, and clarifying the application of this nonforfeiture law to any form of life insurance for which the interpretation, description, or clarification is deemed

necessary by the Insurance Commissioner, including, but not limited to, unusual and new forms of life insurance.

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 Insurance Department has received no written comments regarding this rule during the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule permits the use of smoker/nonsmoker mortality tables as a reserve standard allowing for fairer pricing of life insurance products. This rule helps insurers offer lower rates to nonsmokers. Therefore, this rule should be continued.

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

INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

AUTHORIZED BY: Steve Gooch, Information Specialist

EFFECTIVE: 03/14/2018

Insurance, Administration
R590-154
Unfair Marketing Practices Rule;
Misleading Names

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42687
FILED: 03/14/2018

**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 31A-2-201 authorizes the Insurance Commissioner to write rules to implement the provisions of the Insurance Code, Title 31A. Section 31A-23-302 authorizes the Insurance Commissioner to prohibit, by rule, practices that are misleading, deceptive, unfairly discriminatory, provide an unfair inducement, or unreasonably restrain competition.

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 Insurance Department (Department) amended this rule twice during the past five years and received nine comments regarding one of those amendments. Three of those comments were supportive; two comments requested the ability to use a first initial rather than a first name, which was one purpose of the rule amendment; one comment concerned identity theft, which would neither be positively or negatively affected by this rule; one comment concerned a possible problem with transferring policies that may be noncompliant due to age, but the Department determined that there is no actual problem with such transfers; one comment concerned a market conduct issue that was related but not germane to the amendment; and one comment argued the validity of the rule filing due to bad links in the rule announcement, an issue that was fixed as soon as it was discovered, as well as questioning the need for the rule because it had no associated cost. The Department reviewed and considered all comments and determined that none of them disclosed issues that would necessitate holding up the rulemaking process.

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 must be continued because it sets forth guidelines for producers regarding what is considered to be unacceptable market conduct.

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

INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

AUTHORIZED BY: Steve Gooch, Information Specialist

EFFECTIVE: 03/14/2018

**Natural Resources, Parks and
Recreation
R651-407**

Off-Highway Vehicle Advisory Council

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42682
FILED: 03/13/2018

**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 41-22-10 authorizes the Division of Utah Parks and Recreation Board to appoint and seek recommendations for a 12-member Off Highway Vehicle (OHV) Advisory Council. The council then advises the OHV Program staff on issues directly related to safe and responsible OHV operation within Utah. In addition, the OHV Advisory Council provides recommendations for a grant program administered by the Division of Parks and Recreation, which the Board approves.

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 Division of Utah Parks and Recreation has not received any comments since the last rule review that either support or oppose Rule R651-407.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Subsection 41-22-2(1) defines the OHV Advisory Council and Section 41-22-10 authorizes the Division of Utah Parks and Recreation to appoint the OHV Advisory Council. The agency has received no comments and this rule should remain in place in order to provide assistance in meeting Section 41-22-1. Therefore, this rule should be continued.

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

NATURAL RESOURCES
PARKS AND RECREATION
ROOM 116
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

AUTHORIZED BY: Jeff Rasmussen, Acting Director

EFFECTIVE: 03/13/2018

**Public Safety, Fire Marshal
R710-5**

**Automatic Fire Sprinkler System
Inspecting and Testing**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42683
FILED: 03/14/2018

**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 authorized by Section 53-7-204. This section authorizes the Utah State Fire Prevention Board (Board) to establish standards for the prevention of fire and for the protection of life and property against fire. This section also gives the Board the authority to write rules. Automatic fire sprinkler systems are life safety systems whose sole purpose is to save lives and reduce property loss in incidents involving fire. This rule ensures the maintenance and safe operation of these systems.

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 has been no public comment concerning this rule in the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule ensures that those that inspect water based fire protection systems, fire sprinklers, have the proper skill set and knowledge base to effectively inspect these systems to ensure their safe operation. This rule also protects the public from those that would offer services that they are not qualified to perform. This rule is essential to the continued safety of the citizens of Utah.

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

PUBLIC SAFETY
FIRE MARSHAL
ROOM 302
5272 S COLLEGE DR
MURRAY, UT 84123-2611
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Coy Porter by phone at 801-284-6358, by FAX at 801-284-6351, or by Internet E-mail at coyporter@utah.gov
◆ Kim Gibb by phone at 801-556-8198, by FAX at 801-964-4482, or by Internet E-mail at kgibb@utah.gov
◆ Ted Black by phone at 801-284-6352, or by Internet E-mail at tblack@utah.gov

AUTHORIZED BY: Coy Porter, State Fire Marshal

EFFECTIVE: 03/14/2018

End of the Five-Year Notices of Review and Statements of Continuation 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).

Administrative Services, Administrative Rules **R710-12** Hazardous Materials Training and Certification

FIVE-YEAR REVIEW EXPIRATION

DAR FILE NO.: 42674

FILED: 03/12/2018

SUMMARY: The Fire Marshal's Office did not file the five-year review and notice of continuation for Rule R710-12 so the rule has expired and been removed from the Administrative Code as of 03/12/2018.

EFFECTIVE: 03/12/2018

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

Education

Administration

No. 42479 (AMD): R277-404. Requirements for Assessments of Student Achievement
Published: 02/01/2018
Effective: 03/14/2018

No. 42480 (NEW): R277-415. School Nurses Matching Funds
Published: 02/01/2018
Effective: 03/14/2018

No. 42481 (AMD): R277-490. Beverley Taylor Sorenson Elementary Arts Learning Program (BTSALP)
Published: 02/01/2018
Effective: 03/14/2018

No. 42482 (AMD): R277-700. The Elementary and Secondary School General Core
Published: 02/01/2018
Effective: 03/14/2018

No. 42483 (AMD): R277-708. Enhancement for At-Risk Students
Published: 02/01/2018
Effective: 03/14/2018

No. 42484 (AMD): R277-717. High School Course Grading Requirements
Published: 02/01/2018
Effective: 03/14/2018

Environmental Quality

Air Quality

No. 42107 (AMD): R307-150. Emission Inventories
Published: 10/01/2017
Effective: 03/05/2018

No. 42107 (CPR): R307-150. Emission Inventories
Published: 02/01/2018
Effective: 03/05/2018

No. 42370 (AMD): R307-355-3. Exemptions
Published: 01/01/2018
Effective: 03/08/2018

No. 42108 (AMD): R307-401. Permit: New and Modified Sources
Published: 10/01/2017
Effective: 03/05/2018

No. 42108 (CPR): R307-401. Permit: New and Modified Sources
Published: 02/01/2018
Effective: 03/05/2018

No. 42109 (AMD): R307-504. Oil and Gas Industry: Tank Truck Loading
Published: 10/01/2017

Effective: 03/05/2018

No. 42109 (CPR): R307-504. Oil and Gas Industry: Tank Truck Loading
Published: 02/01/2018
Effective: 03/05/2018

No. 42111 (NEW): R307-506. Oil and Gas Industry: Storage Vessels
Published: 10/01/2017
Effective: 03/05/2018

NOTICES OF RULE EFFECTIVE DATES

No. 42111 (CPR): R307-506. Oil and Gas Industry: Storage Vessels
Published: 02/01/2018
Effective: 03/05/2018

No. 42112 (NEW): R307-507. Oil and Gas Industry: Dehydrators
Published: 10/01/2017
Effective: 03/05/2018

No. 42112 (CPR): R307-507. Oil and Gas Industry: Dehydrators
Published: 02/01/2018
Effective: 03/05/2018

No. 42113 (NEW): R307-508. Oil and Gas Industry: VOC Control Devices
Published: 10/01/2017
Effective: 03/05/2018

No. 42113 (CPR): R307-508. Oil and Gas Industry: VOC Control Devices
Published: 02/01/2018
Effective: 03/05/2018

No. 42114 (NEW): R307-509. Oil and Gas Industry: Leak Detection and Repair Requirements
Published: 10/01/2017
Effective: 03/05/2018

No. 42114 (CPR): R307-509. Oil and Gas Industry: Leak Detection and Repair Requirements
Published: 02/01/2018
Effective: 03/05/2018

No. 42115 (NEW): R307-510. Oil and Gas Industry: Natural Gas Engine Requirements
Published: 10/01/2017
Effective: 03/05/2018

No. 42115 (CPR): R307-510. Oil and Gas Industry: Natural Gas Engine Requirements
Published: 02/01/2018
Effective: 03/05/2018

Health

No. 42180 (AMD): R414-3A. Outpatient Hospital Services
Published: 10/15/2017
Effective: 03/05/2018

Health Care Financing, Coverage and Reimbursement Policy
No. 42180 (CPR): R414-3A. Outpatient Hospital Services
Published: 01/15/2018
Effective: 03/05/2018

Natural Resources

Water Resources
No. 42257 (NEW): R653-9. Electronic Meetings
Published: 11/15/2017
Effective: 03/02/2018

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 March 15, 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

<p>AMD = Amendment (Proposed Rule) CPR = Change in Proposed Rule EMR = 120-Day (Emergency) Rule EXD = Expired Rule EXP = Expedited Rule EXT = Five-Year Review Extension GEX = Governor's Extension</p>	<p>LNR = Legislative Nonreauthorization NEW = New Rule (Proposed Rule) NSC = Nonsubstantive Rule Change R&R = Repeal and Reenact (Proposed Rule) REP = Repeal (Proposed Rule) 5YR = Five-Year Notice of Review and Statement of Continuation</p>
---	--

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
<u>Administrative Rules</u>					
R710-12	Hazardous Materials Training and Certification	42674	EXD	03/12/2018	Not Printed
<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
<u>Finance</u>					
R25-5	Payment of Meeting Compensation (Per Diem) to Boards	42570	5YR	02/08/2018	2018-5/141
R25-6	Relocation Reimbursement	42571	5YR	02/08/2018	2018-5/141
R25-7	Travel-Related Reimbursements for State Employees	42572	5YR	02/08/2018	2018-5/142
R25-8	Overtime Meal Allowance	42573	5YR	02/08/2018	2018-5/142
AGRICULTURE AND FOOD					
<u>Plant Industry</u>					
R68-5	Grain Inspection	42530	5YR	01/30/2018	2018-4/95
R68-5	Grain Inspection	42531	NSC	02/27/2018	Not Printed
<u>Regulatory Services</u>					
R70-940	Standards and Testing of Motor Fuel	42422	R&R	02/22/2018	2018-2/6
ATTORNEY GENERAL					
<u>Administration</u>					
R105-2	Records Access and Management	42367	AMD	02/07/2018	2018-1/2
COMMERCE					
<u>Occupational and Professional Licensing</u>					
R156-24b-102	Definitions	42623	NSC	03/14/2018	Not Printed
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
CORRECTIONS					
<u>Administration</u>					
R251-114	Offender Long-Term Health Care - Notice	42637	5YR	03/07/2018	Not Printed

EDUCATION

Administration

R277-404	Requirements for Assessments of Student Achievement	42479	AMD	03/14/2018	2018-3/5
R277-415	School Nurses Matching Funds	42480	NEW	03/14/2018	2018-3/11
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
R277-490	Beverly Taylor Sorenson Elementary Arts Learning Program (BTSALP)	42481	AMD	03/14/2018	2018-3/13
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
R277-518	Career and Technical Education Licenses	42618	5YR	02/26/2018	2018-6/47
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
R277-610	Released-Time Classes and Public Schools	42621	5YR	02/26/2018	2018-6/47
R277-621	District of Residence	42326	NEW	01/09/2018	2017-23/17
R277-700	The Elementary and Secondary School General Core	42482	AMD	03/14/2018	2018-3/16
R277-705	Secondary School Completion and Diplomas	42394	AMD	02/28/2018	2018-1/5
R277-708	Enhancement for At-Risk Students	42483	AMD	03/14/2018	2018-3/23
R277-709	Education Programs Serving Youth in Custody	42619	5YR	02/26/2018	2018-6/48
R277-717	High School Course Grading Requirements	42484	AMD	03/14/2018	2018-3/26
R277-719	Standards for Selling Foods Outside of the Reimbursable Meal in Schools	42620	5YR	02/26/2018	2018-6/48
R277-920	Implementation of the School Turnaround and Leadership Development Act	42327	AMD	01/09/2018	2017-23/19

ENVIRONMENTAL QUALITY

Air Quality

R307-102	General Requirements: Broadly Applicable Requirements	42546	EXT	01/31/2018	2018-4/111
R307-102	General Requirements: Broadly Applicable Requirements	42639	5YR	03/08/2018	Not Printed
R307-107	General Requirements: Breakdowns	42640	5YR	03/08/2018	Not Printed
R307-115	General Conformity	42548	EXT	01/31/2018	2018-4/111
R307-115	General Conformity	42641	5YR	03/08/2018	Not Printed
R307-123	General Requirements: Clean Fuels and Vehicle Technology Grant and Loan Program	42642	5YR	03/08/2018	Not Printed
R307-150	Emission Inventories	42107	AMD	03/05/2018	2017-19/55
R307-150	Emission Inventories	42107	CPR	03/05/2018	2018-3/46
R307-170	Continuous Emission Monitoring Program	42550	EXT	01/31/2018	2018-4/111
R307-170	Continuous Emission Monitoring Program	42643	5YR	03/08/2018	Not Printed
R307-208	Outdoor Wood Boilers	42644	5YR	03/08/2018	Not Printed
R307-220	Emission Standards: Plan for Designated Facilities	42553	EXT	01/31/2018	2018-4/111
R307-220	Emission Standards: Plan for Designated Facilities	42645	5YR	03/08/2018	Not Printed
R307-221	Emission Standards: Emission Controls for Existing Municipal Solid Waste Landfills	42552	EXT	01/31/2018	2018-4/112
R307-221	Emission Standards: Emission Controls for Existing Municipal Solid Waste Landfills	42646	5YR	03/08/2018	Not Printed
R307-222	Emission Standards: Existing Incinerators for Hospital, Medical, Infectious Waste	42532	EXT	01/31/2018	2018-4/112
R307-222	Emission Standards: Existing Incinerators for Hospital, Medical, Infectious Waste	42647	5YR	03/08/2018	Not Printed
R307-223	Emission Standards: Existing Small Municipal Waste Combustion Units	42533	EXT	01/31/2018	2018-4/112
R307-223	Emission Standards: Existing Small Municipal Waste Combustion Units	42648	5YR	03/08/2018	Not Printed

RULES INDEX

R307-224	Mercury Emission Standards: Coal-Fired Electric Generating Units	42534	EXT	01/31/2018	2018-4/112
R307-224	Mercury Emission Standards: Coal-Fired Electric Generating Units	42649	5YR	03/08/2018	Not Printed
R307-250	Western Backstop Sulfur Dioxide Trading Program	42535	EXT	01/31/2018	2018-4/113
R307-250	Western Backstop Sulfur Dioxide Trading Program	42650	5YR	03/08/2018	Not Printed
R307-303	Commercial Cooking	42651	5YR	03/08/2018	Not Printed
R307-312	Aggregate Processing Operations for PM2.5 Nonattainment Areas	42536	EXT	01/31/2018	2018-4/113
R307-312	Aggregate Processing Operations for PM2.5 Nonattainment Areas	42652	5YR	03/08/2018	Not Printed
R307-342	Adhesives and Sealants	42653	5YR	03/08/2018	Not Printed
R307-344	Paper, Film, and Foil Coatings	42537	EXT	01/31/2018	2018-4/113
R307-344	Paper, Film, and Foil Coatings	42654	5YR	03/08/2018	Not Printed
R307-345	Fabric and Vinyl Coatings	42538	EXT	01/31/2018	2018-4/113
R307-345	Fabric and Vinyl Coatings	42655	5YR	03/08/2018	Not Printed
R307-346	Metal Furniture Surface Coatings	42539	EXT	01/31/2018	2018-4/114
R307-346	Metal Furniture Surface Coatings	42656	5YR	03/08/2018	Not Printed
R307-347	Large Appliance Surface Coatings	42541	EXT	01/31/2018	2018-4/114
R307-347	Large Appliance Surface Coatings	42657	5YR	03/08/2018	Not Printed
R307-348	Magnet Wire Coatings	42543	EXT	01/31/2018	2018-4/114
R307-348	Magnet Wire Coatings	42659	5YR	03/08/2018	Not Printed
R307-349	Flat Wood Panel Coatings	42540	EXT	01/31/2018	2018-4/114
R307-349	Flat Wood Paneling Coatings	42660	5YR	03/08/2018	Not Printed
R307-350	Miscellaneous Metal Parts and Products Coatings	42542	EXT	01/31/2018	2018-4/114
R307-350	Miscellaneous Metal Parts and Products Coatings	42661	5YR	03/08/2018	Not Printed
R307-351	Graphic Arts	42544	EXT	01/31/2018	2018-4/115
R307-351	Graphic Arts	42662	5YR	03/08/2018	Not Printed
R307-352	Metal Container, Closure, and Coil Coatings	42545	EXT	01/31/2018	2018-4/115
R307-352	Metal Container, Closure, and Coil Coatings	42663	5YR	03/08/2018	Not Printed
R307-353	Plastic Parts Coatings	42664	5YR	03/08/2018	Not Printed
R307-354	Automotive Refinishing Coatings	42547	EXT	01/31/2018	2018-4/115
R307-354	Automotive Refinishing Coatings	42665	5YR	03/08/2018	Not Printed
R307-355	Control of Emissions from Aerospace Manufacture and Rework Facilities	42549	EXT	01/31/2018	2018-4/115
R307-355	Aerospace Manufacture and Rework Facilities	42666	5YR	03/08/2018	Not Printed
R307-355-3	Exemptions	42370	AMD	03/08/2018	2018-1/10
R307-356	Appliance Pilot Light	42430	EXT	01/02/2018	2018-2/59
R307-356	Appliance Pilot Light	42667	5YR	03/08/2018	Not Printed
R307-357	Consumer Products	42668	5YR	03/08/2018	Not Printed
R307-401	Permit: New and Modified Sources	42108	AMD	03/05/2018	2017-19/58
R307-401	Permit: New and Modified Sources	42108	CPR	03/05/2018	2018-3/49
R307-401	Permit: New and Modified Sources	42574	NSC	03/05/2018	Not Printed
R307-504	Oil and Gas Industry: Tank Truck Loading	42109	AMD	03/05/2018	2017-19/70
R307-504	Oil and Gas Industry: Tank Truck Loading	42109	CPR	03/05/2018	2018-3/56
R307-505	Oil and Gas Industry: Registration Requirements	42110	NEW	01/26/2018	2017-19/71
R307-506	Oil and Gas Industry: Storage Vessels	42111	NEW	03/05/2018	2017-19/73
R307-506	Oil and Gas Industry: Storage Vessels	42111	CPR	03/05/2018	2018-3/58
R307-507	Oil and Gas Industry: Dehydrators	42112	NEW	03/05/2018	2017-19/75
R307-507	Oil and Gas Industry: Dehydrators	42112	CPR	03/05/2018	2018-3/60
R307-508	Oil and Gas Industry: VOC Control Devices	42113	NEW	03/05/2018	2017-19/77
R307-508	Oil and Gas Industry: VOC Control Devices	42113	CPR	03/05/2018	2018-3/62
R307-509	Oil and Gas Industry: Leak Detection and Repair Requirements	42114	NEW	03/05/2018	2017-19/79
R307-509	Oil and Gas Industry: Leak Detection and Repair Requirements	42114	CPR	03/05/2018	2018-3/63
R307-510	Oil and Gas Industry: Natural Gas Engine Requirements	42115	NEW	03/05/2018	2017-19/81
R307-510	Oil and Gas Industry: Natural Gas Engine Requirements	42115	CPR	03/05/2018	2018-3/65
R307-801	Utah Asbestos Rule	42551	EXT	01/31/2018	2018-4/115
R307-801	Utah Asbestos Rule	42669	5YR	03/08/2018	Not Printed

Waste Management and Radiation Control, Waste Management

R315-15-5	Standards for Used Oil Processors and Re-Refiners	42615	NSC	03/14/2018	Not Printed
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

Water Quality

R317-9	Administrative Procedures	42509	5YR	01/24/2018	2018-4/95
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	2018-4/96
R317-14	Approval of Change in Point of Discharge of POTW	42511	5YR	01/24/2018	2018-4/96

GOVERNOR

Criminal and Juvenile Justice (State Commission on)

R356-4	Juvenile Confinement	42055	NEW	01/02/2018	2017-18/26
--------	----------------------	-------	-----	------------	------------

Criminal and Juvenile Justice (State Commission on), Indigent Defense Commission

R364-1	Conflicts of Interest for Indigent Defense Commission Members	42351	NEW	01/29/2018	2017-24/14
--------	---	-------	-----	------------	------------

Economic Development

R357-16	Utah Outdoor Recreation Infrastructure Grant	42332	AMD	01/17/2018	2017-23/25
R357-16	Utah Outdoor Recreation Infrastructure Grant	42633	NSC	03/14/2018	Not Printed

HEALTH

Disease Control and Prevention, Environmental Services

R392-700	Indoor Tanning Bed Sanitation	42491	5YR	01/19/2018	2018-4/97
----------	-------------------------------	-------	-----	------------	-----------

Disease Control and Prevention, Epidemiology

R386-702	Communicable Disease Rule	42285	AMD	01/02/2018	2017-22/31
----------	---------------------------	-------	-----	------------	------------

Disease Control and Prevention, Health Promotion

R384-201	School-Based Vision Screening for Students in Public Schools	42569	EXT	02/08/2018	2018-5/161
----------	--	-------	-----	------------	------------

Disease Control and Prevention, Laboratory Services

R438-15	Newborn Screening	42282	NEW	01/29/2018	2017-22/60
---------	-------------------	-------	-----	------------	------------

RULES INDEX

<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	2018-4/98	
R432-2	General Licensing Provisions	42521	5YR	01/29/2018	2018-4/98	
R432-3	General Health Care Facility Rules Inspection and Enforcement	42522	5YR	01/29/2018	2018-4/99	
R432-4	General Construction	42523	5YR	01/29/2018	2018-4/99	
R432-5	Nursing Facility Construction	42524	5YR	01/29/2018	2018-4/100	
R432-6	Assisted Living Facility General Construction	42525	5YR	01/29/2018	2018-4/100	
R432-16	Hospice Inpatient Facility Construction	42518	5YR	01/29/2018	2018-4/101	
R432-35	Background Screening -- Health Facilities	42519	5YR	01/29/2018	2018-4/101	
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	2018-4/81	
<u>Health Care Financing, Coverage and Reimbursement Policy</u>						
R414-3A	Outpatient Hospital Services	42180	AMD	03/05/2018	2017-20/26	
R414-3A	Outpatient Hospital Services	42180	CPR	03/05/2018	2018-2/42	
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	2018-4/85	
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	2018-4/87	
R414-311	Targeted Adult Medicaid	42489	EMR	01/19/2018	2018-4/90	
R414-517	Inpatient Hospital Provider Assessments	42353	AMD	01/29/2018	2017-24/16	
HUMAN SERVICES						
<u>Administration</u>						
R495-885	Employee Background Screenings	42417	AMD	02/23/2018	2018-2/13	
<u>Administration, Administrative Services, Licensing</u>						
R501-1	General Provisions for Licensing	42216	AMD	02/23/2018	2017-21/111	
R501-12	Foster Care Services	42217	AMD	02/23/2018	2017-21/120	
R501-14	Human Service Program Background Screening	42233	AMD	02/23/2018	2017-21/130	
R501-18	Recovery Residence Services	42234	AMD	02/07/2018	2017-21/136	
<u>Aging and Adult Services</u>						
R510-105	"Out and About" Homebound Transportation Assistance Fund Rules	42485	5YR	01/17/2018	2018-4/102	
<u>Child and Family Services</u>						
R512-100	In-Home Services	42596	5YR	02/15/2018	2018-5/143	
R512-200	Child Protective Services, Intake Services	42597	5YR	02/15/2018	2018-5/143	
R512-201	Child Protective Services, Investigation Services	42598	5YR	02/15/2018	2018-5/144	
R512-202	Child Protective Services, General Allegation Categories	42599	5YR	02/15/2018	2018-5/144	
R512-300	Out-of-Home Services	42600	5YR	02/15/2018	2018-5/145	

R512-301	Out-of-Home Services, Responsibilities Pertaining to a Parent or Guardian	42601	5YR	02/15/2018	2018-5/145
R512-302	Out-of-Home Services, Responsibilities Pertaining to an Out-of-Home Caregiver	42602	5YR	02/15/2018	2018-5/146
R512-305	Out-of-Home Services, Transition to Adult Living Services	42603	5YR	02/15/2018	2018-5/146
R512-309	Out-of-Home Services, Foster Parent Reimbursement of Motor Vehicle Insurance Coverage for Youth in Foster Care	42604	5YR	02/15/2018	2018-5/147
R512-500	Kinship Services, Placement and Background Screening	42605	5YR	02/15/2018	2018-5/147

Services for People with Disabilities

R539-1	Eligibility	42560	NSC	03/01/2018	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
R525-3	Medication Treatment of Patients	42558	NSC	03/01/2018	Not Printed
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
R525-6	Prohibited Items and Devices	42557	NSC	03/01/2018	Not Printed
R525-7	Complaints/Suggestions/Concerns	42478	5YR	01/16/2018	2018-3/89

INSURANCE

Administration

R590-94	Rule Permitting Smoker/Nonsmoker Mortality Tables For Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits	42686	5YR	03/14/2018	Not Printed
R590-102	Insurance Department Fee Payment Rule	42395	AMD	02/08/2018	2018-1/11
R590-154	Unfair Marketing Practices Rule; Misleading Names	42687	5YR	03/14/2018	Not Printed
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
--------	---------------------	-------	-----	------------	------------

LABOR COMMISSION

Administration

R600-1	Declaratory Orders	42622	5YR	02/26/2018	2018-6/49
--------	--------------------	-------	-----	------------	-----------

Industrial Accidents

R612-100	Workers' Compensation Rules - General Provisions	42561	5YR	02/08/2018	2018-5/148
R612-200	Workers' Compensation Rules - Filing and Paying Claims	42562	5YR	02/08/2018	2018-5/149
R612-300	Workers' Compensation Rules - Medical Care	42563	5YR	02/08/2018	2018-5/149
R612-400	Workers' Compensation Insurance, Self- Insurance and Waivers	42564	5YR	02/08/2018	2018-5/150

NATURAL RESOURCES

Oil, Gas and Mining: Administration

R642-200	Applicability	42495	5YR	01/24/2018	2018-4/102
----------	---------------	-------	-----	------------	------------

Oil, Gas and Mining: Coal

R645-101	Restrictions on State Employees	42496	5YR	01/24/2018	2018-4/103
----------	---------------------------------	-------	-----	------------	------------

RULES INDEX

R645-102	Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction	42497	5YR	01/24/2018	2018-4/103
R645-104	Protection of Employees	42498	5YR	01/24/2018	2018-4/104
R645-401	Inspection and Enforcement: Civil Penalties	42499	5YR	01/24/2018	2018-4/104

Oil, Gas and Mining: Non-Coal

R647-1	Minerals Regulatory Program	42500	5YR	01/24/2018	2018-4/105
R647-2	Exploration	42501	5YR	01/24/2018	2018-4/105
R647-3	Small Mining Operations	42502	5YR	01/24/2018	2018-4/106
R647-4	Large Mining Operations	42503	5YR	01/24/2018	2018-4/106
R647-5	Administrative Procedures	42504	5YR	01/24/2018	2018-4/107
R647-6	Inspection and Enforcement: Division Authority and Procedures	42505	5YR	01/24/2018	2018-4/108
R647-7	Inspection and Enforcement: Civil Penalties	42506	5YR	01/24/2018	2018-4/108
R647-8	Inspection and Enforcement: Individual Civil Penalties	42507	5YR	01/24/2018	2018-4/109

Oil, Gas and Mining: Oil and Gas

R649-6	Gas Processing and Waste Crude Oil Treatment	42508	5YR	01/24/2018	2018-4/109
--------	--	-------	-----	------------	------------

Parks and Recreation

R651-406	Off-Highway Vehicle Registration Fees	42431	AMD	02/21/2018	2018-2/16
R651-407	Off-Highway Vehicle Advisory Council	42682	5YR	03/13/2018	Not Printed

Water Resources

R653-9	Electronic Meetings	42257	NEW	03/02/2018	2017-22/74
--------	---------------------	-------	-----	------------	------------

Wildlife Resources

R657-3	Collection, Importation, Transportation, and Possession of Animals	42624	5YR	02/27/2018	2018-6/49
R657-5	Taking Big Game	42371	AMD	02/07/2018	2018-1/19
R657-9	Taking Waterfowl, Wilson's Snipe and Coot	42376	AMD	02/07/2018	2018-1/33
R657-12	Hunting and Fishing Accommodations for People With Disabilities	42375	NSC	02/13/2018	Not Printed
R657-19	Taking Nongame Mammals	42377	AMD	02/07/2018	2018-1/35
R657-41	Conservation and Sportsman Permits	42379	AMD	02/07/2018	2018-1/38
R657-58	Fishing Contests and Clinics	42449	5YR	01/09/2018	2018-3/91
R657-62	Drawing Application Procedures	42374	AMD	02/07/2018	2018-1/41
R657-67	Utah Hunter Mentoring Program	42372	AMD	02/07/2018	2018-1/44
R657-70	Taking Utah Prairie Dogs	42378	REP	02/07/2018	2018-1/46
R657-71	Removal of Wild Deer from Domesticated Elk Facilities	42373	NEW	02/07/2018	2018-1/52

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
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
R671-312	Commutation Hearings for Death Penalty Cases	42575	5YR	02/13/2018	2018-5/150
R671-509	Parole Progress/Violation Reports	42576	5YR	02/13/2018	2018-5/151
R671-510	Evidence for Issuance of Warrants	42577	5YR	02/13/2018	2018-5/151
R671-512	Execution of the Warrant	42578	5YR	02/13/2018	2018-5/152
R671-513	Expedited Determination of Parolee Challenge to Probable Cause	42579	5YR	02/13/2018	2018-5/152
R671-514	Waiver and Pleas of Guilt	42580	5YR	02/13/2018	2018-5/153
R671-515	Timeliness of Parole Revocation Hearings	42581	5YR	02/13/2018	2018-5/153
R671-516	Parole Revocation Hearings	42583	5YR	02/13/2018	2018-5/154
R671-517	Evidentiary Hearings and Proceedings	42584	5YR	02/13/2018	2018-5/154
R671-518	Conduct of Proceedings When a Criminal Charge Results in Conviction	42585	5YR	02/13/2018	2018-5/155

R671-519	Proceedings When Criminal Charges Result in Acquittal	42586	5YR	02/13/2018	2018-5/155
R671-520	Treatment of Confidential Testimony	42587	5YR	02/13/2018	2018-5/156
R671-522	Continuances Due to Pending Criminal Charges	42588	5YR	02/13/2018	2018-5/156

PUBLIC SAFETY

Administration

R698-11	Submission and Testing of Sexual Assault Kits	42269	NEW	01/10/2018	2017-22/82
---------	---	-------	-----	------------	------------

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

Fire Marshal

R710-5	Automatic Fire Sprinkler System Inspecting and Testing	42683	5YR	03/14/2018	Not Printed
--------	--	-------	-----	------------	-------------

PUBLIC SERVICE COMMISSION

Administration

R746-8	Utah Universal Public Telecommunications Service Support Fund (UUSF)	42424	NEW	02/21/2018	2018-2/18
R746-330	Rules for Water and Sewer Utilities Operating in Utah	42590	5YR	02/14/2018	2018-5/157
R746-332	Depreciation Rates for Water Utilities	42593	5YR	02/14/2018	2018-5/157
R746-341	Lifeline Rule	42423	REP	02/21/2018	2018-2/24
R746-343	Rule for Deaf, Severely Hearing or Speech Impaired Person	42425	REP	02/21/2018	2018-2/28
R746-347	Extended Area Service (EAS)	42589	5YR	02/14/2018	2018-5/158
R746-360	Universal Public Telecommunications Service Support Fund	42426	REP	02/21/2018	2018-2/31
R746-402	Rules Governing Reports of Accidents by Electric, Gas, Telephone, and Water Utilities	42592	5YR	02/14/2018	2018-5/158
R746-405	Filing of Tariffs for Gas, Electric, Telephone, and Water Utilities	42591	5YR	02/14/2018	2018-5/159
R746-409-1	General Provisions	42331	AMD	01/09/2018	2017-23/75

REGENTS (BOARD OF)

University of Utah, Administration

R805-1	Operating Regulations for Bicycles, Skateboards, Rollerskates and Scooters (Non-Motorized Riding Devices)	42617	5YR	02/22/2018	2018-6/50
--------	---	-------	-----	------------	-----------

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

RULES INDEX

TECHNOLOGY SERVICES

Administration

R895-12	Telecommunications Services and Requirements	42528	EXD	01/30/2018	2018-4/117
R895-12	Telecommunications Services and Requirements	42529	EMR	01/30/2018	2018-4/92

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
---------	--	-------	-----	------------	------------

Operations, Maintenance

R918-6	Maintenance Responsibility at Intersections, Overcrossings, and Interchanges between Class A Roads and Class B or Class C Roads	42392	AMD	02/07/2018	2018-1/53
--------	---	-------	-----	------------	-----------

WORKFORCE SERVICES

Administration

R982-800	Utah Data Research Center	42421	NEW	03/01/2018	2018-2/38
----------	---------------------------	-------	-----	------------	-----------

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>acquit</u> Pardons (Board of), Administration	42586	R671-519	5YR	02/13/2018	2018-5/155
<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>adhesives</u> Environmental Quality, Air Quality	42653	R307-342	5YR	03/08/2018	Not Printed
<u>adjudicative proceedings</u> Environmental Quality, Water Quality	42509	R317-9	5YR	01/24/2018	2018-4/95
<u>administrative necessary proceedings</u> Labor Commission, Industrial Accidents	42562	R612-200	5YR	02/08/2018	2018-5/149
<u>administrative procedures</u> Commerce, Occupational and Professional Licensing Labor Commission, Industrial Accidents	42428 42561	R156-46b-401 R612-100	NSC 5YR	01/18/2018 02/08/2018	Not Printed 2018-5/148
<u>administrative proceedings</u> Environmental Quality, Water Quality	42509	R317-9	5YR	01/24/2018	2018-4/95

<u>adult education</u>					
Education, Administration	42394	R277-705	AMD	02/28/2018	2018-1/5
<u>aerospace</u>					
Environmental Quality, Air Quality	42549	R307-355	EXT	01/31/2018	2018-4/115
	42666	R307-355	5YR	03/08/2018	Not Printed
	42370	R307-355-3	AMD	03/08/2018	2018-1/10
<u>affordable base rate</u>					
Public Service Commission, Administration	42426	R746-360	REP	02/21/2018	2018-2/31
<u>aggregate</u>					
Environmental Quality, Air Quality	42536	R307-312	EXT	01/31/2018	2018-4/113
	42652	R307-312	5YR	03/08/2018	Not Printed
<u>air pollution</u>					
Environmental Quality, Air Quality	42546	R307-102	EXT	01/31/2018	2018-4/111
	42639	R307-102	5YR	03/08/2018	Not Printed
	42640	R307-107	5YR	03/08/2018	Not Printed
	42548	R307-115	EXT	01/31/2018	2018-4/111
	42641	R307-115	5YR	03/08/2018	Not Printed
	42642	R307-123	5YR	03/08/2018	Not Printed
	42107	R307-150	AMD	03/05/2018	2017-19/55
	42107	R307-150	CPR	03/05/2018	2018-3/46
	42550	R307-170	EXT	01/31/2018	2018-4/111
	42643	R307-170	5YR	03/08/2018	Not Printed
	42644	R307-208	5YR	03/08/2018	Not Printed
	42553	R307-220	EXT	01/31/2018	2018-4/111
	42645	R307-220	5YR	03/08/2018	Not Printed
	42552	R307-221	EXT	01/31/2018	2018-4/112
	42646	R307-221	5YR	03/08/2018	Not Printed
	42532	R307-222	EXT	01/31/2018	2018-4/112
	42647	R307-222	5YR	03/08/2018	Not Printed
	42533	R307-223	EXT	01/31/2018	2018-4/112
	42648	R307-223	5YR	03/08/2018	Not Printed
	42534	R307-224	EXT	01/31/2018	2018-4/112
	42649	R307-224	5YR	03/08/2018	Not Printed
	42535	R307-250	EXT	01/31/2018	2018-4/113
	42650	R307-250	5YR	03/08/2018	Not Printed
	42536	R307-312	EXT	01/31/2018	2018-4/113
	42652	R307-312	5YR	03/08/2018	Not Printed
	42653	R307-342	5YR	03/08/2018	Not Printed
	42538	R307-345	EXT	01/31/2018	2018-4/113
	42655	R307-345	5YR	03/08/2018	Not Printed
	42539	R307-346	EXT	01/31/2018	2018-4/114
	42656	R307-346	5YR	03/08/2018	Not Printed
	42541	R307-347	EXT	01/31/2018	2018-4/114
	42657	R307-347	5YR	03/08/2018	Not Printed
	42543	R307-348	EXT	01/31/2018	2018-4/114
	42659	R307-348	5YR	03/08/2018	Not Printed
	42540	R307-349	EXT	01/31/2018	2018-4/114
	42660	R307-349	5YR	03/08/2018	Not Printed
	42542	R307-350	EXT	01/31/2018	2018-4/114
	42661	R307-350	5YR	03/08/2018	Not Printed
	42544	R307-351	EXT	01/31/2018	2018-4/115
	42662	R307-351	5YR	03/08/2018	Not Printed
	42545	R307-352	EXT	01/31/2018	2018-4/115
	42663	R307-352	5YR	03/08/2018	Not Printed
	42664	R307-353	5YR	03/08/2018	Not Printed
	42547	R307-354	EXT	01/31/2018	2018-4/115
	42665	R307-354	5YR	03/08/2018	Not Printed
	42549	R307-355	EXT	01/31/2018	2018-4/115
	42666	R307-355	5YR	03/08/2018	Not Printed
	42370	R307-355-3	AMD	03/08/2018	2018-1/10
	42668	R307-357	5YR	03/08/2018	Not Printed
	42108	R307-401	AMD	03/05/2018	2017-19/58
	42108	R307-401	CPR	03/05/2018	2018-3/49

RULES INDEX

	42574	R307-401	NSC	03/05/2018	Not Printed
	42109	R307-504	AMD	03/05/2018	2017-19/70
	42109	R307-504	CPR	03/05/2018	2018-3/56
	42110	R307-505	NEW	01/26/2018	2017-19/71
	42111	R307-506	NEW	03/05/2018	2017-19/73
	42111	R307-506	CPR	03/05/2018	2018-3/58
	42112	R307-507	NEW	03/05/2018	2017-19/75
	42112	R307-507	CPR	03/05/2018	2018-3/60
	42113	R307-508	NEW	03/05/2018	2017-19/77
	42113	R307-508	CPR	03/05/2018	2018-3/62
	42114	R307-509	NEW	03/05/2018	2017-19/79
	42114	R307-509	CPR	03/05/2018	2018-3/63
	42115	R307-510	NEW	03/05/2018	2017-19/81
	42115	R307-510	CPR	03/05/2018	2018-3/65
	42551	R307-801	EXT	01/31/2018	2018-4/115
	42669	R307-801	5YR	03/08/2018	Not Printed
<u>air travel</u>					
Administrative Services, Finance	42572	R25-7	5YR	02/08/2018	2018-5/142
<u>allegations</u>					
Pardons (Board of), Administration	42580	R671-514	5YR	02/13/2018	2018-5/153
<u>allowance</u>					
Administrative Services, Finance	42573	R25-8	5YR	02/08/2018	2018-5/142
<u>alternative district of residency</u>					
Education, Administration	42326	R277-621	NEW	01/09/2018	2017-23/17
<u>alternative fuels</u>					
Environmental Quality, Air Quality	42642	R307-123	5YR	03/08/2018	Not Printed
<u>animal protection</u>					
Natural Resources, Wildlife Resources	42624	R657-3	5YR	02/27/2018	2018-6/49
<u>appellate procedures</u>					
Technology Services, Administration	42528	R895-12	EXD	01/30/2018	2018-4/117
<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	2018-4/87
<u>approval orders</u>					
Environmental Quality, Air Quality	42108	R307-401	AMD	03/05/2018	2017-19/58
	42108	R307-401	CPR	03/05/2018	2018-3/49
	42574	R307-401	NSC	03/05/2018	Not Printed
<u>arts programs</u>					
Education, Administration	42471	R277-490	5YR	01/12/2018	2018-3/70
	42481	R277-490	AMD	03/14/2018	2018-3/13
<u>asbestos</u>					
Environmental Quality, Air Quality	42551	R307-801	EXT	01/31/2018	2018-4/115
	42669	R307-801	5YR	03/08/2018	Not Printed
<u>asbestos hazard emergency response</u>					
Environmental Quality, Air Quality	42551	R307-801	EXT	01/31/2018	2018-4/115
	42669	R307-801	5YR	03/08/2018	Not Printed
<u>asphalt</u>					
Environmental Quality, Air Quality	42536	R307-312	EXT	01/31/2018	2018-4/113
	42652	R307-312	5YR	03/08/2018	Not Printed
<u>assessment</u>					
Education, Administration	42479	R277-404	AMD	03/14/2018	2018-3/5

<u>assistive devices and technology</u>					
Public Service Commission, Administration	42424	R746-8	NEW	02/21/2018	2018-2/18
	42425	R746-343	REP	02/21/2018	2018-2/28
<u>automatic fire sprinklers</u>					
Public Safety, Fire Marshal	42683	R710-5	5YR	03/14/2018	Not Printed
<u>automotive refinishing</u>					
Environmental Quality, Air Quality	42547	R307-354	EXT	01/31/2018	2018-4/115
	42665	R307-354	5YR	03/08/2018	Not Printed
<u>awarding</u>					
Education, Administration	42480	R277-415	NEW	03/14/2018	2018-3/11
<u>background</u>					
Human Services, Administration	42417	R495-885	AMD	02/23/2018	2018-2/13
<u>background checks</u>					
Human Services, Substance Abuse and Mental Health, State Hospital	42476	R525-5	5YR	01/16/2018	2018-3/88
<u>background screening</u>					
Human Services, Administration, Administrative Services, Licensing	42233	R501-14	AMD	02/23/2018	2017-21/130
<u>bicycles</u>					
Regents (Board of), University of Utah, Administration	42617	R805-1	5YR	02/22/2018	2018-6/50
<u>big game seasons</u>					
Natural Resources, Wildlife Resources	42371	R657-5	AMD	02/07/2018	2018-1/19
	42373	R657-71	NEW	02/07/2018	2018-1/52
<u>birds</u>					
Natural Resources, Wildlife Resources	42376	R657-9	AMD	02/07/2018	2018-1/33
<u>boards</u>					
Administrative Services, Finance	42570	R25-5	5YR	02/08/2018	2018-5/141
<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>capital punishment</u>					
Pardons (Board of), Administration	42575	R671-312	5YR	02/13/2018	2018-5/150
<u>career and technical education</u>					
Education, Administration	42618	R277-518	5YR	02/26/2018	2018-6/47
<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>certified foster care</u>					
Human Services, Administration, Administrative Services, Licensing	42217	R501-12	AMD	02/23/2018	2017-21/120
<u>charbroilers</u>					
Environmental Quality, Air Quality	42651	R307-303	5YR	03/08/2018	Not Printed

RULES INDEX

child abuse

Human Services, Child and Family Services	42597	R512-200	5YR	02/15/2018	2018-5/143
	42598	R512-201	5YR	02/15/2018	2018-5/144
	42599	R512-202	5YR	02/15/2018	2018-5/144
	42600	R512-300	5YR	02/15/2018	2018-5/145
	42601	R512-301	5YR	02/15/2018	2018-5/145

child welfare

Human Services, Child and Family Services	42596	R512-100	5YR	02/15/2018	2018-5/143
	42597	R512-200	5YR	02/15/2018	2018-5/143
	42598	R512-201	5YR	02/15/2018	2018-5/144
	42599	R512-202	5YR	02/15/2018	2018-5/144
	42600	R512-300	5YR	02/15/2018	2018-5/145
	42601	R512-301	5YR	02/15/2018	2018-5/145
	42602	R512-302	5YR	02/15/2018	2018-5/146
	42603	R512-305	5YR	02/15/2018	2018-5/146
	42604	R512-309	5YR	02/15/2018	2018-5/147
	42605	R512-500	5YR	02/15/2018	2018-5/147

chronically ill

Corrections, Administration	42637	R251-114	5YR	03/07/2018	Not Printed
-----------------------------	-------	----------	-----	------------	-------------

citizenship

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	2018-4/85

client rights

Health, Health Care Financing, Coverage and Reimbursement Policy	42440	R414-301	5YR	01/08/2018	2018-3/83
--	-------	----------	-----	------------	-----------

coal mines

Natural Resources, Oil, Gas and Mining; Coal	42496	R645-101	5YR	01/24/2018	2018-4/103
	42497	R645-102	5YR	01/24/2018	2018-4/103
	42498	R645-104	5YR	01/24/2018	2018-4/104
	42499	R645-401	5YR	01/24/2018	2018-4/104

coating

Environmental Quality, Air Quality	42370	R307-355-3	AMD	03/08/2018	2018-1/10
------------------------------------	-------	------------	-----	------------	-----------

coatings

Environmental Quality, Air Quality	42540	R307-349	EXT	01/31/2018	2018-4/114
	42660	R307-349	5YR	03/08/2018	Not Printed
	42542	R307-350	EXT	01/31/2018	2018-4/114
	42661	R307-350	5YR	03/08/2018	Not Printed
	42664	R307-353	5YR	03/08/2018	Not Printed
	42547	R307-354	EXT	01/31/2018	2018-4/115
	42665	R307-354	5YR	03/08/2018	Not Printed
	42549	R307-355	EXT	01/31/2018	2018-4/115
	42666	R307-355	5YR	03/08/2018	Not Printed

coil coatings

Environmental Quality, Air Quality	42545	R307-352	EXT	01/31/2018	2018-4/115
	42663	R307-352	5YR	03/08/2018	Not Printed

commercial cooking

Environmental Quality, Air Quality	42651	R307-303	5YR	03/08/2018	Not Printed
------------------------------------	-------	----------	-----	------------	-------------

commercial motor vehicle insurance

Insurance, Administration	42436	R590-243	5YR	01/04/2018	2018-3/91
---------------------------	-------	----------	-----	------------	-----------

communicable disease

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	2018-4/113	
	42652	R307-312	5YR	03/08/2018	Not Printed	
<u>confidential testimony</u>						
Pardons (Board of), Administration	42587	R671-520	5YR	02/13/2018	2018-5/156	
<u>confidentiality of information</u>						
Environmental Quality, Air Quality	42546	R307-102	EXT	01/31/2018	2018-4/111	
	42639	R307-102	5YR	03/08/2018	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>conservation permits</u>						
Natural Resources, Wildlife Resources	42379	R657-41	AMD	02/07/2018	2018-1/38	
<u>construction</u>						
Administrative Services, Facilities Construction and Management	42348	R23-9	AMD	01/23/2018	2017-24/9	
<u>consumer products</u>						
Environmental Quality, Air Quality	42668	R307-357	5YR	03/08/2018	Not Printed	
<u>contingency fund</u>						
Administrative Services, Facilities Construction and Management	42347	R23-5	AMD	01/23/2018	2017-24/8	
<u>continuing</u>						
Pardons (Board of), Administration	42588	R671-522	5YR	02/13/2018	2018-5/156	
<u>continuous monitoring</u>						
Environmental Quality, Air Quality	42550	R307-170	EXT	01/31/2018	2018-4/111	
	42643	R307-170	5YR	03/08/2018	Not Printed	
<u>contractors</u>						
Commerce, Occupational and Professional Licensing	42429	R156-55b-102	NSC	01/18/2018	Not Printed	
<u>conviction</u>						
Pardons (Board of), Administration	42585	R671-518	5YR	02/13/2018	2018-5/155	
<u>costs</u>						
Administrative Services, Finance	42571	R25-6	5YR	02/08/2018	2018-5/141	
<u>coverage groups</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	42442	R414-303	5YR	01/08/2018	2018-3/84	
<u>credit</u>						
Education, Administration	42484	R277-717	AMD	03/14/2018	2018-3/26	

RULES INDEX

<u>credit for time served</u>						
Pardons (Board of), Administration	42227	R671-205	AMD	01/08/2018	2017-21/169	
<u>criminal charges</u>						
Pardons (Board of), Administration	42585	R671-518	5YR	02/13/2018	2018-5/155	
<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	2018-4/117	
<u>data research requests</u>						
Workforce Services, Administration	42421	R982-800	NEW	03/01/2018	2018-2/38	
<u>declaratory orders</u>						
Labor Commission, Administration	42622	R600-1	5YR	02/26/2018	2018-6/49	
<u>disabilities</u>						
Human Services, Services for People with Disabilities	42560	R539-1	NSC	03/01/2018	Not Printed	
<u>disabled</u>						
Human Services, Aging and Adult Services	42485	R510-105	5YR	01/17/2018	2018-4/102	
<u>disabled persons</u>						
Natural Resources, Wildlife Resources	42375	R657-12	NSC	02/13/2018	Not Printed	
<u>discharge</u>						
Environmental Quality, Water Quality	42511	R317-14	5YR	01/24/2018	2018-4/96	
<u>domestic violence</u>						
Human Services, Child and Family Services	42597	R512-200	5YR	02/15/2018	2018-5/143	
	42598	R512-201	5YR	02/15/2018	2018-5/144	
	42599	R512-202	5YR	02/15/2018	2018-5/144	
	42600	R512-300	5YR	02/15/2018	2018-5/145	
	42601	R512-301	5YR	02/15/2018	2018-5/145	
<u>education</u>						
Education, Administration	42619	R277-709	5YR	02/26/2018	2018-6/48	
<u>educator licensing</u>						
Education, Administration	42618	R277-518	5YR	02/26/2018	2018-6/47	
<u>educators</u>						
Education, Administration	42324	R277-515	AMD	01/09/2018	2017-23/11	
	42439	R277-530-3	NSC	01/25/2018	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	2018-4/96	
<u>electric generating unit</u>						
Environmental Quality, Air Quality	42534	R307-224	EXT	01/31/2018	2018-4/112	
	42649	R307-224	5YR	03/08/2018	Not Printed	
<u>electric generating units</u>						
Environmental Quality, Air Quality	42553	R307-220	EXT	01/31/2018	2018-4/111	
	42645	R307-220	5YR	03/08/2018	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	
Natural Resources, Water Resources	42257	R653-9	NEW	03/02/2018	2017-22/74	
<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	2018-4/87	
	42489	R414-311	EMR	01/19/2018	2018-4/90	
<u>emission controls</u>						
Environmental Quality, Air Quality	42538	R307-345	EXT	01/31/2018	2018-4/113	
	42655	R307-345	5YR	03/08/2018	Not Printed	
	42539	R307-346	EXT	01/31/2018	2018-4/114	
	42656	R307-346	5YR	03/08/2018	Not Printed	
	42541	R307-347	EXT	01/31/2018	2018-4/114	
	42657	R307-347	5YR	03/08/2018	Not Printed	
	42543	R307-348	EXT	01/31/2018	2018-4/114	
	42659	R307-348	5YR	03/08/2018	Not Printed	
	42540	R307-349	EXT	01/31/2018	2018-4/114	
	42660	R307-349	5YR	03/08/2018	Not Printed	
	42542	R307-350	EXT	01/31/2018	2018-4/114	
	42661	R307-350	5YR	03/08/2018	Not Printed	
	42545	R307-352	EXT	01/31/2018	2018-4/115	
	42663	R307-352	5YR	03/08/2018	Not Printed	
	42664	R307-353	5YR	03/08/2018	Not Printed	
<u>employees</u>						
Human Services, Administration	42417	R495-885	AMD	02/23/2018	2018-2/13	
<u>endowed universities</u>						
Education, Administration	42471	R277-490	5YR	01/12/2018	2018-3/70	
	42481	R277-490	AMD	03/14/2018	2018-3/13	
<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	2018-4/111	
	42641	R307-115	5YR	03/08/2018	Not Printed	
<u>essential health benefit insurance</u>						
Insurance, Administration	42319	R590-266-1	AMD	01/10/2018	2017-23/66	
<u>evidentiary</u>						
Pardons (Board of), Administration	42584	R671-517	5YR	02/13/2018	2018-5/154	
<u>excess emissions</u>						
Environmental Quality, Air Quality	42640	R307-107	5YR	03/08/2018	Not Printed	
<u>expungement</u>						
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	42259	R722-350	AMD	01/10/2018	2017-22/94	
<u>extended area service</u>						
Public Service Commission, Administration	42589	R746-347	5YR	02/14/2018	2018-5/158	
<u>eye exams</u>						
Health, Disease Control and Prevention, Health Promotion	42569	R384-201	EXT	02/08/2018	2018-5/161	

RULES INDEX

<u>fabric coating</u>						
Environmental Quality, Air Quality	42538	R307-345	EXT	01/31/2018	2018-4/113	
	42655	R307-345	5YR	03/08/2018	Not Printed	
<u>facility notice</u>						
Corrections, Administration	42637	R251-114	5YR	03/07/2018	Not Printed	
<u>fees</u>						
Labor Commission, Industrial Accidents	42563	R612-300	5YR	02/08/2018	2018-5/149	
<u>filing deadlines</u>						
Labor Commission, Industrial Accidents	42562	R612-200	5YR	02/08/2018	2018-5/149	
<u>film coating</u>						
Environmental Quality, Air Quality	42537	R307-344	EXT	01/31/2018	2018-4/113	
	42654	R307-344	5YR	03/08/2018	Not Printed	
<u>finance</u>						
Administrative Services, Finance	42571	R25-6	5YR	02/08/2018	2018-5/141	
	42573	R25-8	5YR	02/08/2018	2018-5/142	
<u>financial disclosures</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	42443	R414-304	5YR	01/08/2018	2018-3/85	
<u>fingerprinting</u>						
Human Services, Administration, Administrative Services, Licensing	42233	R501-14	AMD	02/23/2018	2017-21/130	
<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	
	42667	R307-356	5YR	03/08/2018	Not Printed	
<u>fish</u>						
Natural Resources, Wildlife Resources	42449	R657-58	5YR	01/09/2018	2018-3/91	
<u>fishing</u>						
Natural Resources, Wildlife Resources	42375	R657-12	NSC	02/13/2018	Not Printed	
	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	2018-4/114	
	42660	R307-349	5YR	03/08/2018	Not Printed	
<u>foil coating</u>						
Environmental Quality, Air Quality	42537	R307-344	EXT	01/31/2018	2018-4/113	
	42654	R307-344	5YR	03/08/2018	Not Printed	
<u>foods</u>						
Education, Administration	42620	R277-719	5YR	02/26/2018	2018-6/48	

<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>foster care</u>						
Human Services, Administration, Administrative Services, Licensing	42217	R501-12	AMD	02/23/2018	2017-21/120	
Human Services, Child and Family Services	42604	R512-309	5YR	02/15/2018	2018-5/147	
<u>funds</u>						
Education, Administration	42480	R277-415	NEW	03/14/2018	2018-3/11	
<u>furnaces</u>						
Environmental Quality, Air Quality	42430	R307-356	EXT	01/02/2018	2018-2/59	
	42667	R307-356	5YR	03/08/2018	Not Printed	
<u>game laws</u>						
Natural Resources, Wildlife Resources	42371	R657-5	AMD	02/07/2018	2018-1/19	
	42377	R657-19	AMD	02/07/2018	2018-1/35	
	42372	R657-67	AMD	02/07/2018	2018-1/44	
	42378	R657-70	REP	02/07/2018	2018-1/46	
	42373	R657-71	NEW	02/07/2018	2018-1/52	
<u>gas</u>						
Environmental Quality, Air Quality	42109	R307-504	AMD	03/05/2018	2017-19/70	
	42109	R307-504	CPR	03/05/2018	2018-3/56	
	42110	R307-505	NEW	01/26/2018	2017-19/71	
	42111	R307-506	NEW	03/05/2018	2017-19/73	
	42111	R307-506	CPR	03/05/2018	2018-3/58	
	42112	R307-507	NEW	03/05/2018	2017-19/75	
	42112	R307-507	CPR	03/05/2018	2018-3/60	
	42113	R307-508	NEW	03/05/2018	2017-19/77	
	42113	R307-508	CPR	03/05/2018	2018-3/62	
	42114	R307-509	NEW	03/05/2018	2017-19/79	
	42114	R307-509	CPR	03/05/2018	2018-3/63	
	42115	R307-510	NEW	03/05/2018	2017-19/81	
	42115	R307-510	CPR	03/05/2018	2018-3/65	
<u>general conformity</u>						
Environmental Quality, Air Quality	42548	R307-115	EXT	01/31/2018	2018-4/111	
	42641	R307-115	5YR	03/08/2018	Not Printed	
<u>good cause</u>						
Pardons (Board of), Administration	42581	R671-515	5YR	02/13/2018	2018-5/153	
<u>government documents</u>						
Attorney General, Administration	42367	R105-2	AMD	02/07/2018	2018-1/2	
<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>grades</u>						
Education, Administration	42484	R277-717	AMD	03/14/2018	2018-3/26	
<u>graduation requirements</u>						
Education, Administration	42482	R277-700	AMD	03/14/2018	2018-3/16	
	42394	R277-705	AMD	02/28/2018	2018-1/5	
<u>GRAMA</u>						
Attorney General, Administration	42367	R105-2	AMD	02/07/2018	2018-1/2	
<u>grants</u>						
Education, Administration	42471	R277-490	5YR	01/12/2018	2018-3/70	
	42481	R277-490	AMD	03/14/2018	2018-3/13	
Governor, Economic Development	42332	R357-16	AMD	01/17/2018	2017-23/25	
	42633	R357-16	NSC	03/14/2018	Not Printed	

RULES INDEX

grants and loans

Environmental Quality, Air Quality 42642 R307-123 5YR 03/08/2018 Not Printed

graphic arts

Environmental Quality, Air Quality 42544 R307-351 EXT 01/31/2018 2018-4/115
42662 R307-351 5YR 03/08/2018 Not Printed

greenhouse gases

Environmental Quality, Air Quality 42108 R307-401 AMD 03/05/2018 2017-19/58
42108 R307-401 CPR 03/05/2018 2018-3/49
42574 R307-401 NSC 03/05/2018 Not Printed

hazardous materials

Administrative Services, Administrative Rules 42674 R710-12 EXD 03/12/2018 Not Printed

hazardous waste

Environmental Quality, Waste Management and Radiation Control, Waste Management 42615 R315-15-5 NSC 03/14/2018 Not Printed

health care facilities

Health, Family Health and Preparedness, Licensing 42520 R432-1 5YR 01/29/2018 2018-4/98
42521 R432-2 5YR 01/29/2018 2018-4/98
42522 R432-3 5YR 01/29/2018 2018-4/99
42523 R432-4 5YR 01/29/2018 2018-4/99
42524 R432-5 5YR 01/29/2018 2018-4/100
42525 R432-6 5YR 01/29/2018 2018-4/100
42518 R432-16 5YR 01/29/2018 2018-4/101
42519 R432-35 5YR 01/29/2018 2018-4/101
42201 R432-150-8 AMD 01/11/2018 2017-21/108
42200 R432-270-19 AMD 01/11/2018 2017-21/109

hearings

Environmental Quality, Water Quality 42509 R317-9 5YR 01/24/2018 2018-4/95
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
42579 R671-513 5YR 02/13/2018 2018-5/152
42584 R671-517 5YR 02/13/2018 2018-5/154
42586 R671-519 5YR 02/13/2018 2018-5/155
42587 R671-520 5YR 02/13/2018 2018-5/156
42588 R671-522 5YR 02/13/2018 2018-5/156

high school credits

Education, Administration 42394 R277-705 AMD 02/28/2018 2018-1/5

HIV/AIDS

Health, Disease Control and Prevention; HIV/AIDS, Tuberculosis Control/Refugee Health 42328 R388-805 AMD 02/01/2018 2017-23/28

hospitals

Environmental Quality, Air Quality 42532 R307-222 EXT 01/31/2018 2018-4/112
42647 R307-222 5YR 03/08/2018 Not Printed

human services

Human Services, Administration 42417 R495-885 AMD 02/23/2018 2018-2/13
Human Services, Administration, Administrative Services, Licensing 42216 R501-1 AMD 02/23/2018 2017-21/111
42217 R501-12 AMD 02/23/2018 2017-21/120
42233 R501-14 AMD 02/23/2018 2017-21/130
42234 R501-18 AMD 02/07/2018 2017-21/136
Human Services, Services for People with Disabilities 42560 R539-1 NSC 03/01/2018 Not Printed

hunter education

Natural Resources, Wildlife Resources 42372 R657-67 AMD 02/07/2018 2018-1/44

import restrictions

Natural Resources, Wildlife Resources 42624 R657-3 5YR 02/27/2018 2018-6/49

<u>incidents</u>						
Pardons (Board of), Administration	42576	R671-509	5YR	02/13/2018	2018-5/151	
<u>incinerators</u>						
Environmental Quality, Air Quality	42553	R307-220	EXT	01/31/2018	2018-4/111	
	42645	R307-220	5YR	03/08/2018	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	2018-4/96	
<u>Industry Partnership Program (IPP)</u>						
Science Technology and Research Governing Authority, 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	2018-4/112	
	42647	R307-222	5YR	03/08/2018	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	2018-4/95	
	42531	R68-5	NSC	02/27/2018	Not Printed	
Agriculture and Food, Regulatory Services	42422	R70-940	R&R	02/22/2018	2018-2/6	
<u>instructional materials</u>						
Education, Administration	42322	R277-469	AMD	01/09/2018	2017-23/4	
<u>insurance</u>						
Insurance, Administration	42687	R590-154	5YR	03/14/2018	Not Printed	
Labor Commission, Industrial Accidents	42564	R612-400	5YR	02/08/2018	2018-5/150	
<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>insurance fees</u>						
Insurance, Administration	42395	R590-102	AMD	02/08/2018	2018-1/11	
<u>insurance law</u>						
Insurance, Administration	42686	R590-94	5YR	03/14/2018	Not Printed	
<u>interchanges</u>						
Transportation, Operations, Maintenance	42392	R918-6	AMD	02/07/2018	2018-1/53	
<u>intersections</u>						
Transportation, Operations, Maintenance	42392	R918-6	AMD	02/07/2018	2018-1/53	
<u>inventories</u>						
Environmental Quality, Air Quality	42107	R307-150	AMD	03/05/2018	2017-19/55	
	42107	R307-150	CPR	03/05/2018	2018-3/46	
<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	

RULES INDEX

<u>juvenile courts</u>						
Education, Administration	42619	R277-709	5YR	02/26/2018	2018-6/48	
<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>kinship</u>						
Human Services, Child and Family Services	42605	R512-500	5YR	02/15/2018	2018-5/147	
<u>Labor Commission</u>						
Labor Commission, Administration	42622	R600-1	5YR	02/26/2018	2018-6/49	
<u>landfills</u>						
Environmental Quality, Air Quality	42553	R307-220	EXT	01/31/2018	2018-4/111	
	42645	R307-220	5YR	03/08/2018	Not Printed	
<u>large appliance</u>						
Environmental Quality, Air Quality	42541	R307-347	EXT	01/31/2018	2018-4/114	
	42657	R307-347	5YR	03/08/2018	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	42623	R156-24b-102	NSC	03/14/2018	Not Printed	
	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	
Human Services, Administration, Administrative Services, Licensing	42216	R501-1	AMD	02/23/2018	2017-21/111	
	42217	R501-12	AMD	02/23/2018	2017-21/120	
	42233	R501-14	AMD	02/23/2018	2017-21/130	
	42234	R501-18	AMD	02/07/2018	2017-21/136	
<u>lifeline rates</u>						
Public Service Commission, Administration	42423	R746-341	REP	02/21/2018	2018-2/24	
<u>long-term care</u>						
Corrections, Administration	42637	R251-114	5YR	03/07/2018	Not Printed	
<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	2018-4/114	
	42659	R307-348	5YR	03/08/2018	Not Printed	
<u>maintenance</u>						
Transportation, Operations, Maintenance	42392	R918-6	AMD	02/07/2018	2018-1/53	
<u>market trading program</u>						
Environmental Quality, Air Quality	42535	R307-250	EXT	01/31/2018	2018-4/113	
	42650	R307-250	5YR	03/08/2018	Not Printed	
<u>Medicaid</u>						
Health, Health Care Financing	42517	R410-14	EMR	01/29/2018	2018-4/81	
Health, Health Care Financing, Coverage and Reimbursement Policy	42180	R414-3A	AMD	03/05/2018	2017-20/26	
	42180	R414-3A	CPR	03/05/2018	2018-2/42	

	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	2018-4/85
	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	2018-4/87
	42489	R414-311	EMR	01/19/2018	2018-4/90
	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	2018-4/112
	42647	R307-222	5YR	03/08/2018	Not Printed
<u>medical practitioners</u>					
Labor Commission, Industrial Accidents	42563	R612-300	5YR	02/08/2018	2018-5/149
<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
	42558	R525-3	NSC	03/01/2018	Not Printed
<u>mercury</u>					
Environmental Quality, Air Quality	42534	R307-224	EXT	01/31/2018	2018-4/112
	42649	R307-224	5YR	03/08/2018	Not Printed
<u>metal containers</u>					
Environmental Quality, Air Quality	42545	R307-352	EXT	01/31/2018	2018-4/115
	42663	R307-352	5YR	03/08/2018	Not Printed
<u>metal furniture</u>					
Environmental Quality, Air Quality	42539	R307-346	EXT	01/31/2018	2018-4/114
	42656	R307-346	5YR	03/08/2018	Not Printed
<u>migratory birds</u>					
Natural Resources, Wildlife Resources	42376	R657-9	AMD	02/07/2018	2018-1/33
<u>minerals reclamation</u>					
Natural Resources, Oil, Gas and Mining; Non-Coal	42500	R647-1	5YR	01/24/2018	2018-4/105
	42501	R647-2	5YR	01/24/2018	2018-4/105
	42502	R647-3	5YR	01/24/2018	2018-4/106
	42503	R647-4	5YR	01/24/2018	2018-4/106
	42504	R647-5	5YR	01/24/2018	2018-4/107
	42505	R647-6	5YR	01/24/2018	2018-4/108
	42506	R647-7	5YR	01/24/2018	2018-4/108
	42507	R647-8	5YR	01/24/2018	2018-4/109
<u>miscellaneous metal parts</u>					
Environmental Quality, Air Quality	42542	R307-350	EXT	01/31/2018	2018-4/114
	42661	R307-350	5YR	03/08/2018	Not Printed
<u>misleading names</u>					
Insurance, Administration	42687	R590-154	5YR	03/14/2018	Not Printed
<u>monitoring</u>					
Environmental Quality, Air Quality	42550	R307-170	EXT	01/31/2018	2018-4/111
	42643	R307-170	5YR	03/08/2018	Not Printed
<u>motor fuel</u>					
Agriculture and Food, Regulatory Services	42422	R70-940	R&R	02/22/2018	2018-2/6

RULES INDEX

<u>motor vehicles</u>						
Environmental Quality, Air Quality	42642	R307-123	5YR	03/08/2018	Not Printed	
<u>municipal landfills</u>						
Environmental Quality, Air Quality	42552	R307-221	EXT	01/31/2018	2018-4/112	
	42646	R307-221	5YR	03/08/2018	Not Printed	
<u>municipal waste incinerator</u>						
Environmental Quality, Air Quality	42533	R307-223	EXT	01/31/2018	2018-4/112	
	42648	R307-223	5YR	03/08/2018	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>nurse practitioners</u>						
Labor Commission, Industrial Accidents	42563	R612-300	5YR	02/08/2018	2018-5/149	
<u>nurses</u>						
Commerce, Occupational and Professional Licensing	42448	R156-31b	5YR	01/08/2018	2018-3/69	
<u>nutrition</u>						
Education, Administration	42620	R277-719	5YR	02/26/2018	2018-6/48	
<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>off-highway vehicles</u>						
Natural Resources, Parks and Recreation	42431	R651-406	AMD	02/21/2018	2018-2/16	
	42682	R651-407	5YR	03/13/2018	Not Printed	
<u>oil</u>						
Environmental Quality, Air Quality	42109	R307-504	AMD	03/05/2018	2017-19/70	
	42109	R307-504	CPR	03/05/2018	2018-3/56	
	42110	R307-505	NEW	01/26/2018	2017-19/71	
	42111	R307-506	NEW	03/05/2018	2017-19/73	
	42111	R307-506	CPR	03/05/2018	2018-3/58	
	42112	R307-507	NEW	03/05/2018	2017-19/75	
	42112	R307-507	CPR	03/05/2018	2018-3/60	
	42113	R307-508	NEW	03/05/2018	2017-19/77	
	42113	R307-508	CPR	03/05/2018	2018-3/62	
	42114	R307-509	NEW	03/05/2018	2017-19/79	
	42114	R307-509	CPR	03/05/2018	2018-3/63	
	42115	R307-510	NEW	03/05/2018	2017-19/81	
	42115	R307-510	CPR	03/05/2018	2018-3/65	
<u>oil and gas law</u>						
Natural Resources, Oil, Gas and Mining; Oil and Gas	42508	R649-6	5YR	01/24/2018	2018-4/109	
<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>out-of-home care</u>						
Human Services, Child and Family Services	42603	R512-305	5YR	02/15/2018	2018-5/146	
<u>outdoor recreation</u>						
Governor, Economic Development	42332	R357-16	AMD	01/17/2018	2017-23/25	
	42633	R357-16	NSC	03/14/2018	Not Printed	

<u>Outdoor Recreation Infrastructure Grant</u>					
Governor, Economic Development	42332	R357-16	AMD	01/17/2018	2017-23/25
	42633	R357-16	NSC	03/14/2018	Not Printed
<u>outdoor wood boilers</u>					
Environmental Quality, Air Quality	42644	R307-208	5YR	03/08/2018	Not Printed
<u>paper coating</u>					
Environmental Quality, Air Quality	42537	R307-344	EXT	01/31/2018	2018-4/113
	42654	R307-344	5YR	03/08/2018	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
	42576	R671-509	5YR	02/13/2018	2018-5/151
	42577	R671-510	5YR	02/13/2018	2018-5/151
	42578	R671-512	5YR	02/13/2018	2018-5/152
	42579	R671-513	5YR	02/13/2018	2018-5/152
	42580	R671-514	5YR	02/13/2018	2018-5/153
	42581	R671-515	5YR	02/13/2018	2018-5/153
	42583	R671-516	5YR	02/13/2018	2018-5/154
	42584	R671-517	5YR	02/13/2018	2018-5/154
	42585	R671-518	5YR	02/13/2018	2018-5/155
	42586	R671-519	5YR	02/13/2018	2018-5/155
	42587	R671-520	5YR	02/13/2018	2018-5/156
	42588	R671-522	5YR	02/13/2018	2018-5/156
<u>patient rights</u>					
Human Services, Substance Abuse and Mental Health, State Hospital	42473	R525-2	5YR	01/16/2018	2018-3/87
<u>per diem allowances</u>					
Administrative Services, Finance	42570	R25-5	5YR	02/08/2018	2018-5/141
	42572	R25-7	5YR	02/08/2018	2018-5/142
<u>permits</u>					
Environmental Quality, Air Quality	42108	R307-401	AMD	03/05/2018	2017-19/58
	42108	R307-401	CPR	03/05/2018	2018-3/49
	42574	R307-401	NSC	03/05/2018	Not Printed
Natural Resources, Wildlife Resources	42374	R657-62	AMD	02/07/2018	2018-1/41
<u>physical therapist</u>					
Commerce, Occupational and Professional Licensing	42623	R156-24b-102	NSC	03/14/2018	Not Printed
<u>physical therapist assistant</u>					
Commerce, Occupational and Professional Licensing	42623	R156-24b-102	NSC	03/14/2018	Not Printed
<u>physical therapy</u>					
Commerce, Occupational and Professional Licensing	42623	R156-24b-102	NSC	03/14/2018	Not Printed
<u>pilot lights</u>					
Environmental Quality, Air Quality	42430	R307-356	EXT	01/02/2018	2018-2/59
	42667	R307-356	5YR	03/08/2018	Not Printed
<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>plastic parts</u>					
Environmental Quality, Air Quality	42664	R307-353	5YR	03/08/2018	Not Printed

RULES INDEX

<u>pleas</u> Pardons (Board of), Administration	42580	R671-514	5YR	02/13/2018	2018-5/153
<u>PM2.5</u> Environmental Quality, Air Quality	42651	R307-303	5YR	03/08/2018	Not Printed
<u>POTW</u> Environmental Quality, Water Quality	42511	R317-14	5YR	01/24/2018	2018-4/96
<u>presumptive eligibility</u> Health, Health Care Financing, Coverage and Reimbursement Policy	42442	R414-303	5YR	01/08/2018	2018-3/84
<u>primers</u> Environmental Quality, Air Quality	42653	R307-342	5YR	03/08/2018	Not Printed
<u>principals</u> Education, Administration	42327	R277-920	AMD	01/09/2018	2017-23/19
<u>printing operations</u> Environmental Quality, Air Quality	42544 42662	R307-351 R307-351	EXT 5YR	01/31/2018 03/08/2018	2018-4/115 Not Printed
<u>prison release</u> Pardons (Board of), Administration	42227	R671-205	AMD	01/08/2018	2017-21/169
<u>probable cause</u> Pardons (Board of), Administration	42577	R671-510	5YR	02/13/2018	2018-5/151
<u>procedures</u> Judicial Performance Evaluation Commission, Administration	42262	R597-5	NEW	01/02/2018	2017-22/68
<u>proceedings</u> Pardons (Board of), Administration	42583	R671-516	5YR	02/13/2018	2018-5/154
<u>professional competency</u> Education, Administration	42325	R277-519	AMD	01/09/2018	2017-23/16
<u>professional education</u> Education, Administration	42618	R277-518	5YR	02/26/2018	2018-6/47
<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 42557	R525-6 R525-6	5YR NSC	01/16/2018 03/01/2018	2018-3/89 Not Printed
<u>prohibition</u> Environmental Quality, Air Quality	42644	R307-208	5YR	03/08/2018	Not Printed
<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 2018-4/87
<u>public records</u> Attorney General, Administration Natural Resources, Oil, Gas and Mining; Administration	42367 42495	R105-2 R642-200	AMD 5YR	02/07/2018 01/24/2018	2018-1/2 2018-4/102

<u>public schools</u>					
Education, Administration	42471	R277-490	5YR	01/12/2018	2018-3/70
	42481	R277-490	AMD	03/14/2018	2018-3/13
<u>public utilities</u>					
Public Service Commission, Administration	42590	R746-330	5YR	02/14/2018	2018-5/157
	42593	R746-332	5YR	02/14/2018	2018-5/157
	42589	R746-347	5YR	02/14/2018	2018-5/158
	42426	R746-360	REP	02/21/2018	2018-2/31
	42592	R746-402	5YR	02/14/2018	2018-5/158
	42591	R746-405	5YR	02/14/2018	2018-5/159
<u>rabies</u>					
Health, Disease Control and Prevention, Epidemiology	42285	R386-702	AMD	01/02/2018	2017-22/31
<u>rates</u>					
Administrative Services, Finance	42570	R25-5	5YR	02/08/2018	2018-5/141
	42573	R25-8	5YR	02/08/2018	2018-5/142
Labor Commission, Industrial Accidents	42564	R612-400	5YR	02/08/2018	2018-5/150
<u>reclamation</u>					
Natural Resources, Oil, Gas and Mining; Coal	42496	R645-101	5YR	01/24/2018	2018-4/103
	42497	R645-102	5YR	01/24/2018	2018-4/103
	42498	R645-104	5YR	01/24/2018	2018-4/104
	42499	R645-401	5YR	01/24/2018	2018-4/104
<u>records access</u>					
Attorney General, Administration	42367	R105-2	AMD	02/07/2018	2018-1/2
<u>recovery residence</u>					
Human Services, Administration, Administrative Services, Licensing	42234	R501-18	AMD	02/07/2018	2017-21/136
<u>reimbursements</u>					
Administrative Services, Finance	42571	R25-6	5YR	02/08/2018	2018-5/141
<u>released-time classes</u>					
Education, Administration	42621	R277-610	5YR	02/26/2018	2018-6/47
<u>relocation benefits</u>					
Administrative Services, Finance	42571	R25-6	5YR	02/08/2018	2018-5/141
<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>reports</u>					
Environmental Quality, Air Quality	42107	R307-150	AMD	03/05/2018	2017-19/55
	42107	R307-150	CPR	03/05/2018	2018-3/46
<u>resources</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	42444	R414-305	5YR	01/08/2018	2018-3/85
<u>revocations</u>					
Pardons (Board of), Administration	42583	R671-516	5YR	02/13/2018	2018-5/154
<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	42593	R746-332	5YR	02/14/2018	2018-5/157
	42423	R746-341	REP	02/21/2018	2018-2/24
	42592	R746-402	5YR	02/14/2018	2018-5/158

RULES INDEX

	42591	R746-405	5YR	02/14/2018	2018-5/159
	42331	R746-409-1	AMD	01/09/2018	2017-23/75
<u>Ryan White Part B Program</u>					
Health, Disease Control and Prevention; HIV/AIDS, Tuberculosis Control/Refugee Health	42328	R388-805	AMD	02/01/2018	2017-23/28
<u>safety</u>					
Public Service Commission, Administration	42331	R746-409-1	AMD	01/09/2018	2017-23/75
Regents (Board of), University of Utah, Administration	42617	R805-1	5YR	02/22/2018	2018-6/50
<u>safety regulations</u>					
Transportation, Motor Carrier	42336	R909-19	AMD	01/24/2018	2017-24/60
<u>salons</u>					
Health, Disease Control and Prevention, Environmental Services	42491	R392-700	5YR	01/19/2018	2018-4/97
<u>sanitation</u>					
Health, Disease Control and Prevention, Environmental Services	42491	R392-700	5YR	01/19/2018	2018-4/97
<u>school community councils</u>					
Education, Administration	42323	R277-491-4	AMD	01/09/2018	2017-23/9
<u>school improvements</u>					
Education, Administration	42327	R277-920	AMD	01/09/2018	2017-23/19
<u>school leaders</u>					
Education, Administration	42327	R277-920	AMD	01/09/2018	2017-23/19
<u>school nurses</u>					
Education, Administration	42480	R277-415	NEW	03/14/2018	2018-3/11
<u>school vision</u>					
Health, Disease Control and Prevention, Health Promotion	42569	R384-201	EXT	02/08/2018	2018-5/161
<u>schools</u>					
Education, Administration	42620	R277-719	5YR	02/26/2018	2018-6/48
Environmental Quality, Air Quality	42551	R307-801	EXT	01/31/2018	2018-4/115
	42669	R307-801	5YR	03/08/2018	Not Printed
<u>Science Technology Initiation Grant (STIG)</u>					
Science Technology and Research Governing Authority, Administration	42358	R856-4	R&R	01/23/2018	2017-24/41
<u>scooters</u>					
Regents (Board of), University of Utah, Administration	42617	R805-1	5YR	02/22/2018	2018-6/50
<u>screening</u>					
Health, Disease Control and Prevention, Laboratory Services	42282	R438-15	NEW	01/29/2018	2017-22/60
<u>screenings</u>					
Human Services, Administration	42417	R495-885	AMD	02/23/2018	2018-2/13
<u>sealants</u>					
Environmental Quality, Air Quality	42653	R307-342	5YR	03/08/2018	Not Printed
<u>secure areas</u>					
Human Services, Substance Abuse and Mental Health, State Hospital	42477	R525-6	5YR	01/16/2018	2018-3/89
	42557	R525-6	NSC	03/01/2018	Not Printed

<u>seniors</u>						
Human Services, Aging and Adult Services	42485	R510-105	5YR	01/17/2018	2018-4/102	
<u>sewerage</u>						
Public Service Commission, Administration	42590	R746-330	5YR	02/14/2018	2018-5/157	
<u>sexual assault kit analysis</u>						
Public Safety, Administration	42269	R698-11	NEW	01/10/2018	2017-22/82	
<u>sexual assault kits</u>						
Public Safety, Administration	42269	R698-11	NEW	01/10/2018	2017-22/82	
<u>skateboards</u>						
Regents (Board of), University of Utah, Administration	42617	R805-1	5YR	02/22/2018	2018-6/50	
<u>sober living</u>						
Human Services, Administration, Administrative Services, Licensing	42234	R501-18	AMD	02/07/2018	2017-21/136	
<u>social security numbers</u>						
Human Services, Services for People with Disabilities	42560	R539-1	NSC	03/01/2018	Not Printed	
<u>social services</u>						
Human Services, Child and Family Services	42597	R512-200	5YR	02/15/2018	2018-5/143	
	42598	R512-201	5YR	02/15/2018	2018-5/144	
	42599	R512-202	5YR	02/15/2018	2018-5/144	
	42600	R512-300	5YR	02/15/2018	2018-5/145	
	42601	R512-301	5YR	02/15/2018	2018-5/145	
	42603	R512-305	5YR	02/15/2018	2018-5/146	
<u>solid waste disposal</u>						
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	
<u>solid waste management</u>						
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>speech/hearing assistance</u>						
Public Service Commission, Administration	42425	R746-343	REP	02/21/2018	2018-2/28	

RULES INDEX

<u>speech/hearing challenges</u>						
Public Service Commission, Administration	42424	R746-8	NEW	02/21/2018	2018-2/18	
<u>sportsmen</u>						
Natural Resources, Wildlife Resources	42379	R657-41	AMD	02/07/2018	2018-1/38	
<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	
	42482	R277-700	AMD	03/14/2018	2018-3/16	
<u>state employees</u>						
Administrative Services, Finance	42570	R25-5	5YR	02/08/2018	2018-5/141	
	42572	R25-7	5YR	02/08/2018	2018-5/142	
	42573	R25-8	5YR	02/08/2018	2018-5/142	
<u>state hospital</u>						
Human Services, Substance Abuse and Mental Health, State Hospital	42477	R525-6	5YR	01/16/2018	2018-3/89	
	42557	R525-6	NSC	03/01/2018	Not Printed	
<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	2018-4/85	
<u>stoves</u>						
Environmental Quality, Air Quality	42430	R307-356	EXT	01/02/2018	2018-2/59	
	42667	R307-356	5YR	03/08/2018	Not Printed	
<u>structures</u>						
Transportation, Operations, Maintenance	42392	R918-6	AMD	02/07/2018	2018-1/53	
<u>student achievements</u>						
Education, Administration	42479	R277-404	AMD	03/14/2018	2018-3/5	
<u>students</u>						
Education, Administration	42326	R277-621	NEW	01/09/2018	2017-23/17	
	42619	R277-709	5YR	02/26/2018	2018-6/48	
	42484	R277-717	AMD	03/14/2018	2018-3/26	
<u>students at risk</u>						
Education, Administration	42483	R277-708	AMD	03/14/2018	2018-3/23	
<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	2018-4/113	
	42650	R307-250	5YR	03/08/2018	Not Printed	
<u>surcharges and disbursements</u>						
Public Service Commission, Administration	42424	R746-8	NEW	02/21/2018	2018-2/18	
<u>surface coating</u>						
Environmental Quality, Air Quality	42539	R307-346	EXT	01/31/2018	2018-4/114	
	42656	R307-346	5YR	03/08/2018	Not Printed	
	42541	R307-347	EXT	01/31/2018	2018-4/114	
	42657	R307-347	5YR	03/08/2018	Not Printed	
	42543	R307-348	EXT	01/31/2018	2018-4/114	
	42659	R307-348	5YR	03/08/2018	Not Printed	
<u>tanning beds</u>						
Health, Disease Control and Prevention, Environmental Services	42491	R392-700	5YR	01/19/2018	2018-4/97	

<u>Targeted Adult Medicaid</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	42489	R414-311	EMR	01/19/2018	2018-4/90
<u>tariffs</u>					
Public Service Commission, Administration	42591	R746-405	5YR	02/14/2018	2018-5/159
<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
<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>					
Public Service Commission, Administration	42423	R746-341	REP	02/21/2018	2018-2/24
	42425	R746-343	REP	02/21/2018	2018-2/28
	42589	R746-347	5YR	02/14/2018	2018-5/158
	42426	R746-360	REP	02/21/2018	2018-2/31
Technology Services, Administration	42528	R895-12	EXD	01/30/2018	2018-4/117
	42529	R895-12	EMR	01/30/2018	2018-4/92
<u>telephones</u>					
Public Service Commission, Administration	42423	R746-341	REP	02/21/2018	2018-2/24
<u>terminally ill</u>					
Corrections, Administration	42637	R251-114	5YR	03/07/2018	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	2018-4/85
<u>time</u>					
Labor Commission, Industrial Accidents	42562	R612-200	5YR	02/08/2018	2018-5/149
<u>timeliness</u>					
Pardons (Board of), Administration	42581	R671-515	5YR	02/13/2018	2018-5/153
<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>Transition to Adult Living</u>					
Human Services, Child and Family Services	42603	R512-305	5YR	02/15/2018	2018-5/146
<u>transportation</u>					
Administrative Services, Finance	42572	R25-7	5YR	02/08/2018	2018-5/142
Human Services, Aging and Adult Services	42485	R510-105	5YR	01/17/2018	2018-4/102
<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

RULES INDEX

<u>ultraviolet light safety</u> Health, Disease Control and Prevention, Environmental Services	42491	R392-700	5YR	01/19/2018	2018-4/97
<u>unavoidable breakdown</u> Environmental Quality, Air Quality	42640	R307-107	5YR	03/08/2018	Not Printed
<u>unfair marketing practices</u> Insurance, Administration	42687	R590-154	5YR	03/14/2018	Not Printed
<u>universal service fund</u> Public Service Commission, Administration	42426	R746-360	REP	02/21/2018	2018-2/31
<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>used oil</u> Environmental Quality, Waste Management and Radiation Control, Waste Management	42615	R315-15-5	NSC	03/14/2018	Not Printed
<u>Utah Data Research Center</u> Workforce Services, Administration	42421	R982-800	NEW	03/01/2018	2018-2/38
<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>Utah universal service fund</u> Public Service Commission, Administration	42424	R746-8	NEW	02/21/2018	2018-2/18
<u>utility regulations</u> Public Service Commission, Administration	42591	R746-405	5YR	02/14/2018	2018-5/159
<u>variances</u> Environmental Quality, Air Quality	42546	R307-102	EXT	01/31/2018	2018-4/111
	42639	R307-102	5YR	03/08/2018	Not Printed
<u>vending machines</u> Education, Administration	42620	R277-719	5YR	02/26/2018	2018-6/48
<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	2018-4/113
	42655	R307-345	5YR	03/08/2018	Not Printed
<u>vision evaluations</u> Health, Disease Control and Prevention, Health Promotion	42569	R384-201	EXT	02/08/2018	2018-5/161
<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	42651	R307-303	5YR	03/08/2018	Not Printed	
	42544	R307-351	EXT	01/31/2018	2018-4/115	
	42662	R307-351	5YR	03/08/2018	Not Printed	
	42547	R307-354	EXT	01/31/2018	2018-4/115	
	42665	R307-354	5YR	03/08/2018	Not Printed	
<u>VOC emission</u>						
Environmental Quality, Air Quality	42537	R307-344	EXT	01/31/2018	2018-4/113	
	42654	R307-344	5YR	03/08/2018	Not Printed	
<u>vocational rehabilitation counselor</u>						
Commerce, Occupational and Professional Licensing	42243	R156-78-502	AMD	01/02/2018	2017-22/28	
<u>waivers</u>						
Labor Commission, Industrial Accidents	42564	R612-400	5YR	02/08/2018	2018-5/150	
<u>warrants</u>						
Pardons (Board of), Administration	42577	R671-510	5YR	02/13/2018	2018-5/151	
	42578	R671-512	5YR	02/13/2018	2018-5/152	
	42579	R671-513	5YR	02/13/2018	2018-5/152	
<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	2018-4/96	
<u>waste to energy plant</u>						
Environmental Quality, Air Quality	42533	R307-223	EXT	01/31/2018	2018-4/112	
	42648	R307-223	5YR	03/08/2018	Not Printed	
<u>wastewater</u>						
Environmental Quality, Water Quality	42511	R317-14	5YR	01/24/2018	2018-4/96	
<u>wastewater treatment</u>						
Environmental Quality, Water Quality	42274	R317-10-10	AMD	01/24/2018	2017-22/29	
<u>water</u>						
Public Service Commission, Administration	42590	R746-330	5YR	02/14/2018	2018-5/157	
	42593	R746-332	5YR	02/14/2018	2018-5/157	
<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	2018-4/96	
<u>water quality</u>						
Public Service Commission, Administration	42590	R746-330	5YR	02/14/2018	2018-5/157	
<u>waterfowl</u>						
Natural Resources, Wildlife Resources	42376	R657-9	AMD	02/07/2018	2018-1/33	

RULES INDEX

weapons

Human Services, Substance Abuse and Mental Health, State Hospital	42477	R525-6	5YR	01/16/2018	2018-3/89
	42557	R525-6	NSC	03/01/2018	Not Printed

wildlife

Natural Resources, Wildlife Resources	42624	R657-3	5YR	02/27/2018	2018-6/49
	42371	R657-5	AMD	02/07/2018	2018-1/19
	42376	R657-9	AMD	02/07/2018	2018-1/33
	42375	R657-12	NSC	02/13/2018	Not Printed
	42377	R657-19	AMD	02/07/2018	2018-1/35
	42379	R657-41	AMD	02/07/2018	2018-1/38
	42449	R657-58	5YR	01/09/2018	2018-3/91
	42374	R657-62	AMD	02/07/2018	2018-1/41
	42372	R657-67	AMD	02/07/2018	2018-1/44
	42378	R657-70	REP	02/07/2018	2018-1/46
	42373	R657-71	NEW	02/07/2018	2018-1/52

wildlife law

Natural Resources, Wildlife Resources	42375	R657-12	NSC	02/13/2018	Not Printed
	42449	R657-58	5YR	01/09/2018	2018-3/91

wildlife permits

Natural Resources, Wildlife Resources	42379	R657-41	AMD	02/07/2018	2018-1/38
---------------------------------------	-------	---------	-----	------------	-----------

workers' compensation

Labor Commission, Industrial Accidents	42561	R612-100	5YR	02/08/2018	2018-5/148
	42562	R612-200	5YR	02/08/2018	2018-5/149
	42563	R612-300	5YR	02/08/2018	2018-5/149
	42564	R612-400	5YR	02/08/2018	2018-5/150

zoning

Administrative Services, Facilities Construction and Management	42348	R23-9	AMD	01/23/2018	2017-24/9
---	-------	-------	-----	------------	-----------

zoological animals

Natural Resources, Wildlife Resources	42624	R657-3	5YR	02/27/2018	2018-6/49
---------------------------------------	-------	--------	-----	------------	-----------