

UTAH STATE BULLETIN

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Nancy L. Lancaster, Managing Editor

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

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

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

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

Office of Administrative Rules, Salt Lake City 84114

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SPECIAL NOTICES

Environmental Quality Air Quality

UPA's Major Stationary Source Precursor Demonstration for NO_x, SO_x, VOC, and NH₃ in the Salt Lake City 24-hour PM_{2.5} Serious Nonattainment Area

On 09/05/ 2018, the Utah Air Quality Board (UAQB) heard a prepared statement presented by the Utah Petroleum Association (UPA) on comments submitted during the Utah SIP, Section IX, Part H comment period. As part of that comment period, UPA submitted a precursor demonstration modeling report titled *Major Stationary Source Precursor Demonstration for NO_x, SO_x, VOC, and NH₃ in the Salt Lake City 24-hour PM_{2.5} Serious Nonattainment Area*. The report can be reviewed here: <https://deq.utah.gov/air-quality/air-quality-rule-plan-changes-open-public-comment>

An approved Stationary Source Precursor demonstration by the EPA Administrator results in elimination of the requirement to impose additional Best Available Control Technology controls for point source precursors as contained in the Utah SIP, Section IX, Part H, Emission Limits and Operating Practices.

Precursor demonstrations to exclude precursors that do not significantly contribute to the formation of secondary PM_{2.5} in the particular airshed are typically prepared and submitted by air quality agencies. The analysis currently being presented for public comment was prepared by the Utah Petroleum Association, not the Utah Division of Air Quality (UDAQ). UDAQ feels it is prudent to perform our own analysis in consultation with its EPA partners instead of accepting the conclusions proffered by the commenter. UDAQ can then determine if controlling precursor emissions from major stationary sources is appropriate in the SLC NAA.

UDAQ has identified several concerns regarding the Major Stationary Source Precursor Demonstration submitted as public comment by UPA:

Ambient PM_{2.5} in the SLC NAA airshed is largely composed of secondary PM_{2.5} formed by precursors, not primary PM_{2.5}. In addition, as shown in the SLC NAA SIP, empirical evidence points to the success in declining concentrations of ambient PM_{2.5} from controlling precursor emissions.

UPA's precursor demonstration analysis was based on EPA's draft guidance, which identifies a threshold of 1.5 microgram/m³. Considering Utah has previously implemented emissions controls that resulted in large reductions, Utah continues to look at controls that may only produce marginal benefits. Therefore, the threshold established in the draft guidance may not be appropriate in the SLC NAA, particularly when looking at the precursors cumulatively.

Included in the SIP is a weight of evidence discussion that illustrates potential shortcomings in the model that affect its sensitivity to simulated reductions in precursor emissions. Considering this, UPA's analysis with the same model may have perpetuated these same shortcomings.

The UAQB proposed the Ramboll precursor demonstration for a 30-day public comment period. The public comment period closes at 5:00 PM on October 30, 2018. Comments postmarked on or before that date will be accepted. Comments may be submitted by email to thomasgunter@utah.gov or by mail to:

Bryce C. Bird

ATTN: UPA Precursor Demonstration

Utah Division of Air Quality

PO Box 144820

Salt Lake City, UT 84114-4820

UPA's comments can be found here: <https://deq.utah.gov/air-quality/public-comments-regarding-revisions-to-section-ix-control-measures-for-area-and-point-sources-part-h-emission-limits>

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 September 01, 2018, 12:00 a.m., and September 14, 2018, 11:59 p.m. are included in this, the October 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 October 31, 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 January 29, 2019, the agency may notify the Office of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE OF A CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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

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

The Proposed Rules Begin on the Following Page

Commerce, Occupational and
Professional Licensing

R156-1

General Rule of the Division of
Occupational and Professional
Licensing

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43188

FILED: 09/13/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Telehealth Act (Title 26, Chapter 60) enacted by H.B. 154, passed in the 2017 General Session, established the scope of telehealth practice and described the responsibilities of a provider offering telehealth services. Section 26-60-104 of the Telehealth Act authorizes the Division of Occupational and Professional Licensing (Division) to enforce the Act's provisions as they relate to providers licensed under Title 58, Occupations and Professions. In collaboration with the Physicians Licensing Board, the Division proposes these amendments to clarify the standards required from a provider offering telehealth services under Title 58.

SUMMARY OF THE RULE OR CHANGE: Section R156-1-601 is a new section which: 1) incorporates certain definitions regarding telehealth from the Telehealth Act; 2) defines "patient encounter"; and 3) defines "provider" to include, in addition to an individual licensed under Title 58 to provide health care: a) an individual providing health care services under Title 58 but exempted from licensure pursuant to Subsection 58-1-307, and b) multiple providers providing care as a team consistent with standards of practice in traditional health care settings. Section R156-1-602 is a new section which clarifies the scope of practice for telehealth services pursuant to Section 26-60-103 and Subsection 26-60-104(1). Subsection R156-1-602(1) emphasizes that this section does not alter or amend the standard of practice for any healthcare field or profession. Subsection R156-1-602(2) (a) requires a provider to verify the patient's identity and originating site, and Subsection R156-1-602(2)(b) details how a provider shall obtain informed consent to the use of telehealth services. Subsection R156-1-602(2)(c) requires that the telehealth patient be allowed to select their provider to the extent possible, and Subsection R156-1-602(2)(d) requires the provider to ensure that the online site from which the provider offers telehealth services does not restrict the patient's choice to select a specific pharmacy. Subsection R156-1-602(3) clarifies that it is not an acceptable standard of care for a provider offering telehealth services to establish a diagnosis and identify underlying conditions and

contraindications to a recommended treatment based solely on an online questionnaire, except as specifically provided in Title 58, Chapter 83, the Online Prescribing, Dispensing, and Facilitation Licensing Act. Subsection R156-1-602(4) clarifies and establishes how a provider offering telehealth services may carry out the mandate of Subsection 26-60-103(c) of the Telehealth Act to "be available" to the patient "for subsequent care related to the initial telemedicine services". Subsection R156-1-602(5) restates for clarity the mandate of Subsection 26-30-103(1)(d) that the provider must be familiar with available medical resources, including emergency resources near the originating site. Subsection R156-1-602(6) clarifies that if an established provider-patient relationship is not present, the provider shall establish a provider-patient relationship during the patient encounter in a manner consistent with standards of practice. Subsection R156-1-602(7) clarifies that nothing in this section prohibits electronic communications consistent with standards of practice in traditional health care settings, and identifies certain of these existing practices such as in on-call or cross-coverage situations or in an emergency.

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

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** These proposed sections will clarify the standards for health care providers offering telehealth care under Title 58, Occupations and Professions, and will therefore indirectly affect those who employ such health care providers to provide telehealth services. This will include certain state government entities acting as businesses. However, because these proposed amendments only clarify the mandates of the Telehealth Act (Title 26, Chapter 60) as enacted by H.B. 154 (2017), the Division estimates that these proposed amendments will have no impact on state agencies over and above that already included in the fiscal note for H.B. 154 (2017), available online at: <https://le.utah.gov/~2017/bills/static/HB0154.html>. No other fiscal impact to the state is expected, beyond a minimal cost to the Division of approximately \$75 to print and distribute this rule once these proposed amendments are made effective.

◆ **LOCAL GOVERNMENTS:** These proposed sections will clarify the standards for health care providers offering telehealth care under Title 58, Occupations and Professions, and will therefore indirectly affect those who employ such health care providers to provide telehealth services. This will include certain local government entities acting as businesses. However, because these proposed amendments only clarify the mandates of the Telehealth Act (Title 26, Chapter 60) as enacted by H.B. 154 (2017), the Division estimates that these proposed amendments will have no impact on local governments over and above that already included in the fiscal note for H.B. 154 (2017), available online at: <https://le.utah.gov/~2017/bills/static/HB0154.html>.

◆ **SMALL BUSINESSES:** These proposed sections will clarify the standards for health care providers offering telehealth

care under Title 58, Occupations and Professions. Accordingly, these proposed sections will affect any Utah small businesses that employ health care providers to provide telehealth services. The Division estimates that there are approximately 9,421 small business employers in the health care industry in Utah who could potentially be affected. Broadly, these small businesses could include most small businesses categorized under NAICS 62; for a complete listing of NAICS Codes used in this analysis, please contact the Division. However, because these proposed amendments only clarify the mandates of the Telehealth Act (Title 26, Chapter 60), as enacted by H.B. 154 (2017), the Division estimates that these proposed amendments will have no impact on small businesses over and above that already included in the fiscal note for H.B. 154 (2017), available online at: <https://le.utah.gov/~2017/bills/static/HB0154.html>.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These proposed sections will affect health care providers offering telehealth care under Title 58, Occupations and Professions. However, because these proposed amendments only clarify the mandates of the Telehealth Act (Title 26, Chapter 60), as enacted by H.B. 154 (2017), the Division estimates that these proposed amendments will have no impact on other persons over and above that already included in the fiscal note for H.B. 154 (2017), available online at: <https://le.utah.gov/~2017/bills/static/HB0154.html>.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These proposed sections will affect a health care provider who offers telehealth care under Title 58, Occupations and Professions. However, because these proposed amendments only clarify the mandates of the Telehealth Act (Title 26, Chapter 60), as enacted by H.B. 154 (2017), the Division estimates that these proposed amendments will have no compliance cost on any affected persons over and above that already included in the fiscal note for H.B. 154 (2017), available online at: <https://le.utah.gov/~2017/bills/static/HB0154.html>.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Section R156-1-601 is a new section which: 1) incorporates certain definitions regarding telehealth from the Telehealth Act; 2) defines "patient encounter"; and 3) defines "provider". Section R156-1-602 is a new section which clarifies the scope of practice for telehealth services pursuant to Section 26-60-103 and Subsection 26-60-104(1). These proposed sections will clarify the standards for health care providers offering telehealth care under Title 58, Occupations and Professions. Accordingly, these proposed sections will affect any Utah small businesses that employ health care providers to provide telehealth services. The Division estimates that there are approximately 9,421 small business employers in the health care industry in Utah who could potentially be affected. Broadly, these small businesses could include most small businesses categorized under NAICS 62. Because these proposed sections only clarify the mandates of the Telehealth Act (Title 26, Chapter 60), as enacted by H.B. 154 (2017), the Division estimates that these proposed sections

will have no impact on small businesses over and above that already included in the fiscal note for H.B. 154 (2017), available online at: <https://le.utah.gov/~2017/bills/static/HB0154.html>.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Larry Marx by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at lmarg@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/31/2018

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
 ◆ 10/15/2018 09:30 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2018

AUTHORIZED BY: Mark Steinagel, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
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 (50 or more employees)

These proposed sections will clarify the standards for health care providers offering telehealth care under Title 58, Occupations and Professions. Accordingly, these proposed sections will affect any Utah non-small businesses that employ health care providers to provide telehealth services. The Division estimates that there are approximately 488 non-small business employers in the health care industry in Utah who could potentially be affected. Broadly, these non-small businesses could include most non-small businesses categorized under NAICS 62; for a complete listing of NAICS Codes used in this analysis, please contact the Division. However, because these proposed amendments only clarify the mandates of the Telehealth Act (Title 26, Chapter 60), as enacted by H.B. 154 (2017), the Division estimates that these proposed amendments will have no impact on non-small business over and above that already included in the fiscal note for H.B. 154 (2017), available online at: <https://le.utah.gov/~2017/bills/static/HB0154.html>.

The head of the Department of Commerce, Francine A. Giani, has reviewed and approved this fiscal analysis.

R156. Commerce, Occupational and Professional Licensing.
R156-1. General Rule of the Division of Occupational and Professional Licensing.
R156-1-601. Telehealth - Definitions.

In accordance with Section 26-60-103 and Subsection 26-60-104(1), in addition to the definitions in Title 58 and Rule R156, as used in this section:

- (1) "Asynchronous store and forward transfer" means the same as defined in Subsection 26-60-102(1).
- (2) "Standards of Practice" means those standards of practice applicable in a traditional health care setting, as provided in Subsection 26-60-103(1)(a)(ii).
- (3) "Distant site" means the same as defined in Subsection 26-60-102(2).
- (4) "Originating site" means the same as defined in Subsection 26-60-102(3).
- (5) "Patient" means the same as defined in Subsection 26-60-102(4).
- (6) "Patient Encounter" means any encounter where medical treatment and/or evaluation and management services are provided. For purposes of this rule, the entire course of an inpatient stay in a healthcare facility or treatment in an emergency department is considered a single patient encounter.
- (7) "Provider" means the same as defined in Subsection 26-60-102(5)(b), an individual licensed under Title 58 to provide health care services, and:

(a) shall include an individual exempt from licensure as defined in Section 58-1-307 who provides health care services within the individual's scope of practice under Title 58; and

(b) for purposes of this section, "provider" may include multiple providers obtaining informed consent and providing care as a team, consistent with the standards of practice applicable to a broader practice model found in traditional health care settings.

(8) "Synchronous interaction" means the same as defined in Subsection 26-60-102(6).

(9) "Telehealth services" means the same as defined in Subsection 26-60-102(7).

(10) "Telemedicine services" means the same as defined in Subsection 26-60-102(8).

R156-1-602. Telehealth - Scope of Telehealth Practice.

(1) This rule is not intended to alter or amend the applicable standard of practice for any healthcare field or profession. The provider shall be held to the same standards of practice including maintaining patient confidentiality and recordkeeping that would apply to the provision of the same health care services in an in-person setting.

(2) In accordance with Section 26-60-103 and Subsection 26-60-104(1), a provider offering telehealth services shall, prior to each patient encounter:

- (a) verify the patient's identity and originating site;
- (b) obtain informed consent to the use of telehealth services by clear disclosure of:
 - (i) additional fees for telehealth services, if any, and how payment is to be made for those additional fees if they are charged separately from any fees for face-to-face services provided to the patient in combination with the telehealth services;
 - (ii) to whom patient health information may be disclosed and for what purpose, including clear reference to any patient consent governing release of patient-identifiable information to a third-party;
 - (iii) the rights of patients with respect to patient health information;
 - (iv) appropriate uses and limitations of the site, including emergency health situations;
 - (v) information:
 - (A) affirming that the telehealth services meet industry security and privacy standards, and comply with all laws referenced in Subsection 26-60-102(8)(b)(ii);
 - (B) warning of potential risks to privacy notwithstanding the security measures;
 - (C) warning that information may be lost due to technical failures, and clearly referencing any patient consent to hold the provider harmless for such loss; and
 - (D) disclosing the website owner/operator, location, and contact information; and
 - (c) allow the patient an opportunity to select their provider rather than being assigned a provider at random, to the extent possible;
 - (d) ensure that the online site from which the provider offers telehealth services does not restrict a patient's choice to select a specific pharmacy for pharmacy services.

(3) In accordance with Subsection 26-60-103(1)(b), it is not an acceptable standard of care for a provider offering telehealth services to establish a diagnosis and identify underlying conditions and contraindications to a recommended treatment based solely on an online questionnaire, except as specifically provided in Title 58, Chapter 83, the Online Prescribing, Dispensing and Facilitation Licensing Act.

(4) In accordance with Subsection 26-60-103(1)(c), a provider offering telehealth services shall be available to the patient for subsequent care related to the initial telemedicine services, by:

(a) providing the patient with a clear mechanism to:

(i) access, supplement, and amend patient-provided personal health information;

(ii) contact the provider for subsequent care;

(iii) obtain upon request an electronic or hard copy of the patient's medical record documenting the telemedicine services, including the informed consent provided; and

(iv) request a transfer to another provider of the patient's medical record documenting the telemedicine services;

(b) if the provider recommends that the patient needs to be seen in person, such as where diagnosis requires a physical examination, lab work, or imaging studies:

(i) arranging to see the patient in person, or directing the patient to the patient's regular provider, or if none, to an appropriate provider; and

(ii) documenting the recommendation in the patient's medical record; and

(c) upon patient request, electronically transferring to another provider the patient's medical record documenting the telemedicine services, within a reasonable time frame allowing for timely care of the patient by that provider.

(5) In accordance with Subsection 26-60-103(1)(d), a provider offering telehealth services shall be familiar with available medical resources, including emergency resources near the originating site.

(6) In settings and circumstances where an established provider-patient relationship is not present, a provider offering telehealth services shall establish a provider-patient relationship during the patient encounter, in a manner consistent with standards of practice including providing the provider's licensure and credentials.

(7) Nothing in this section shall prohibit electronic communications consistent with standards of practice applicable in traditional health care settings, including those:

(a) between a provider and a patient with a preexisting provider-patient relationship;

(b) between a provider and another provider concerning a patient with whom the other provider has a provider-patient relationship;

(c) in on-call or cross coverage situations in which the provider has access to patient records;

(d) in broader practice models where multiple providers provide care as a team, including, for example:

(i) within an existing organization; or

(ii) within an emergency department; or

(e) in an emergency, which as used in this section means a situation in which there is an occurrence posing an imminent threat of a life-threatening condition or severe bodily harm.

KEY: diversion programs, licensing, supervision, evidentiary restrictions

Date of Enactment or Last Substantive Amendment: [April 9,] 2018

Notice of Continuation: December 6, 2016

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

Commerce, Occupational and Professional Licensing

R156-28

Veterinary Practice Act Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43189

FILED: 09/13/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Based on recommendations by the Veterinary Licensing Board, these proposed amendments provide necessary definitions, and clarify how unlicensed assistive personnel can work and be supervised by licensed veterinarians. Additionally, these proposed amendments update and clarify the requirements to sit for and retake the North American Veterinarian Licensing Examination (NAVLE), to conform these requirements to the Division of Occupational and Professional Licensing's (Division) contract with the International Council of Licensed Veterinarians, the owner of the NAVLE.

SUMMARY OF THE RULE OR CHANGE: In Section R156-28-102, the amendments define what "working under" means with regards to unlicensed assistive personnel. In Section R156-28-302b, the amendments are clerical and grammatical in nature. In Section R156-28-302c, the amendments clarify the examination requirements when initially sitting for the NAVLE and when retaking the NAVLE as needed. In Section R156-28-304, the amendments are clerical and grammatical in nature. In Section R156-28-502, the amendments are clerical and grammatical in nature, and update the existing reference to the Principles of Veterinary Medical Ethics to the latest April 2016 edition.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-28-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

MATERIALS INCORPORATED BY REFERENCE:

- ◆ Updates Principles of Veterinary Medical Ethics, published by American Veterinarian Medical Association, April 2016

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The Division estimates that there will be no impact on the state budget from any of these amendments, because these amendments only conform the rule to existing practice. The Division will incur minimal costs of approximately \$75 to disseminate this rule once the proposed amendments are made effective.
- ◆ **LOCAL GOVERNMENTS:** The Division estimates that there will be no impact on local governments from any of these amendments, because these amendments only conform this rule to existing practice.
- ◆ **SMALL BUSINESSES:** The Section R156-28-102 amendments that define "working under" will affect licensed veterinarians and the individuals working under them, which may indirectly affect the 223 small businesses in Utah comprising establishments of licensed veterinarians engaged in the practice of veterinary medicine or in providing testing services for licensed veterinary practitioners (NAICS 541940). However, the Division estimates that there will be no fiscal cost or benefit to small business from these amendments, because these amendments only conform this rule to existing practice.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Section R156-28-102 amendments that define "working under" will affect licensed veterinarians and the individuals working under them, and the Section R156-28-302c amendments that update and clarify examination requirements will affect individuals applying for licensure as a veterinarian. However, the Division estimates that there will be no impact on these other persons from these amendments, because these amendments only conform this rule to existing practice.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Section R156-28-102 amendments that define "working under" will affect a licensed veterinarian and an individual working under a licensed veterinarian. The Section R156-28-302c amendments that update and clarify examination requirements will affect an individual applying for licensure as a veterinarian. However, the Division estimates that there will be no compliance costs for these affected persons from these amendments, because these amendments only conform this rule to existing practice.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments to Section R156-28-102 define what "working under" means with regards to unlicensed assistive personnel. The amendments to Section R156-28-302c clarify the examination requirements when initially sitting for the North American Veterinarian Licensing Examination (NAVLE), and when retaking the NAVLE as needed. The amendments to Section R156-28-302b and to Section R156-28-304 are clerical and grammatical in nature and have no fiscal impact. The amendments to Section R156-28-502 are clerical and grammatical in nature, and update the existing reference to the Principles of Veterinary Medical Ethics to the latest April 2016 edition, and have no fiscal impact. The Section R156-

28-102 amendments that define "working under" will affect licensed veterinarians and the individuals working under them, which may indirectly affect the 223 small businesses in Utah comprising establishments of licensed veterinarians engaged in the practice of veterinary medicine or in providing testing services for licensed veterinary practitioners (NAICS 541940). Similarly, the definition of "working under" may indirectly affect the four non-small businesses in Utah comprising establishments of licensed veterinarians engaged in the practice of veterinary medicine or in providing testing services for licensed veterinary practitioners (NAICS 541940). However, the Division estimates that there will be no fiscal cost or benefit to small businesses or non-small businesses from these amendments, because the amendments only conform this rule to existing practice.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Jana Johansen by phone at 801-530-6621, by FAX at 801-530-6511, or by Internet E-mail at janajohansen@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/31/2018

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

- ◆ 10/15/2018 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2018

AUTHORIZED BY: Mark Steinagel, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
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 (50 or more employees)

The Section R156-28-102 amendments that define "working under" will affect licensed veterinarians and the individuals working under them, which may indirectly affect the four non-small businesses in Utah comprising establishments of licensed veterinarians engaged in the practice of veterinary medicine or in providing testing services for licensed veterinary practitioners (NAICS 541940). However, the Division estimates that there will be no fiscal cost or benefit to non-small business from these amendments, because the amendments only conform the rule to existing practice.

The head of the Department of Commerce, Francine A. Giani, has reviewed and approved this fiscal analysis.

**R156. Commerce, Occupational and Professional Licensing.
R156-28. Veterinary Practice Act Rule.
R156-28-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 28, as used in Title 58, Chapters 1 and 28 or this rule:

- (1) "In association with licensed veterinarians", as used in Subsection 58-28-307(6), means the out of state licensed veterinarian is performing veterinarian services in this state as the result of a request for assistance or consultation initiated by a Utah licensed veterinarian regarding a specific client or patient and the services provided by the out of state licensed veterinarian are limited to that specific request.
- (2) "NBEC" means the National Board Examination Committee of the American Veterinary Medical Association.
- (3) "Patient" means any animal receiving veterinarian services.
- (4) "Practice of veterinary medicine, surgery, and dentistry" as defined in Subsection 58-28-102(11) does not include the implantation of any electronic device for the purpose of establishing or maintaining positive identification of animals.
- (5) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 28, is further defined in accordance with Subsection 58-1-203(1)(e) in Section R156-28-502.

(6) "Working under" as used in Subsection 58-28-102(13), means an individual:

- (a) who performs services in Utah as unlicensed assistive personnel while employed by a licensed veterinarian;
- (b) whose manner and means of work performance are subject to the right of control of, or are controlled by, a licensed veterinarian;
- (c) whose compensation for federal income tax purposes is reported, or is required to be reported, on a W-2 form; and
- (d) who is entitled to workers compensation and unemployment insurance provided by the individual's employer under state or federal law.

R156-28-302b. Qualifications for Licensure - Experience Requirements.

In accordance with Subsections 58-1-203(1) and 58-1-301(3), the experience requirements for licensure in Subsection 58-28-302 are defined, clarified, or established as follows.

- (1) Each applicant for licensure as a veterinarian shall:
 - (a) complete 1000 hours of experience while licensed as a veterinarian intern under the supervision of a licensed veterinarian in accordance with the following.
 - (i) Experience shall be earned in not less than six months and completed within two years of the date of the application.
 - (ii) Experience in the following settings is not acceptable to fulfill this experience requirement:
 - (A) temporary employment experiences of less than eight weeks in duration;~~[-or]~~
 - (B) part time experience of less than 20 hours per week~~[-]; or~~
 - ~~(C) [E]xperience completed while employed as unlicensed assistive personnel[-is not acceptable to fulfill this experience requirement].~~
 - ~~(iii) If the experience is completed in a jurisdiction outside of Utah which does not issue [licensure as a]veterinarian₂ [or as a]veterinarian intern₂ or comparable licenses₂ or else was completed in a setting which does not require licensure, the applicant shall demonstrate that the experience was:

 - (A) lawfully obtained;
 - (B) obtained after the applicant met the education requirement specified in Section R156-28-302a;
 - (C) supervised by a competent supervisor who was licensed as a veterinarian₂ or who was exempted from licensure~~[-; except if the supervisor was exempted from licensure, the applicant must demonstrate the]~~ but possessed substantially equivalent qualifications~~[-and competence of the supervisor];~~ and
 - (D) comparable to experience that would be obtained in a standard veterinarian practice setting in Utah.~~
 - (iv) Supervision of the intern by the licensed veterinarian may be obtained by "indirect supervision" as defined in Section 58-28-102 provided that the supervisor supplements the indirect supervision with routine face to face contact as the licensed veterinarian deems appropriate using professional judgment.
 - (v~~[i]~~) Each applicant shall demonstrate completion of the experience required by submitting a verification of experience signed by the applicant and the applicant's supervising veterinarian on forms approved by the Division.
 - (vi~~[i]~~) ~~[In the event the]~~If a supervisor is unavailable or refuses to provide a certification of qualifying experience, the

applicant shall submit a complete explanation of why the supervisor is unavailable and submit verification of the experience by alternative means acceptable to the board, which shall demonstrate that the work was profession-related work, competently performed, and sufficient accumulated experience for the applicant to be granted a license without jeopardy to the public health, safety or welfare.

(b) In accordance with Subsections 58-37-6(1)(a), 58-37-6(5)(b)(i) and R156-37-305(1), a veterinary intern is not eligible to obtain a controlled substance license during the internship.

R156-28-302c. Qualifications for Licensure - Examination Requirements.

In accordance with Subsections 58-1-203(1) and 58-1-301(3), the examination requirements for licensure in Subsection 58-28-302(1)(b) are defined, clarified, or established as follows:

(1) Applicants who passed ~~the~~ examinations ~~listed in this subsection~~ prior to May 1, 2000 shall submit documentation showing they passed:

(a) the National Board Examination (NBE) of the National Board Examination Committee (NBEC) of the American Veterinary Medical Association (AVMA) with a minimum passing score as determined by the NBEC; and

(b) the Clinical Competency Test (CCT) of the NBEC with a minimum passing score as determined by the NBEC.

(2) Applicants who ~~did not pass the~~ passed examinations ~~listed in Subsection (1) prior to~~ after May 1, 2000, shall submit documentation showing they passed the North American Veterinarian Licensing Examination (NAVLE) with a score as determined by the NBEC.

(3) To be eligible to sit for the NAVLE ~~examination~~, an applicant shall submit the following to the International Council for Veterinary Assessment (ICVA), in the manner directed by the ICVA:

(a) an application for approval to sit for the NAVLE ~~examination~~;

(b) the application fee; and

(c) documentation showing the applicant: ~~has met the education requirement specified in Section R156-28-302a or will complete the education requirement at the end of the semester or quarter in which the applicant is currently enrolled. If the applicant is enrolled in the final semester or quarter before obtaining the degree, documentation of the applicant's student status shall be provided by a letter from the dean or registrar of the educational institution confirming the applicant is a student in good standing and will graduate with the next graduating class.~~

(i) has graduated from, or is enrolled in, a school or college of veterinary medicine accredited by the Council on Education of the American Veterinary Medical Association (AVMA); or

(ii) holds a certificate issued by, or is enrolled in and has completed the Step 3 examination requirement for, one of the following programs:

(A) the Educational Commission for Foreign Veterinary Graduates (ECFVG); or

(B) the Program for the Assessment of Veterinary Education Equivalence (PAVE).

(4) An applicant who has not graduated from veterinary school at the time of application must have an expected graduation

date no later than ten months from the last date of the applicable testing window.

(5) The following conditions apply to retaking the NAVLE exam:

(a) an applicant may not sit for the NAVLE more than five times;

(b) an applicant may not sit for the NAVLE at a date that is later than five years after the applicant's initial attempt; and

(c) each of the applicant's final two attempts must be at least one year from the previous attempt.

R156-28-304. Continuing Professional Education.

In accordance with Section 58-28-306, there is created a continuing professional education requirement as a condition for renewal or reinstatement of licenses issued under Title 58, Chapter 28. ~~The e~~ Continuing professional education ~~requirement~~ shall comply with the following criteria~~[-]~~:

(1) During each two year period commencing on September 30 of each even~~[-]~~ numbered year, a licensee shall be required to complete ~~not less than~~ at least 24 hours of qualified continuing professional education directly related to the licensee's professional practice.

(2) [The required number of hours of continuing professional education for an individual who first becomes licensed during the two year period shall be decreased by a pro-rata amount equal to the part of that two year period preceding the date on which that individual first became licensed.] If a licensee first becomes licensed during the two-year period, the licensee's required number of continuing professional education hours shall be decreased proportionately according to the date of licensure.

(3) Qualified continuing professional education under this section shall:

(a) have an identifiable clear statement of purpose and defined objective for the educational program directly related to the practice of a veterinarian;

(b) be relevant to the licensee's professional practice;

(c) be presented in a competent, well organized, and sequential manner consistent with the stated purpose and objective of the program;

(d) be prepared and presented by individuals who are qualified by education, training, and experience; and

(e) have ~~associated with it~~ a competent method of registration of individuals who actually completed the professional education program, with ~~and~~ records of that registration and completion ~~are~~ available for review.

(4) Credit for continuing professional education shall be recognized in accordance with the following:

(a) Unlimited hours shall be recognized for continuing professional education as a student or presenter, completed in blocks of time of not less than one hour in formally established classroom courses, seminars, lectures, wet labs, or specific veterinary conferences approved or sponsored by one or more of the following:

(i) the American Veterinary Medical Association;

(ii) the Utah Veterinary Medical Association;

(iii) the American Animal Hospital Association;

(iv) the American Association of Equine Practitioners;

(v) the American Association of Bovine Practitioners;

- (vi) certifying boards recognized by the AVMA;
- (vii) other state veterinary medical associations or state licensing boards; or
- (viii) the Registry of Continuing Education (RACE) of the AASVB.

(b) No more than five continuing professional education hours may be counted for being the primary author of an article published in a peer reviewed scientific journal, and no more than two continuing professional education hours may be counted for being a secondary author.

(c) No more than six continuing professional education hours may be in practice management courses.

(d) Any continuing professional education where there is no instructor or where the instructor is not physically present, shall assure the licensee's participation and acquisition of the knowledge and skills intended by means of an examination. These types of continuing professional education courses include internet, audio/visual recordings, broadcast seminars, mail and other correspondence courses.

(5) A licensee shall be responsible for maintaining competent records of completed qualified continuing professional education for a period of four years after close of the two year period to which the records pertain. It is the responsibility of the licensee to maintain such information with respect to qualified continuing professional education to demonstrate it meets the requirements under this section.

(6) A licensee who is unable to complete the continuing professional education requirement for reasons such as a medical or related condition, humanitarian or ecclesiastical services, or extended presence in a geographical area where continuing education is not available, may be excused from the requirement for a period of up to three years as provided in Section R156-1-308d.

R156-28-502. Unprofessional Conduct.

Unprofessional conduct includes:

- (1) deviating from the minimum standards of veterinary practice set forth in Section R156-28-503;
- (2) permitting unlicensed assistive personnel to perform duties that the individual is not competent by education, training or experience to perform; and
- (3) failing to conform to the generally accepted and recognized standards and ethics of the profession, including:

(a) ~~[those established in]~~ the Principles of Veterinary Medical Ethics of the American Veterinarian Medical Association (AVMA), as approved by the AVMA Executive Board, ~~[July 1999,]~~ revised ~~[November 2003]~~ April 2016, which are hereby incorporated by reference ("Principles"); and

(b) ~~[, except that]~~ if a licensee fails to establish the veterinarian-client-patient relationship as required in Section II ~~[1-A.]~~ of ~~[those principles]~~ the Principles, such failure ~~[does]~~ shall not excuse the veterinarian from complying with all other duties that would be ~~[a part of the duties that would be]~~ imposed on ~~[a]~~ the veterinarian if the veterinarian had properly established the veterinarian-client-patient relationship.

KEY: veterinary medicine, licensing, veterinarian
Date of Enactment or Last Substantive Amendment: [May 27, 2015]2018

Notice of Continuation: November 3, 2016
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-28-101

Education, Administration
R277-106
Utah Professional Practices Advisory
Commission Appointment Process

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 43190
 FILED: 09/13/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R277-106 is amended to remove provisions requiring the Superintendent to consult the State Board of Education before making Utah Professional Practices Advisory Commission (UPPAC) appointments and allowing the Superintendent to make UPPAC appointments in accordance with the statute.

SUMMARY OF THE RULE OR CHANGE: Rule R277-106 was amended two years ago to include provisions requiring the Superintendent to consult the State Board of Education (Board) before making UPPAC appointments. These amendments remove the requirement added two years ago and allows the Superintendent to make UPPAC appointments in accordance with the statute.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X Section 3 and Section 53E-6-503 and Subsection 53E-3-401(4)

- ANTICIPATED COST OR SAVINGS TO:**
- ◆ **THE STATE BUDGET:** These rule changes are not expected to have any fiscal impact on state government revenues or expenditures because they provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies and remove requirements for the Superintendent to consult the Board prior to making UPPAC appointments.
 - ◆ **LOCAL GOVERNMENTS:** These rule changes are not expected to have any material impact on local governments' revenues or expenditures because they provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies and remove requirements for the Superintendent to consult the Board prior to making UPPAC appointments.
 - ◆ **SMALL BUSINESSES:** These rule changes are not expected to have any fiscal impact on small business revenues or expenditures because they provide technical,

conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies and remove requirements for the Superintendent to consult the Board prior to making UPPAC appointments.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: These rule changes are not expected to have any fiscal impact on persons other than small businesses, businesses, or local government entities revenues or expenditures because they provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies and remove requirements for the Superintendent to consult the Board prior to making UPPAC appointments.

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: There are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) 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 schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). These rule changes have no impact on local education agencies and will not have a fiscal impact on non-small or small businesses. The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

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 801-538-7550, 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 10/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2018

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
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

There are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) 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 schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). These rule changes have no impact on local education agencies and will not have a fiscal impact on non-small or small 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.**R277-106. Utah Professional Practices Advisory Commission Appointment Process.****R277-106-1. 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 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 53E-6-503(1)(a), which directs the Board to adopt rules establishing procedures for nominating and appointing UPPAC members.

(2) The purpose of this rule is to establish nomination and appointment procedures for UPPAC members.

R277-106-2. Definitions.

(1) "Nomination application" means a form prepared by the Superintendent as described in Subsection R277-106-3(2).

(2) "Utah Professional Practices Advisory Commission" or "UPPAC" means an advisory commission established under Section 53E-6-501 to assist and advise the Board in matters relating to the professional practices of educators.

R277-106-3. UPPAC [~~Notification,~~]Nomination and Application Process.

(1) The UPPAC Executive Secretary shall notify school districts, charter schools, and education organizations in writing of openings on UPPAC for the upcoming term by May 1.

(2) The Superintendent shall develop a nomination application through which an applicant expresses interest in serving on UPPAC, which outlines the expectations and time commitment required of a UPPAC member.

(3) A nomination application must be signed by:

(a) the applicant;

(b) in the case of a licensed educator whose primary assignment is teaching or school level, the applicant's principal and superintendent or charter school director;

(c) in the case of a licensed educator whose assignment is as a principal or at the district level, the applicant's superintendent;

(d) in the case of a licensed educator whose assignment is as a district superintendent or charter school director, the applicant's local board or charter school governing board chair; and

(e) in the case of an education organization representative, an officer of the education organization as provided in Subsection 53E-6-502(1).

(4) An educator shall submit a statement of interest and resume or vita along with the nomination application.

(5) An applicant who is interested in serving on UPPAC shall submit a nomination application to the Superintendent by May 31.

R277-106-4. UPPAC Selection Process.

(1) The UPPAC Executive Secretary shall review all complete and properly filed applications and may make recommendations to the Superintendent [~~and Board~~] prior to June 1.

(2) Prior to making the recommendations described in Subsection (1), the Executive Secretary may seek additional

information to provide to the Superintendent [~~and Board~~] about the experience and qualification of UPPAC applicants.

(3) Prior to making the recommendations described in Subsection (1), the Executive Secretary shall consider demographic diversity, including:

(i) rural and urban representation;

(ii) geographical balance;

(iii) elementary and secondary representation;

(iv) gender diversity;

(v) ethnic diversity;

(vi) specialized knowledge of an applicant; and

(vii) representation of LEA superintendents, principals, or charter school administrators.

~~[(4) In addition to receiving recommendations from the UPPAC Executive Secretary, as described in Subsection (1), the Superintendent shall solicit recommendations from the Board prior to making UPPAC appointments consistent with Section 53E-6-503.]~~

~~[(5)4] If a current UPPAC member desires to serve a second term, the member shall indicate the desire to serve an additional term in writing to the Superintendent prior to May 1 of the year in which the member's term expires.~~

~~[(6)5] The application of a UPPAC member seeking reappointment shall be considered for recommendation at the same time that new appointments are considered.~~

~~[(7)6] The Executive Secretary may retain nomination applications for consideration in the event of mid-term vacancies or for vacancies in subsequent years.~~

R277-106-5. Education Organization Member Appointments.

(1) The state organization or a local chapter of the education organization with the largest membership of parents of students and teachers in the state may nominate community members to serve on UPPAC.

(2) Community members may submit their names to the education organization described in Subsection 53E-6-502(1) for nomination by the organization.

(3) The two education organization members may not serve concurrent terms.

R277-106-6. Filling of Vacancies.

(1) The UPPAC Executive Secretary shall recommend names to the Superintendent [~~and Board~~] to fill UPPAC vacancies that occur midyear.

(2) The UPPAC Executive Secretary may recommend names of previous applicants for UPPAC vacancies or names from school districts or charter schools or other groups or areas of the state that are under represented for midyear vacancies.

KEY: professional competency, professional practices

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

Notice of Continuation: December 14, 2016

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-6-503(1)(a); 53E-3-401(4)

Education, Administration
R277-404
Requirements for Assessments of
Student Achievement

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 43183
 FILED: 09/10/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The 2018 - 2019 Standard Test Administration and Testing Ethics Policy has been updated for the 2018 - 2019 school year.

SUMMARY OF THE RULE OR CHANGE: Rule R277-404 is updated to provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah, and Board of Education (Board) policies. Section R277-414-3 has been updated for the 2018 - 2019 school year.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X Section 3 and Section 53E-4-302 and Subsection 53E-3-401(4) and Subsection 53G-6-803(9)(b)

MATERIALS INCORPORATED BY REFERENCE:

- ◆ Updates Standard Test Administration and Testing Ethics Policy, published by Utah State Board of Education, 08/02/2018

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This rule change is not expected to have material fiscal impact on state government revenues or expenditures because it provides technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies.
- ◆ **LOCAL GOVERNMENTS:** This rule change is not expected to have any material impact on local governments' revenues or expenditures because it provides technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies.
- ◆ **SMALL BUSINESSES:** This rule change is not expected to have any fiscal impact on small business revenues or expenditures because 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:** This rule change is not expected to have any fiscal impact on persons other than small businesses, businesses, or local government entities revenues or expenditures because 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: There are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) 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 schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). This rule change has no material fiscal impact on local education agencies and will not have a fiscal impact on non-small or small businesses. The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

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 801-538-7550, 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 10/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2018

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
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			
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Local Government	\$0	\$0	\$0
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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 are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) 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 schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). This rule change has no material fiscal impact on local education agencies and will not have a fiscal impact on non-small or small 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.
R277-404. Requirements for Assessments of Student Achievement.

R277-404-1. Authority and Purpose.
 (1) This rule is authorized by:
 (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 (b) Section 53[A]E-[1-603]4-302, which directs the Board to adopt rules for the administration of statewide assessments;
 (c) Subsection 53[A]G-[15-1403]6-803(9)(b), which requires the Board to adopt rules to establish a statewide procedure for exempting a student from taking certain assessments; and
 (d) Subsection 53[A]E-[1-3-401]4, which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.
 (2) The purpose of this rule is to:
 (a) provide consistent definitions; and

(b) assign responsibilities and procedures for the administration of statewide assessments, as required by state and federal law.

R277-404-2. Definitions.

- (1) "Benchmark reading assessment" means the Board approved literacy assessment that is administered to a student in grade 1, grade 2, and grade 3 at the beginning, middle, and end of year.
- (2) "College readiness assessment" means the:
 - (a) same as that term is defined in Section 53[A]E-[1-611]4-305; and
 - (b) American College Testing exam, or ACT.
- (3) "English Learner" or "EL student" means a student who is learning in English as a second language.
- (4) "English language proficiency assessment" means the World-class Instructional Design and Assessment (WIDA) Assessing Comprehension in English State-to-State (ACCESS), which is designed to measure the acquisition of the academic English language for an English Learner student.
- (5) "Family Educational Rights and Privacy Act of 1974" or "FERPA," 20 U.S.C. 1232g, means a federal law designed to protect the privacy of students' education records.
- (6) "High school assessment":
 - (a) means the same as that term is defined in Section 53[A-1-611.5]E-4-304;
 - (b) means the "Student Assessment of Growth and Excellence" or "SAGE"; and
 - (c) includes the SAGE assessment of proficiency in:
 - (i) English language arts grades 9 and 10;
 - (ii) Secondary Mathematics I, II, and III; and
 - (iii) science, including:
 - (A) earth science;
 - (B) biology;
 - (C) physics; and
 - (D) chemistry.
 - (7) "National Assessment of Education Progress" or "NAEP" means the national achievement assessment administered by the United States Department of Education to measure and track student academic progress.
 - (8) "State required assessment" means an assessment described in Subsection 53[A-15-1403]G-6-803(9)(a).
 - (9) "Standards Assessment":
 - (a) means the same as that term is defined in Section 53[A-1-604]E-4-303; and
 - (b) means the "Student Assessment of Growth and Excellence" or "SAGE";
 - (c) for the 2017-18 school year, includes one writing prompt from the writing portion of the SAGE English language arts assessment for each of grades 3 through 8.
 - (10) "Statewide assessment" means the:
 - (a) standards assessment;
 - (b) high school assessment;
 - (c) college readiness assessment;
 - (d) Utah alternative assessment;
 - (e) benchmark reading assessment; and
 - (f) English language proficiency assessment.

(11) "Section 504 accommodation plan" means a plan:

(a) required by Section 504 of the Rehabilitation Act of 1973; and

(b) 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.

(12)(a) "Utah alternate assessment" means an assessment instrument:

(i) for a student in special education with a disability so severe the student is not able to participate in a statewide assessment even with an assessment accommodation or modification; and

(ii) that measures progress on the Utah core instructional goals and objectives in the student's IEP.

(b) "Utah alternate assessment" means:

(i) for science, the Utah Alternate Assessment (UAA); and

(ii) for English language arts and mathematics, the Dynamic Learning Maps (DLM).

(13) "Utah eTranscript and Record Exchange" or "UTREx" means a system that allows:

(a) an LEA and the Superintendent to electronically exchange an individual detailed student record; and

(b) electronic transcripts to be sent to any post-secondary institution, private or public, in-state or out-of-state, that participates in the e-transcript service.

R277-404-3. Incorporation of Standard Test Administration and Testing Ethics Policy by Reference.

(1) This rule incorporates by reference the Standard Test Administration and Testing Ethics Policy, [~~November 2, 2017~~July 16, 2018], which establishes:

(a) the purpose of testing;

(b) the statewide assessments to which the policy applies;

(c) teaching practices before assessment occurs;

(d) required procedures for after an assessment is complete and for providing assessment results;

(e) unethical practices;

(f) accountability for ethical test administration;

(g) procedures related to testing ethics violations; and

(h) additional resources.

(2) A copy of the Standard Test Administration and Testing Ethics Policy is located at:

(a) <https://www.schools.utah.gov/assessment>; and

(b) the Utah State Board of Education - 250 East 500 South, Salt Lake City, Utah 84111.

R277-404-4. Superintendent Responsibilities.

(1) The Superintendent shall facilitate:

(a) administration of statewide assessments; and

(b) participation in NAEP, in accordance with ~~Subsection 53A-1-603~~E-4-302(1)(b).

(2) The Superintendent shall provide guidelines, timelines, procedures, and assessment ethics training and requirements for all statewide assessments.

(3) The Superintendent shall designate a testing schedule for each statewide assessment and publish the testing window dates on the Board's website before the beginning of the school year.

R277-404-5. LEA Responsibilities - Time Periods for Assessment Administration.

(1)(a) Except as provided in Section (1)(b), (1)(c), and R277-404-7 an LEA shall administer statewide assessments to all students enrolled in the grade level or course to which the assessment applies.

(b) An LEA is not required to administer the high school assessment to students in grades 11 or 12.

(c) A student's IEP team, English Learner team, or Section 504 accommodation plan team shall determine an individual student's participation in statewide assessments consistent with the Utah Participation and Accommodations Policy.

(2) An LEA shall develop a plan to administer statewide assessments.

(3) The plan shall include:

(a) the dates that the LEA will administer each statewide assessment;

(b) an indication of whether the LEA elects to offer the LEA's grade 11 students the SAGE assessment;

(c) professional development for an educator to fully implement the assessment system;

(d) training for an educator and an appropriate paraprofessional in the requirements of assessment administration ethics; and

(e) training for an educator and an appropriate paraprofessional to use statewide assessment results effectively to inform instruction.

(4) An LEA shall submit the plan to the Superintendent by September 15 annually.

(5) At least once each school year, an LEA shall provide professional development for all educators, administrators, and assessment administrators concerning guidelines and procedures for statewide assessment administration, including educator responsibility for assessment security and proper professional practices.

(6) LEA assessment staff shall use the Standard Test Administration and Testing Ethics Policy in providing training for all assessment administrators and proctors.

(7) An LEA may not release state assessment data publicly until authorized to do so by the Superintendent.

(8) An LEA educator or trained employee shall administer statewide assessments consistent with the testing schedule published on the Board's website.

(9) An LEA educator or trained employee shall complete all required assessment procedures prior to the end of the assessment window defined by the Superintendent.

(10)(a) If an LEA requires an alternative schedule with assessment dates outside of the Superintendent's published schedule, the LEA shall submit the alternative testing plan to the Superintendent by September 15 annually.

(b) The alternative testing plan shall set dates for assessment administration for courses taught face-to-face or online.

R277-404-6. School Responsibilities.

(1)(a) An LEA, school, or educator may not use a student's score on a state required assessment to determine:

(i) the student's academic grade, or a portion of the student's academic grade, for the appropriate course; or

(ii) whether the student may advance to the next grade level.

(b)(i) An LEA may consider, as one of multiple lines of evidence, a student's score on a state required assessment to determine whether a student may enroll in an honors, advanced placement, or International Baccalaureate course.

(ii) An LEA may not prohibit a student from enrolling in an honors, advanced placement, or International Baccalaureate course:

(A) based on a student's score on a state required assessment; or

(B) because the student was exempted from taking a state required assessment.

(c) In accordance with Subsection 53[A-15-1403]G-6-803(1), an LEA shall reasonably accommodate a parent's or guardian's request to allow a student's demonstration of proficiency on a state required assessment to fulfill a requirement in a course.

(2) An LEA and school shall require an educator, assessment administrator, and proctor to individually sign a document provided by the Superintendent acknowledging or assuring that the educator administers statewide assessments consistent with ethics and protocol requirements.

(3) An educator and assessment administrator shall conduct assessment preparation, supervise assessment administration, and certify assessment results before providing results to the Superintendent.

(4) An educator, assessment administrator, and proctor shall securely handle and return all protected assessment materials, where instructed, in strict accordance with the procedures and directions specified in assessment administration manuals, LEA rules and policies, and the Standard Test Administration and Testing Ethics Policy.

R277-404-7. Student and Parent Participation in Student Assessments in Public Schools; Parental Exclusion from Testing and Safe Harbor Provisions.

(1) As used in this section, "penalize" means to put in an unfavorable position or at an unfair disadvantage.

(2)(a) Parents are primarily responsible for their children's education and have the constitutional right to determine which aspects of public education, including assessment systems, in which their children participate.

(b) Parents may further exercise their inherent rights to exempt their children from a state required assessment without further consequence by an LEA.

(3)(a) A parent may exercise the right to exempt their child from a state required assessment.

(b) Except as provided in Subsection (3)(c), an LEA may not penalize a student who is exempted from a state required assessment under this section.

(c) If a parent exempts the parent's child from the basic civics test required in Sections 53[A-13-109.5]E-4-205 and R277-700-8, the parent's child is not exempt from the graduation requirement in Subsection 53[A-13-109.5]E-4-205(2), and may not graduate without successfully completing the requirements of Sections 53[A-13-109.5]E-4-205 and R277-700-8.

(4)(a) To exercise the right to exempt a child from a state required assessment under this provision and ensure the protections of this provision, a parent shall:

(i) fill out:

(A) the Parental Exclusion from State Assessment Form provided on the Board's website; or

(B) an LEA specific form as described in Subsection (4)(b); and

(ii) submit the form:

(A) to the principal or LEA either by email, mail, or in person; and

(B) on an annual basis; and

(C) except as provided in Subsection (4)(b), at least one day prior to the beginning of the assessment.

(b) An LEA may allow a parent to exempt a student from taking a state required assessment less than one day prior to the beginning of the assessment upon parental request.

(c) An LEA may create an LEA specific form for a parent to fill out as described in Subsection (4)(a)(i)(B) if:

(i) the LEA includes a list of local LEA assessments that a parent may exempt the parent's student from as part of the LEA specific form; and

(ii) the LEA specific form includes all of the information described in the Parental Exclusion from State Assessment Form provided on the Board's website as described in Subsection (4)(a)(i)(A).

(5)(a) A teacher, principal, or other LEA administrator may contact a parent to verify that the parent submitted a parental exclusion form described in Subsection (4)(a)(i).

(b) An LEA may request, but may not require, a parent to meet with a teacher, principal, or other LEA administrator regarding the parent's request to exclude the parent's student from taking a state required assessment.

(6) The administration of any assessment that is not a state required assessment, including consequences associated with taking or failing to take the assessment, is governed by policy adopted by each LEA.

(7) An LEA shall provide a student's individual test results and scores to the student's parent or guardian upon request and consistent with the protection of student privacy.

(8) An LEA may not reward a student for a student's participation in or performance on a state required assessment.

(9) An LEA shall ensure that a student who has been exempted from participating in a state required assessment under this section is provided with an alternative learning experience if the student is in attendance during test administration.

(10) An LEA may allow a student who has been exempted from participating in a state required assessment under this section to be physically present in the room during test administration.

R277-404-8. Public Education Employee Compliance with Assessment Requirements, Protocols, and Security.

(1) An educator, test administrator or proctor, administrator, or school employee may not:

(a) provide a student directly or indirectly with a specific question, answer, or the content of any specific item in a statewide assessment prior to assessment administration;

(b) download, copy, print, take a picture of, or make any facsimile of protected assessment material prior to, during, or after assessment administration without express permission of the Superintendent and an LEA administrator;

(c) change, alter, or amend any student online or paper response answer or any other statewide material at any time in a way that alters the student's intended response;

(d) use any prior form of any statewide assessment, including pilot assessment materials, that the Superintendent has not released in assessment preparation without express permission of the Superintendent and an LEA administrator;

(e) violate any specific assessment administrative procedure specified in the assessment administration manual, violate any state or LEA statewide assessment policy or procedure, or violate any procedure specified in the Standard Test Administration and Testing Ethics Policy;

(f) fail to administer a statewide assessment;

(g) fail to administer a statewide assessment within the designated assessment window;

(h) submit falsified data;

(i) allow a student to copy, reproduce, or photograph an assessment item or component; or

(j) knowingly do anything that would affect the security, validity, or reliability of statewide assessment scores of any individual student, class, or school.

(2) A school employee shall promptly report an assessment violation or irregularity to a building administrator, an LEA superintendent or director, or the Superintendent.

(3) An educator who violates this rule or an assessment protocol is subject to Utah Professional Practices Advisory Commission or Board disciplinary action consistent with R277-515.

(4) All assessment material, questions, and student responses for required assessments is designated protected, consistent with Section 63G-2-305, until released by the Superintendent.

(5)(a) Each LEA shall ensure that all assessment content is secured so that only authorized personnel have access and that assessment materials are returned to Superintendent following testing, as required by the Superintendent.

(b) An individual educator or school employee may not retain or distribute test materials, in either paper or electronic form, for purposes inconsistent with ethical test administration or beyond the time period allowed for test administration.

R277-404-9. Data Exchanges.

(1) The Board's IT Section shall communicate regularly with an LEA regarding the required format for electronic submission of required data.

(2) An LEA shall update UTREx data using the processes and according to schedules determined by the Superintendent.

(3) An LEA shall ensure that any computer software for maintaining or submitting LEA data is compatible with data reporting requirements established in Rule R277-484.

(4) The Superintendent shall provide direction to an LEA detailing the data exchange requirements for each statewide assessment.

(5) An LEA shall ensure that all statewide assessment data have been collected and certify that the data are ready for accountability purposes no later than July 12.

(6) An LEA shall verify that it has satisfied all the requirements of the Superintendent's directions described in this section.

(7) Consistent with Utah law, the Superintendent shall return assessment results from all statewide assessments to the school before the end of the school year.

KEY: assessments, student achievements

Date of Enactment or Last Substantive Amendment: ~~March 14, 2018~~

Notice of Continuation: November 29, 2016

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; ~~53A-1-603 through 53A-1-611~~53E-4-3; 53[A-1-401]E-3-401(4)

Education, Administration R277-474 School Instruction and Human Sexuality

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43202

FILED: 09/13/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The amendments to Rule R277-474 reference the new local education agencies (LEA) responsibilities enumerated in statute, and makes conforming formatting and technical changes.

SUMMARY OF THE RULE OR CHANGE: This rule is being updated to reflect the minor changes required by H.B. 286 passed during the 2018 General Session, including the change of "human sexuality" to "sex education" and referencing the new LEA responsibilities enumerated in statute and makes conforming formatting and technical changes.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X Section 3 and Subsection 53E-3-401(4) and Subsection 53G-10-402(1) and Subsection 53G-10-402(3)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** These rule changes are not expected to have material fiscal impact on state government revenues or expenditures because they provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board of Education (Board) policies. This rule is being updated to reflect the minor changes required by H.B. 286 (2018), including the change of "human sexuality" to "sex education" and referencing the new LEA responsibilities enumerated in statute.

◆ **LOCAL GOVERNMENTS:** These rule changes are not expected to have any material impact on local governments' revenues or expenditures because they provide technical,

conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies. This rule is being updated to reflect the minor changes required by H.B. 286 (2018), including the change of "human sexuality" to "sex education" and referencing the new LEA responsibilities enumerated in statute.

♦ **SMALL BUSINESSES:** These rule changes are not expected to have any fiscal impact on small businesses' revenues or expenditures because they provides technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies. This rule is being updated to reflect the minor changes required by H.B. 286 (2018), including the change of "human sexuality" to "sex education" and referencing the new LEA responsibilities enumerated in statute.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These rule changes are not expected to have any fiscal impacts on persons other than small businesses, businesses, or local government entities revenues or expenditures because they provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies. This rule is being updated to reflect the minor changes required by H.B. 286 (2018), including the change of "human sexuality" to "sex education" and referencing the new LEA responsibilities enumerated in statute.

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

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) 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 schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). These rule changes have no material fiscal impact on LEAs and will not have a fiscal impact on non-small or small businesses. The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

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 801-538-7550, 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 10/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2018

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

Appendix 1: Regulatory Impact Summary Table*

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*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 are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) 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 schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small

businesses (there are no non-small businesses with a NAICS code 611110). These rule changes have no material fiscal impact on local education agencies and will not have a fiscal impact on non-small or small 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.

R277-474. School Instruction and ~~[Human Sexuality]~~Sex Education.

R277-474-1. 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) Subsections 53G-10-402(1) and (3), which direct the Board to adopt rules to allow local boards to adopt ~~[human sexuality education]~~sex education materials or programs as described in this Rule R277-474 and provide ~~[human sexuality]~~sex education instruction as provided in Section 53G-10-402; and

(c) 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.

(2) The purpose of this rule is to provide:

(a) requirements for LEAs and individual educators to select instructional materials about ~~[human sexuality]~~sex education and maturation;

(b) notice to parents of proposed ~~[human sexuality]~~sex education and maturation discussions and instruction; and

(c) direction to public education employees regarding instruction and discussion of maturation and ~~[human sexuality]~~sex education with students.

R277-474-2. Definitions.

(1) "Curriculum materials review committee" or "committee" means a curriculum materials review committee formed at the school district or charter school level as described in Section R277-474-5.

(2) "Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g" or "FERPA" means a federal law designed to protect the privacy of students' education records.

(3) "~~[Human sexuality]~~Sex education instruction or instructional programs" means any course, unit, class, activity or presentation that provides instruction or information to students as outlined under Section 53G-10-403(1)(b) about sexual abstinence, ~~human sexuality~~ human reproduction, reproductive anatomy, physiology, pregnancy, marriage, childbirth, parenthood, contraception, or HIV/AIDS, ~~and~~ other sexually transmitted diseases, ~~and refusal skills~~.

(4) "Instructional materials commission" means the advisory commission authorized under Section 53E-4-402.

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

(6) "Maturation education" means instruction and materials used to provide fifth or sixth grade students with age appropriate, medically accurate information regarding the physical and emotional changes associated with puberty, to assist in protecting students from abuse and to promote hygiene and good health practices.

(7) "Medically accurate" means verified or supported by a body of research conducted in compliance with scientific methods and published in journals that have received peer-review, where appropriate, and recognized as accurate and objective by professional organizations and agencies with expertise in the relevant field, such as the American Medical Association.

(8) "Parental notification form" means a form developed by the Superintendent and used exclusively by LEAs or public schools for parental notification of subject matter identified in this rule.

(9) "Professional development" means training in which Utah educators may participate to renew a license, receive information or training in a specific subject area, teach in another subject area or teach at another grade level.

(10) "Utah educator" means an individual such as an administrator, teacher, counselor, teacher's assistant, or coach, who is employed by a unit of the Utah public education system and who provides teaching or counseling to students.

(11) "Utah Professional Practices Advisory Commission or ~~[U]PPAC~~" means a Commission established under Section 53E-6-501 and designated to review allegations against educators and recommend action against educators' licenses to the Board.

R277-474-3. General Provisions.

(1) The following may not be taught in Utah public schools through the use of instructional materials, direct instruction, or online instruction:

(a) the intricacies of intercourse, sexual stimulation or erotic behavior;

(b) the advocacy of premarital or extramarital sexual activity; or

(c) the advocacy or encouragement of the use of contraceptive methods or devices.

(2) Educators are responsible to teach the values and information identified under Subsection 53G-10-402(1)(b).

(3) Utah educators shall follow all provisions of federal and state law including the parental notification and prior written parental consent requirements described in Sections 76-7-322 and 76-7-323 when teaching any aspect of ~~[human sexuality]~~sex education.

(4) While ~~[human sexuality]~~sex education instruction and related topics are most likely to take place in such courses as health education, health occupations, human biology, physiology, parenting, adult roles, psychology, sociology, child development, and biology, this ~~[rule]~~R277-474 applies to any course or class in which these topics are the focus of discussion.

R277-474-4. State Board of Education Responsibilities.

The Superintendent shall:

(1) develop and provide professional development and assistance with training for educators on law and rules specific to ~~[human sexuality]~~sex education instruction and related issues.

(2) develop, for Board approval, a parental notification form and timelines for use by LEAs.

(3) establish a review process for ~~[human sexuality]~~sex education instructional materials and programs using the instructional materials commission and requiring final Board approval of the instructional materials commission's recommendations.

(4) approve only medically accurate ~~[human sexuality]~~sex education instruction programs.

(5) receive and track parent and community complaints and comments received from LEAs related to ~~[human sexuality]~~sex education instructional materials and programs.

R277-474-5. LEA Responsibilities.

(1) An LEA shall require all newly hired or newly assigned Utah educators with responsibility for any aspect of ~~[human sexuality]~~sex education instruction to attend professional development outlining the ~~[human sexuality]~~sex education curriculum and the criteria for ~~[human sexuality]~~sex education instruction in any courses offered in the public education system.

(2) An LEA governing board shall provide training consistent with Subsection R277-474-5(1) at least once during every three years of employment for Utah educators.

(3) An LEA governing board shall form a curriculum materials review committee at the school district or charter school level as described in Subsection (4).

(4)(a) An LEA governing board shall annually appoint and review members of the LEA's curriculum materials review committee on or before August 1.

(b) An LEA's curriculum materials review committee shall include parents, health professionals, school health educators, and administrators, with at least as many parents as school employees.

(c) The members of an LEA's committee shall:

(i) meet on a regular basis, as determined by the membership;

(ii) select officers; and

(iii) comply with Title 52, Chapter 4, Open and Public Meetings Act.

(5) An LEA's curriculum materials review committee shall:

(a) be organized consistent with Subsection R277-474-2(1);

(b) designate a chair and procedures; and

(c) review and approve all guest speakers and guest presenters and their respective materials relating to ~~[human sexuality]~~sex education instruction in any course and maturation education prior to their presentation.

(6) The committee may not authorize the use of any ~~[human sexuality]~~sex education instructional program or maturation education program not previously:

(a) approved by the Board;

(b) approved consistent with R277-474-6; or

(c) approved under Subsection 53G-10-402(1)(c)(ii).

(7) The district superintendent or charter school administrator shall report educators who willfully violate the provisions of this rule to the Utah Professional Practices Advisory Commission for investigation and possible discipline.

(8)(a) Students may not participate in ~~[human sexuality]~~sex education instruction, maturation education, or other instructional programs without prior affirmative parent consent, as evidenced by a completed parental notification form, on file.

(b) An LEA shall obtain parental consent from a student's parent using the common parental notification form or a form that satisfies all criteria of the law and Board rules[;] and comply with timelines approved by the Board.

(9) The parental notification form shall:

(a) explain a parent's right to review proposed curriculum materials in a timely manner;

(b) request the parent's permission to instruct the parent's student in identified course material related to ~~[human sexuality]~~sex education or maturation education;

(c) allow the parent to exempt the parent's student from attendance for a class period where identified course material related to ~~[human sexuality]~~sex education instruction or maturation education is presented and discussed;

(d) be specific enough to give parents fair notice of topics to be covered;

(e) include a brief explanation of the topics and materials to be presented and provide a time, place and contact person for review of the identified curricular materials;

(f) be retained on file with affirmative parental consent for each student prior to the student's participation in discussion of issues protected under Section 53G-10-402; and

(g) be maintained at the student's school for a reasonable period of time.

(10) An LEA shall develop a logging and tracking system of parental and community complaints and comments resulting from student participation in ~~[human sexuality]~~sex education instruction, to include the disposition of the complaints, and provide that information to the Superintendent upon request.

(11) If a student is exempted from course material required by the Board-approved Core Standards consistent with S[ub]section[s] 53G-10-205(1), (2) and (3), the school shall:

(a) waive the participation requirement; or

(b) provide a reasonable alternative to the requirement.

R277-474-6. Local School Board or Charter School Governing Board Adoption of ~~[Human Sexuality Education]~~Sex Education and Maturation Education Instructional Materials.

(1) An LEA governing board may adopt the LEA's instructional materials if the instructional materials meet the requirements of Subsection 53G-10-402.

(2) Instructional materials adopted as described in Subsection (1) shall:

(a) comply with the criteria of Subsection 53G-10-402(1)(c) (iii) and:

(b) be medically accurate;

(c) be approved by a majority vote of the LEA governing board present at a public meeting of the LEA governing board;[and]

(d) be available for reasonable review opportunities to residents of the school district or parents of charter school students prior to consideration for adoption[;]; and

(e) comply with the county data review requirements as outlined in Subsection 53G-10-402(8).

(3) An LEA shall comply with the reporting requirements of Subsection 53G-10-402(1)(c)(iii)(D).

(4) A report to the Board shall include:

(a) a copy of ~~[human sexuality]~~sex education instructional materials or maturation education materials not approved by the Instructional Materials Commission that the local board or local charter board seeks to adopt;

(b) documentation of the materials' adoption in a public board meeting;

(c) documentation that the materials or program meets the medically accurate criteria as defined in Subsection R277-474-2(7);

(d) documentation of the recommendation of the materials by the committee; and

(e) a statement of the local board's or local charter board's rationale for selecting materials not approved by the instructional materials commission.

(5) An LEA governing board's adoption process for [~~human sexuality~~sex education] instructional materials and maturation education materials shall include a process for annual review of the LEA governing board's decision.

R277-474-7. Utah Educator Responsibilities.

(1) Utah educators shall participate in training provided under Subsections R277-474-5(1) and (2).

(2) Utah educators shall use the common parental notification form or a form approved by the educator's LEA, and follow timelines approved by the Board.

(3) Utah educators shall individually record parent and community complaints, comments, and the educators' responses regarding [~~human sexuality~~sex education] instructional programs.

(4) Utah educators may respond to spontaneous student questions for the purposes of providing accurate data or correcting inaccurate or misleading information or comments made by students in class regarding [~~human sexuality~~sex education].

KEY: health education, [~~human sexuality education~~sex education], schools

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

Notice of Continuation: September 13, 2017

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53G-10-402(1) and (3); 53E-3-401(4)

Education, Administration **R277-510** Educator Licensing - Highly Qualified Assignment

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 43193

FILED: 09/13/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reauthorization of the Elementary and Secondary Education Act, also known as the Every Student Succeeds Act, replaced the provisions in the statute that referenced highly qualified teacher with state qualified teacher. State qualified teacher is defined in Rule R277-520, Appropriate Licensing and Assignment of Teachers.

SUMMARY OF THE RULE OR CHANGE: The reauthorization of the Elementary and Secondary Education Act, also known as the Every Student Succeeds Act, replaced the provisions in the statute that referenced highly qualified

teacher with state qualified teacher. State qualified teacher is defined in Rule R277-520. Accordingly, Utah State Board of Education recommends the repeal of Rule R277-510 as it is no longer necessary. This rule is repealed in its entirety.

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

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This rule change is not expected to have any material fiscal impact on state government revenues or expenditures. The reauthorization of the Elementary and Secondary Education Act, also known as the Every Student Succeeds Act, replaced the provisions in the statute that referenced highly qualified teacher with state qualified teacher. State qualified teacher is defined in Rule R277-520. Accordingly, the Board of Education is repealing Rule R277-510 as it is no longer necessary.

◆ **LOCAL GOVERNMENTS:** This rule change is not expected to have any material impact on local governments' revenues or expenditures. The reauthorization of the Elementary and Secondary Education Act, also known as the Every Student Succeeds Act, replaced the provisions in the statute that referenced highly qualified teacher with state qualified teacher. State qualified teacher is defined in Rule R277-520. Accordingly, the Board of Education is repealing Rule R277-510 as it is no longer necessary.

◆ **SMALL BUSINESSES:** This rule change is not expected to have any fiscal impact on small businesses' revenues or expenditures. The reauthorization of the Elementary and Secondary Education Act, also known as the Every Student Succeeds Act, replaced the provisions in the statute that referenced highly qualified teacher with state qualified teacher. State qualified teacher is defined in Rule R277-520. Accordingly, the Board of Education is repealing Rule R277-510 as it is no longer necessary.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule change is not expected to have any fiscal impact on persons other than small businesses, businesses, or local government entities revenues or expenditures. The reauthorization of the Elementary and Secondary Education Act, also known as the Every Student Succeeds Act, replaced the provisions in the statute that referenced highly qualified teacher with state qualified teacher. State qualified teacher is defined in Rule R277-520. Accordingly, the Board of Education is repealing Rule R277-510 as it is no longer necessary.

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

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) 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 schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). This rule change has no material fiscal impact on local education agencies and will not have a fiscal impact on non-small or small businesses. The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

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 801-538-7550, 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 10/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2018

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

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 are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) 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 schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). This rule repeal has no material fiscal impact on local education agencies and will not have a fiscal impact on non-small or small businesses.

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

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
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

R277. Education, Administration.

[R277-510. Educator Licensing - Highly Qualified Assignment.

R277-510-1. Authority and Purpose.

- _____ (1) This rule is authorized by:
 - _____ (a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;
 - _____ (b) Section 53A-6-104, which directs the Board to establish rules setting minimum standards for educators who provide direct student services; and
 - _____ (c) Subsection 53A-1-401(3), which permits the Board to adopt rules in accordance with its responsibilities.
- _____ (2) The purpose of this rule is to provide definitions and requirements for an educator assignment to meet federal requirements for highly qualified status.

R277-510-2. Definitions.

- _____ (1) "Core academic subjects" means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography under the Elementary and Secondary Education Act (ESEA), also known as the No Child Left Behind Act (NCLB), Title IX, Part A, 20 U.S.C. 7801, Section 9101(11).
- _____ (2) "Highly qualified" means a teacher has met the specific requirements of ESEA, NCLB, Title IX, Part A, 20 U.S.C. 7801, Section 9101(23) or 34 CFR 200.56.
- _____ (3) "License endorsement" or "endorsement" means:

_____ (a) a speciality field or area earned through completing required course work established by the Superintendent or through demonstrated competency approved by the Superintendent; and

_____ (b) listed on the Professional Educator License indicating the specific qualifications of the holder.

_____ (4) "NCLB" means the Elementary and Secondary Education Act (ESEA), also known as the No Child Left Behind Act (NCLB), 20 U.S.C. 7801.

_____ (5) "Restricted endorsement" means an endorsement available and limited to teachers in necessarily existent small schools as determined under R277-445 that includes at least nine semester hours of Superintendent-approved university-level courses in each course taught by the teacher holding a restricted endorsement.

_____ (6) "Teacher of record" for the purposes of this rule means the teacher to whom students are assigned for purposes of reporting for data submissions to the Superintendent.

R277-510-3. NCLB Highly Qualified Assignments - Early Childhood Teachers K-3.

_____ (1) For a teacher assignment in kindergarten through grade 3 to be designated as NCLB highly qualified, the teacher shall have:

_____ (a) a bachelor's degree;

_____ (b) a Utah educator license with an early childhood area of concentration; and

_____ (c) a passing score at the level designated by the Superintendent on a Board-approved content knowledge test.

_____ (2) NCLB requirements do not apply to pre-k assignments.

R277-510-4. NCLB Highly Qualified Assignments - Elementary Teachers 1-8.

_____ For a teacher assignment in grades 1 through 8 in an elementary setting to be designated as NCLB highly qualified, the teacher shall have:

_____ (1) a bachelor's degree;

_____ (2) a Utah educator license with an elementary area of concentration; and

_____ (3) a passing score at the level designated by the Superintendent on a Board-approved content knowledge test.

R277-510-5. NCLB Highly Qualified Assignments - Secondary Teachers 6-12.

_____ (1) For a teacher assignment in grades 6 through 12 to be designated as NCLB highly qualified, the teacher shall have:

_____ (a) a bachelor's degree;

_____ (b) a Utah educator license with a secondary area of concentration and endorsement in the content area assigned; and

_____ (c) at least one of the following in the assignment content area:

_____ (i) a university major degree, masters degree, doctoral degree, or National Board Certification in a related NCLB core academic content area;

_____ (ii) a course work equivalent of a major degree (30 semester or 45 quarter hours) in a related NCLB core academic content area; or

_____ (iii) a passing score at the level designated by the Superintendent on a Board-approved content knowledge test in a related NCLB core academic content area; if no Board-approved test is available, an endorsement is sufficient for highly qualified status.

_____ (2) An assignment in grades 7 or 8 in a secondary setting given to a teacher holding an elementary area of concentration may be

designated as NCLB highly qualified if the teacher holds an endorsement in the content area and meets one of the requirements of Subsection R277-510-5(1)(c).

_____ (3) The requirements described in this section only apply to NCLB core academic subject assignments.

_____ (4) Each NCLB core academic course assignment in grades 6 through 12 is subject to the above standards.

R277-510-6. NCLB Highly Qualified Assignments - Special Education Teachers.

_____ (1) For a special education teacher assignment in grades k-8, excluding grade 7 or 8 mathematics, as the classroom teacher of record for a NCLB core academic subject to be designated as NCLB highly qualified, the teacher shall have:

_____ (a) a bachelor's degree;

_____ (b) a Utah educator license with a special education area of concentration; and

_____ (c) a passing score on a Board-approved elementary content test.

_____ (2) A special educator who would be NCLB highly qualified as a teacher of record in an elementary or early childhood regular education assignment is also NCLB highly qualified as a teacher of record in a special education assignment.

_____ (3) For a special education teacher assignment in grades 7-12 as the classroom teacher of record for a NCLB core academic subject to be designated as NCLB highly qualified, the teacher shall have:

_____ (a) a bachelor's degree;

_____ (b) a Utah educator license with a special education area of concentration; and

_____ (c) any one of the following in the assignment content area:

_____ (i) a passing score at the level designated by the Superintendent on a Board-approved content knowledge test in a related NCLB core academic content area;

_____ (ii) documentation of satisfactory professional development and experience as approved by the Superintendent in a related NCLB core academic content area;

_____ (iii) a university major degree, masters degree, doctoral degree, or National Board Certification in a related NCLB core academic content area; or

_____ (iv) a course work equivalent of a major degree (30 semester or 45 quarter hours) in a related NCLB core academic content area.

_____ (4)(a) IDEA may contain requirements for teacher qualifications in addition to the requirements of NCLB and this rule.

_____ (b) R277-510 does not replace, supersede, or nullify any of the teacher qualification requirements of IDEA.

R277-510-7. NCLB Highly Qualified Assignments - Necessarily Existent Small Schools 7-12.

_____ For a necessarily existent small school teacher assignment in grades 7 through 12 to be designated as NCLB highly qualified, the teacher shall have:

_____ (1) a bachelor's degree;

_____ (2) an educator license with a secondary area of concentration;

_____ (3) an endorsement in the assignment content area; and

_____ (4) at least one of the following in the assignment content area:

- ~~_____ (a) a university major degree, masters degree, doctoral degree, or National Board Certification;~~
- ~~_____ (b) a course work equivalent of a major degree (30 semester or 45 quarter hours);~~
- ~~_____ (c) a passing score at the level designated by the Superintendent on a Board-approved content knowledge test; or~~
- ~~_____ (d) documentation of satisfactory professional development and experience as approved by the Superintendent in a related NCLB core academic content area.~~

R277-510-8. LEA Highly Qualified Plans.

- ~~_____ (1) An LEA shall submit a plan to the Superintendent describing strategies for progressing toward and maintaining the highly qualified status of all educator assignments.~~
- ~~_____ (2) A plan described in Subsection (1) shall be updated annually.~~
- ~~_____ (3) The Superintendent shall review LEA plans and provide technical support to LEAs to assist them in carrying out their plans to the extent of staff and resources available.~~
- ~~_____ (4) The Superintendent shall set timelines for submission and review of LEA plans.~~

R277-510-9. Highly Qualified Timelines and Rules in Relation to Other Board Rules.

- ~~_____ (1) Documented determinations of highly qualified status under previously enacted Board rules shall remain in effect notwithstanding any subsequent changes in highly qualified requirements.~~
- ~~_____ (2) Other Board rules may include requirements related to licensure or educator assignment that do not specifically apply to NCLB highly qualified assignment status.~~
- ~~_____ (3) This R277-510 does not supersede, replace, or nullify any of the requirements in other Board rules.~~

~~KEY: educators, highly qualified~~

~~Date of Enactment or Last Substantive Amendment: March 9, 2016~~

~~Notice of Continuation: January 14, 2016~~

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

Education, Administration
R277-527
 International Guest Teachers

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE NO.: 43201
 FILED: 09/13/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R277-527 is amended to provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board of Education (Board) policies.

SUMMARY OF THE RULE OR CHANGE: Rule R277-527 is amended to provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X Section 3 and Subsection 53A-1-403(1) and Subsection 53E-3-401(4)

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: These rule changes are not expected to have any fiscal impact on state government revenues or expenditures because they provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies regarding international guest teachers. These changes will not alter the program.

◆ LOCAL GOVERNMENTS: These rule changes are not expected to have any fiscal impact on local governments' revenues or expenditures because they provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies regarding international guest teachers. These changes will not alter the program.

◆ SMALL BUSINESSES: These rule changes are not expected to have any fiscal impact on small businesses' revenues or expenditures because they provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies regarding the international guest teachers. This rule applies to a program for local education agencies and does not affect small businesses.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: These rule changes are not expected to have any fiscal impact on persons other than small businesses, businesses, or local government entities revenues or expenditures because they provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies regarding the international guest teachers. This rule applies to a program for local education agencies and does not affect other individuals.

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: There are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) 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 schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). These rule changes apply to a program for local education agencies and will not have a fiscal impact on non-small or small businesses. The Assistant Superintendent of Financial

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

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 801-538-7550, 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 10/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2018

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

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 are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) 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 schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). These rule changes apply to a program for local education agencies and will not have a fiscal impact on non-small or small businesses.

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

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
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

R277. Education, Administration.

R277-527. International Guest Teachers.

R277-527-[2]1. Authority and Purpose.

~~A.](1) This rule is authorized by:~~
~~(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board[;];~~
~~(b) Section [53A-1-401]53E-3-401([3]4) which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law[;]permits the Board to adopt rules in accordance with its responsibilities[;] and~~
~~(c) Section 53A-1-402(1)(a) which directs the Board to establish rules and minimum standards for the qualification and licensing of educators and ancillary personnel who provide direct student services.~~

~~B.](2) The purpose of this rule is to establish procedures for qualified international guest teachers who meet the definition of Section R277-527-1[B] to be effectively hired and placed by a Utah LEA[s] with assistance and direction from the [USOE]Superintendent to encourage cultural exchange and foreign language development among Utah public school students.~~

R277-527-[1]2. Definitions.

~~A. "Board" means the Utah State Board of Education.~~
~~B.](1) "International guest teacher" or "[-(]guest teacher[)]" means a foreign educator who:~~
~~(a) has earned a public teaching credential or license in a foreign country[;]and who~~
~~(b) is currently legally residing in the United States and the state of Utah with the specific purpose to teach in Utah public schools[;]and[For this definition to apply, the international guest teacher shall be]~~
~~(c) is a resident of a foreign country that has a Memorandum of Understanding with the Board as described in Subsection R277-527-3.~~

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

~~[D:]~~ "USOE" means the Utah State Office of Education.]

R277-527-3. ~~Utah State Board of Education/USOE] Superintendent Responsibilities.~~

~~[A:]~~(1) ~~[The Board shall develop and State] On behalf of the board, the~~ Superintendent shall sign a Memorandum of Understanding between the Board and the appropriate government agency of the country of origin of guest teachers, as ~~[identified]~~ approved by the Board.

~~[B:]~~(2) The ~~[USOE]~~ Superintendent shall work with guest teachers and their resident countries and the United States Department of State, if necessary, to secure appropriate visas or travel and work documents for guest teachers to legally teach in the public schools in Utah.

~~[C:]~~(3) The ~~[USOE]~~ Superintendent shall verify that guest teachers have appropriate licenses or credentials from the guest teachers' resident countries that satisfy the requirements of Utah law and any applicable federal requirements.

~~[D:]~~(4) The ~~[USOE]~~ Superintendent shall work with interested LEAs to make schools aware of guest teachers with specific credentials and language skills and to inform guest teachers about openings in specific grade levels and curriculum areas in various geographic locations in Utah.

~~[E:]~~(5) The ~~[USOE]~~ Superintendent shall require and review a guest teacher's criminal background checks required under Section ~~[53A-3-410]~~ 53G-11-403 and a criminal background clearance from the guest teacher's resident country or both prior to authorizing the guest teacher to work in Utah.

~~[F:]~~(6) The Board may determine that it will seek guest teachers only from foreign countries that provide transportation or per diem expenses or both for ~~[USOE]~~ the Superintendent representatives to screen and interview potential guest teachers.

~~[G:]~~(7) Following review and approval of a guest teacher's credentials and background, a guest teacher may receive an International Guest Teacher license equivalent to a Level 1 or professional license.

R277-527-4. International Guest Teacher Requirements.

~~[A:]~~(1) A Guest teacher[s] shall have a United States issued social security number prior to an LEA processing any payment to the guest teacher.

~~[B:]~~(2) A Guest teacher[s] shall cooperate with the ~~[USOE]~~ Superintendent in required submission of information including criminal background check information, copies of credentials, copies of transcripts in the language and format designated by the ~~[USOE]~~ Superintendent.

~~[C:]~~(3) A Guest teacher[s] shall assume all responsibility for living and transportation expenses while participating in the International Guest Teachers Program.

~~[D:]~~(4) A Guest teacher[s] shall be responsible for compliance with all state of Utah/Board and employing LEA professional and ethical public school educator requirements.

~~[E:]~~(5) A ~~[G]~~ guest teacher[s] who violates ~~[district]~~ an LEA employment or state of Utah, Board or local ~~[or district]~~ professional practice[s] may have ~~[their]~~ the teacher's guest employment contract

terminated consistent with at will employment provisions[;].

~~[t]~~(6) The conduct of an individual guest teacher[s] may influence continued participation in ~~[the]~~ an International Guest Teacher Program between the Board and a guest teacher's resident country.

R277-527-5. Other Provisions.

~~[A:]~~(1) The opportunity for a teacher[s] from outside the United States to be licensed to teach in Utah schools with assistance provided by the ~~[USOE]~~ Superintendent under this rule shall be available only to individuals from countries with which the Board has signed a Memorandum of Understanding.

~~[B:]~~(2) A business or third party may not facilitate a Memorandum of Understanding between a foreign country and the Board, but may facilitate the hiring process at the request of ~~[the]~~ an LEA.

~~[C:]~~(3)(a) An ~~[I]~~ internationally credentialed educator[s] may seek appropriate licensing to teach in Utah schools.

~~[b]~~ An ~~[Those]~~ educator[s] from a country[ies] that does not have Memoranda of Understanding with the Board shall be licensed under R277-502.

~~[D:]~~(4) It is the responsibility of ~~[the]~~ a prospective guest teacher or the guest teacher's home country to ensure that the guest teacher has the appropriate visa or authorization or both to live and teach in the United States for the agreed upon time period and teaching assignment.

KEY: international guest teachers

Date of Enactment or Last Substantive Amendment: ~~[February 7, 2014]~~ 2018

Notice of Continuation: December 16, 2013

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

Education, Administration
R277-708
Enhancement for At-Risk Students

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 43191

FILED: 09/13/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Amendments to this rule are in response to S.B. 145, H.B. 132, and S.B. 2 passed during the 2018 General Session, which amended the formula requirements for distribution of the Enhancement for At-Risk Students (EARS) Program.

SUMMARY OF THE RULE OR CHANGE: Amendments to this rule are in response to S.B. 145, H.B. 132, and S.B. 2 (2018), which amended the formula requirements for distribution of the EARS Program. During the 2018 General Session, the Legislature also increased the appropriation to

the EARS program by \$10,000,000. The total ongoing appropriation for the program for the 2018 - 19 school year is \$38,000,000.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X Section 3 and Section 53F-2-410 and Subsection 53E-3-401(4)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** Amendments to this rule are in response to S.B. 145, H.B. 132, and S.B. 2 (2018), which amended the formula requirements for distribution of the EARS Program. During the 2018 General Session, the Legislature also increased the appropriation to the EARS program by \$10,000,000. The total ongoing appropriation for the program for the 2018-19 school year is \$38,000,000. Because increased money was provided by the Legislature for the program, there will be no impact due to these rule changes.

◆ **LOCAL GOVERNMENTS:** Amendments to this rule are in response to S.B. 145, H.B. 132, and S.B. 2 (2018), which amended the formula requirements for distribution of the EARS Program. During the 2018 General Session, the Legislature also increased the appropriation to the EARS program by \$10,000,000. The total ongoing appropriation for the program for the 2018-19 school year is \$38,000,000. Because increased money was provided by the Legislature for the program, there will be no impact due to these rule changes.

◆ **SMALL BUSINESSES:** These rule changes are not expected to have any fiscal impact on small businesses' revenues or expenditures because the amendments to this rule are in response to S.B. 145, H.B. 132, and S.B. 2 (2018), which amended the formula requirements for distribution of the EARS Program. During the 2018 General Session, the Legislature also increased the appropriation to the EARS program by \$10,000,000. The total ongoing appropriation for the program for the 2018-19 school year is \$38,000,000.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These rule changes are not expected to have any fiscal impact on persons other than small businesses, businesses, or local government entities revenues or expenditures because these amendments affect the distribution of money to school districts and charter schools. Amendments to this rule are in response to S.B. 145, H.B. 132, and S.B. 2 (2018), which amended the formula requirements for distribution of the EARS Program. During the 2018 General Session, the Legislature also increased the appropriation to the EARS program by \$10,000,000. The total ongoing appropriation for the program for the 2018 - 19 school year is \$38,000,000.

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: There are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) 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 schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). These rule changes has no material fiscal impact on local education agencies aside from the increased funds available through appropriations and will not have a fiscal impact on non-small or small businesses. The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

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 801-538-7550, 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 10/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2018

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
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
 There are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) 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 schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). These rule changes have no material fiscal impact on local education agencies aside from the increased funds available through appropriations and will not have a fiscal impact on non-small or small 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.
R277-708. Enhancement for At-Risk Students.
R277-708-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Section [53A-17a-166]53F-2-410, which directs the Board to manage the Enhancement for At-Risk Students interventions by:
 - (i) developing a funding formula;
 - (ii) developing performance criteria;
 - (iii) [administering the]supporting LEA implementation of evidence-based interventions;
 - (iv) distributing the appropriation; and
 - (v) monitoring and reporting the effectiveness of the evidence-based interventions; and
 - (c) 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.
- (2)(a) The purpose of this rule is to establish criteria and procedures for distributing Enhancement for At-Risk Students funds to LEAs.

(b) The intent of the rule and the legislative appropriation is to improve academic achievement of students who are at risk of academic failure.

R277-708-2. Definitions.

- (1) "At-risk of academic failure" means a k-12 public school student who:
 - (a) scores below proficient on a Board or LEA approved assessment; or
 - (b) meets an LEA governing board's approved definition of at-risk of academic failure.
- (2) "Available funds" means the total funds appropriated for the Enhancement for At-Risk Students interventions, less funding designated for gang prevention under Subsection [53A-17a-166(1)(b)(+)]53F-2-410(1)(b)(i).
- (3) "Chronic absenteeism" means the number of students within an LEA who:
 - (a) were enrolled in the LEA 60 calendar days or more; and
 - (b) missed 10% or more days of instruction, whether the absence was excused or not.
- ~~(3) "Data Clearinghouse" means the electronic data collection system used by the Superintendent to collect information required by law from LEAs about individual students at certain points throughout the school year to support the allocation of funds and accountability reporting.~~
- (4) "Homeless child" or "homeless youth" means the same as that term is defined in R277-616-2.
- (5) "Homelessness" means the number of students within an LEA identified as homeless youth.
 - (6) "LEA governing board" means:
 - (a) a charter school governing board; or
 - (b) a district's local school board.
 - (7) "LEA share" means the percentage of k-12 students from an LEA who are at risk of academic failure compared to the total count for the state of Utah from the previous school year.
 - (8) "Limited English Proficiency" or "LEP" means the total number of English learner or "EL" students in an LEA from the October 1 count from the previous school year[~~including:~~
 - (a) ~~the number of EL students receiving] who received a score of 1-4 on the English language proficiency assessment[~~and~~~~].
 - (b) ~~the number of students previously classified as English Proficient based on a score of 5 or 6 on the English language proficiency assessment.~~
 - (9) "Low performance on a statewide assessment" means the unduplicated count of k-12 students from an LEA scoring below proficient in Reading/Language, Math, and Science on one of the following exams from the previous school year:
 - (a) [the Student Assessment of Growth and Excellence (SAGE)]for students in grades 3 through 8, the Readiness Improvement Success Empowerment (RISE) standards assessment;
 - (b) for students in grades 9 and 10, Utah Aspire;
 - (c) the Special Education [adaptive testing Dynamic Learning Maps or "DLM"]alternate assessment; or
 - (d) other Board approved assessment.
 - (10) "Mobility" means the number of k-12 students enrolled less than 160 days or its equivalent in one school within a school year, as determined by the prior year's year-end average daily membership submission.

~~(9)~~(11) "Poverty" means the total number of k-12 students in an LEA reported as economically disadvantaged using federal child nutrition income eligibility guidelines for free or reduced-priced under the federal school lunch program from the official October 1 enrollment count from the previous school year.

~~(12)~~ "Truancy" or "truant student" means a student absent without a valid excuse.

~~(13)~~ "UTREx System" means the electronic data collection system used by the Superintendent to collect information required by law from LEAs about individual students at certain points throughout the school year to support the allocation of funds and accountability reporting.

~~(14)~~ "Valid excuse" means the same as that term is defined in Section 53G-6-201.

R277-708-3. Allocation of Enhancement for At-Risk Student Funds.

~~(1)~~ The Superintendent shall award available funds to an LEA based on an equal weighting of:

- ~~(a)~~ low performance on a Board approved assessment;
- ~~(b)~~ poverty;
- ~~(c)~~ mobility; and
- ~~(d)~~ limited English proficiency.]

~~(2)~~1 The Superintendent shall base an LEA's allocation on the certified data from the ~~Data Clearinghouse~~ UTREx System using the most recent school year for which data is complete and available.

~~(3)~~2 The Superintendent shall use the following funding formula to determine an LEA base to distribute to LEAs:

(a) the Superintendent shall annually calculate 4% of the state appropriation of the Enhancement for At-Risk Students funding available for LEA grants to provide a base amount to LEAs.

(b) The Superintendent shall divide the base amount described in Subsection (3)2(a) equally among all eligible LEAs.

~~(4)~~3 The Superintendent shall annually calculate 20% of the state appropriation of the Enhancement for At-Risk Students on a per school basis to provide a targeted amount to LEAs with traditional elementary schools, secondary schools, and alternative high schools with at least 75% poverty.

~~(5)~~ Of the funds remaining after the distributions described in Subsections (3) and (4), the Superintendent shall determine an LEA's share based on the LEA's percentage of students with at-risk factors for the state.

~~(6)~~ The Superintendent shall use data from the Board's Data Warehouse for each LEA from the previous school year to determine the students who qualify under the following definitions:]

~~(4)~~(a) Subject to Subsection (4)(b), the Superintendent shall award remaining funds to an LEA based on the LEA's number of students who meet any of the following criteria:

- ~~(a)~~i low performance on a Board approved assessment;
- ~~(b)~~ii poverty;
- ~~(e)~~iii mobility; ~~and~~
- ~~(d)~~iv limited English Proficiency[-];
- ~~(v)~~ chronic absenteeism; and
- ~~(vi)~~ homelessness.

~~(b)~~ When counting the number of students within an LEA who meet the criteria described in Subsection (4)(a), the Superintendent shall:

~~(i)~~ for a student who meets one criterion, count the student once; and

~~(ii)~~ for a student who meets more than one criterion, count the student for each criterion the student meets, up to three criteria.

~~(7)~~ The Superintendent shall allocate funds appropriated for at-risk factors to each LEA based on the LEA's proportion of at-risk factors in comparison to the statewide total.]

~~(8)~~5 The Superintendent shall notify an LEA that qualifies for funding of the LEA's level of funding annually by May 1.

R277-708-4. Fiscal Procedures.

(1) An LEA shall submit its application to the Superintendent annually by November 1 through the Board's grant management system.

(2) The Superintendent shall distribute available funds to LEAs with an approved application monthly based on a one-twelfth distribution beginning on July 1.

~~(3)~~ Except as provided in Subsection (5)(a), an ~~An~~ LEA shall spend all allocated funds annually by June 30.

(4) An LEA that accepts funds for Enhancement for At-Risk Students intervention services shall be subject to Board accounting, auditing, and budgeting rules and policies.

(5)(a) With written approval from the Superintendent, an LEA may carry over and spend up to ten percent ~~or \$50,000, whichever is less,~~ of state Enhancement for At-Risk Student funds in the next fiscal year.

(b) An LEA shall submit a request to carry over funds under Subsection (5)(a) to the Superintendent annually.

(c) An LEA shall detail approved carry over amounts in a revised budget submitted with the LEA's application described in Subsection (1) and through the Board's grant management system.

~~(d)~~ The Superintendent shall review and approve a revised budget submitted under Subsection (5)(c) no later than ~~October~~ December 1 in the year submitted.

R277-708-5. Application Process.

(1) An LEA may use funds for activities that support academic achievement of students who are at risk of academic failure[-], including addressing truancy.

(2) An LEA shall establish the following to include in the LEA's application for Enhancement for At-Risk Student money:

(a) supporting the specific measurable goals aligned to the growth goals in the state accountability system, including a baseline measurement, related to increased academic achievement of students at-risk of academic failure;

~~(b)~~ proposed activities that are directly tied to the LEA's plan to increase student achievement;]

~~(c)~~ a copy of the LEA's comprehensive plan for student and classroom management, and school discipline required in Section R277-609-4; and

~~(d)~~ c if the LEA establishes an LEA specific definition of a student at-risk of academic failure as described in Subsection R277-708-2(1)(b), the LEA governing board's approved definition of a student at-risk of academic failure.

(3) Annually, an LEA shall provide the following information to the Superintendent:

(a) a report of the LEA's use of funds through the annual financial reporting process;

(b) the LEA's outcome data related to the specific measurable goals included in the LEA's application; and

(c) a report of intervention effectiveness based on performance criteria defined by the Superintendent.

R277-708-6. Oversight: Monitoring, Evaluation and Reports.

~~[(1) The Superintendent may recommend that the Board designate no more than one percent of the total appropriation from the Enhancement for At-Risk Students to be used specifically by the Superintendent for oversight, monitoring and evaluation of:~~

- ~~— (a) LEA implementation of the intervention; and~~
- ~~— (b) compliance with state law and this rule.]~~

~~[(2)](1)(a) The Superintendent shall conduct tri-annual intervention reviews of each LEA receiving Enhancement for At-Risk Students funding to ensure intervention compliance.~~

(b) In the Superintendent's discretion or for good cause, the Superintendent may conduct additional formal or informal:

- (i) monitoring;
- (ii) reviews; or
- (iii) site visits.

~~[(3)](2) If the Superintendent identifies violations as a result of a review described in Subsection ~~[(2)](1)(a)~~, an LEA shall prepare and submit to the Superintendent a written corrective action plan for each finding made by the Superintendent.~~

~~[(4)](3) If an LEA fails to resolve findings identified by the Superintendent under Subsection ~~[(3)](2)~~, the Superintendent may ~~[withhold funds]~~implement corrective action as provided in R277-114.~~

R277-708-7. Gang Prevention and Intervention Funds.

(1) Consistent with Subsection ~~[53A-17a-166(1)(b)]53F-2-410(1)(b)~~, the Superintendent shall distribute funding to LEAs for gang prevention and intervention.

(2) An LEA desiring to receive gang prevention and intervention funds shall submit a proposal consistent with Rule R277-436.

KEY: students at risk

Date of Enactment or Last Substantive Amendment: [March 14,] 2018

Notice of Continuation: September 15, 2016

Authorizing, and Implemented or Interpreted Law: Art. X Sec 3; ~~[53A-17a-166]53F-2-410; [53A-1-401]53E-3-401(4)~~

Environmental Quality, Air Quality

R307-110-10

Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43212

FILED: 09/14/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This section is being amended to change the

effective date to match the anticipated Air Quality Board approval date of amendments to Section IX, Part A, of the Utah State Implementation Plan (SIP).

SUMMARY OF THE RULE OR CHANGE: This amendment changes the amendment date from 12/02/2015 to 12/05/2018.

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

MATERIALS INCORPORATED BY REFERENCE:

- ◆ Updates Utah State Implementation Plan, Emission Limits and Operating Practices, Section IX, Part A, published by Division of Air Quality, 2018

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: This rule change is not expected to have any fiscal impact on the state budget.
- ◆ LOCAL GOVERNMENTS: This rule change is not expected to have any fiscal impact on local governments.
- ◆ SMALL BUSINESSES: This rule change is not expected to have any fiscal impact on small businesses.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This rule change is not expected to have any fiscal impact on persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule change will not have a compliance cost for affected persons. This proposed change does not alter previously existing requirements.

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 10/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 12/05/2018

AUTHORIZED BY: Bryce Bird, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
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
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 rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures, because all controls were required for the previous version of Section IX, Part A, and therefore, will not cost or benefit any business further.

The Executive Director of the Department of Environmental Quality, Alan Matheson, has reviewed and approved this fiscal analysis.

R307. Environmental Quality, Air Quality.
R307-110. General Requirements: State Implementation Plan.
R307-110-10. Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter.

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter, as most recently amended by the Utah Air Quality Board on December [2]5, 201[5]8, 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: [June 7,] 2018
Notice of Continuation: January 27, 2017
Authorizing, and Implemented or Interpreted Law: 19-2-104

Environmental Quality, Air Quality
R307-511
Oil and Gas Industry: Associated Gas Flaring

NOTICE OF PROPOSED RULE
 (New Rule)
 DAR FILE NO.: 43211
 FILED: 09/14/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In January of 2018, the Air Quality Board adopted a series of oil and gas rules that allowed the source category's minor source permitting process to be streamlined. These rules require the majority of oil and gas wells in the state to follow a set of rules instead of obtaining and complying with an approval order. As the rules have been implemented and applied, the Division of Air Quality (DAQ) has learned that some oil and gas wells have been unable to take advantage of this streamlined approach as the set of rules did not include the control of associated gas from some wells. This rule is necessary to require the flaring of associated gas in these oil and gas wells so they can utilize the new permitting process.

SUMMARY OF THE RULE OR CHANGE: This rule requires the associated natural gas from operating wells to be controlled as is required for other equipment, such as storage vessels and dehydrators. It defines key terms, identifies the applicability, identifies flaring requirements, and establishes required recordkeeping.

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

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This new rule will not have a direct fiscal impact on the state budget.
- ◆ **LOCAL GOVERNMENTS:** This new rule will not have a direct fiscal impact on local governments.
- ◆ **SMALL BUSINESSES:** This new rule will have a direct fiscal cost and benefit on an unknown number of small businesses operating in Utah. These small businesses could spend between \$800 to \$1,500 in a one-time equipment installation cost. The installation of equipment would make the businesses eligible to utilize permitting-by-rule, which will then save the same companies \$2,050 in permitting costs.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENT ENTITIES:** This new rule will not have a direct fiscal impact on persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This new rule does not have a compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conduction a thorough analysis, it was determined that there is an inestimable impact on oil and gas extraction small businesses operating in Utah. Although each site could have an \$800 to \$1,000 one-time equipment cost associated with this rule, those same businesses would be eligible to participate in the new permitting rule that would generate a one-time fiscal benefit of \$2,050.

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 10/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 12/05/2018

AUTHORIZED BY: Bryce Bird, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
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

No non-small businesses are expected to be impacted by this rulemaking. Non-small industrial businesses are already required to maintain and utilize the controls that this rule would require. This rule will primarily apply to smaller oil and gas operations that are susceptible to releases of produced gas. Therefore, non-small businesses will not be impacted.

There are an inestimable amount of oil and gas extraction (extraction) small businesses (NAICS 2111) operating in Utah. These extraction sites can be included in the Utah oil and gas registration, but their total numbers are currently unknown. These businesses could experience a one-time fiscal cost of \$800 to \$1,500 associated with purchasing and installing the required control devices. The full impact to these small businesses cannot be estimated because the lack of extraction site inventory and control equipment already installed at those sites is not available.

Regardless of the fiscal impact possible on these small extraction sites, there is also a possibility for these same sites to experience a one-time benefit associated with the installation of the control devices. Sites

identified as needing to flare releases are likely required to be permitted. With the recently passed rule that allows permitting by rule, these small extraction sites will be eligible for the one-time permitting cost of \$250 if they have the controls installed, as opposed to the original one-time cost of \$2,300 to obtain a permit. That equals a potential benefit of \$2,050. The amount saved through the use of this rule is greater than the amount required to purchase and install the controls.

The Executive Director of the Department of Environmental Quality, Alan Matheson, has reviewed and approved this fiscal analysis.

R307. Environmental Quality, Air Quality.

R307-511. Oil and Gas Industry: Associated Gas Flaring.

R307-511-1. Purpose.

R307-511 establishes control requirements for the flaring of produced gas associated with well sites.

R307-511-2. Definitions.

"Emergency release" means a temporary, infrequent and unavoidable situation in which the loss of gas is uncontrollable or necessary to avoid risk of an immediate and substantial adverse impact on safety, public health, or the environment. An "emergency" is limited to a short-term situation of 24 hours or less caused by an unanticipated event or failure that is out of the operator's control and is not due to operator negligence.

"Flaring" means use of a thermal oxidation system designed to combust hydrocarbons in the presence of a flame.

"Associated Gas" means the natural gas that is produced from an oil well during normal production operations and is either sold, re-injected, used for production purposes, vented (rarely) or flared. All gas from storage vessels and low pressure separators is not associated gas.

R307-511-3. Applicability.

(1) R307-511 applies to each producing well located at a well site as defined in 40 CFR 60.5430a Subpart OOOOa Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution.

(2) VOC control devices used for controlling associated gas are subject to R307-508.

(3) R307-511 does not apply to producing wells that are subject to an approval order issued under R307-401-8.

R307-511-4. Associated Gas Flaring Requirements.

(1) Associated gas from a completed well shall either be routed to a process unit, routed to a sales pipeline, or routed to an operating VOC control device except for the following condition:

(a) Under emergency release situations as defined in R307-511-2.

R307-511-5. Recordkeeping.

(1) The owner or operator shall maintain records for releases under R307-511-4(1)(a).

(a) The time and date of event, volume of emissions and any corrective action taken shall be recorded.

(b) These records shall be kept for a minimum of three years.

KEY: air quality, nonattainment, offset

Date of Enactment or Last Substantive Amendment: 2018

Authorizing, and Implemented or Interpreted Law: 19-2-104; 19-2-108

**Environmental Quality, Drinking Water
R309-105-12
Cross Connection Control**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43209

FILED: 09/14/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These amendments update the reference to the International Plumbing Code, make specific requirements for cross connection control programs to have trained staff, and change terminology to be accurate.

SUMMARY OF THE RULE OR CHANGE: In Subsection R309-105-12(1), removes section and version in the reference to the International Plumbing Code. In Subsection R309-105-12(2)(c)(i), adds specific requirement for all community water systems to have a certified Cross Connection Control Administrator on staff or access to one (can be a contractual agreement). In Subsection R309-105-12(2)(c)(ii), adds a requirement that all other classifications of water systems may be required to have certified Cross Connection Control Program Administrator subject to Director's discretion. In Subsection R309-105-12(4), changes the term "certification" to "approval". In Subsection R309-105-12(5), changes the term "device" to "assembly".

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

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** These proposed amendments are not expected to have a fiscal impact on state revenues or expenditures related to administration of the rule by the Division of Drinking Water (Division). No additional state employees or resources are needed to oversee the new requirement that Community Water Systems employ a Cross Connection Control Program Administrator. It is possible that the state could receive increased revenue from additional individuals seeking certification as Cross Connection Control Program Administrators at Community Water Systems because of this rule revision. It is impossible to estimate, however, the additional number of individuals that may seek certification or whether, in fact, the number will increase after this rule is adopted. These proposed amendments are expected to have a direct fiscal impact on Public Water

Systems that are classified as Community Water Systems under the Safe Drinking Water Act. In Utah, there are two Community Water Systems operated by the state that are expected to experience a total one-time expenditure of \$880 to obtain certification for a Cross Connection Control Program Administrator and total ongoing expenditures of \$310 per year for certification renewal and contract maintenance. The Division assumes that one of the water systems, the larger one, will use an existing employee as a Cross Connection Control Program Administrator and the other, the smaller one, will contract with someone to act as a Program Administrator. Therefore, the Division assumes that the larger water system will have no new salary or benefit costs but will have to pay a one-time fee of \$480 for initial certification and an ongoing fee of \$110 annually for certification renewal. The Division assumes that the smaller water system will have to pay a one-time fee of \$400 for an initial contract with a certified Program Administrator to set up a Cross Connection Control Program and an ongoing annual fee of \$200 for a contract to maintain the program, both fees based on an estimated cost of \$50/hr. The new requirement will be implemented in two phases based on the size of the Community Water System. Beginning in Fiscal Year 2021, the total one-time expenditure for state-operated water systems will be \$480 and the annual ongoing expenditure will be \$110. In FY 2023, the total one-time expenditure will be \$400 and the annual ongoing expenditure will increase by \$200. Travel costs related to attending an initial certification course and certification examination are inestimable. The Division cannot predict who will have to travel and what the costs would be for various individuals. The Division assumes that there will be no costs associated with attending courses to obtain Continuing Education Units (CEU) needed for certification renewal because free courses are available throughout the state. The fiscal benefit to a state-operated Community Water System of avoiding backflow incidents by employing a certified Cross Connection Control Program Administrator is inestimable. The backflow of contaminated water into a drinking water system could require the expenditure of funds to replace equipment, flush water lines, notify customers of the event, and install equipment to prevent future backflow incidents. Non-fiscal costs to be borne by the state-operated Community Water Systems would include time off from work for employees to attend certification courses, certification examinations, and CEU-eligible courses. The non-fiscal benefits of avoiding a backflow incident include providing safe drinking water to the public and maintaining public trust in the safety of drinking water.

◆ **LOCAL GOVERNMENTS:** These proposed amendments are expected to have a direct fiscal impact on Public Water Systems that are classified as Community Water Systems under the Safe Drinking Water Act. In Utah, there are 309 Community Water Systems operated by local governments that are expected to experience a total one time expenditure of \$140,480 to obtain certification for a Cross Connection Control Program Administrator and total ongoing expenditures of \$42,810 per year for certification renewal and contract maintenance. The Division assumes that locally-operated Community Water Systems serving 500 or more

persons will use an existing employee as a Cross Connection Control Program Administrator and that locally-owned Community Water Systems serving less than 500 persons will contract with someone to act as a Program Administrator. Therefore, the Division assumes that locally-operated Community Water Systems serving 500 or more persons will have no new salary or benefit costs but will have to pay a one-time fee of \$480 per system for initial certification and an ongoing fee of \$110 per system annually for certification renewal. The Division assumes that locally-owned Community Water Systems serving less than 500 persons will have to pay a one-time fee of \$400 per water system for an initial contract with a certified Program Administrator to set up a Cross Connection Control Program and an ongoing annual fee of \$200 per water system for a contract to maintain the program, both fees based on an estimated cost of \$50/hr. The new requirement will be implemented in two phases based on the size of the Community Water System. Beginning in Fiscal Year 2021, the total one-time expenditure for local government-operated water systems will be \$101,280 and the annual ongoing expenditure will be \$23,210. In FY 2023, the total one-time expenditure will be \$39,200 and the annual ongoing expenditure will increase by \$19,600. Travel costs related to attending an initial certification course and certification examination are inestimable. The Division cannot predict who will have to travel and what the costs would be for various individuals. The Division assumes that there will be no costs associated with attending courses to obtain CEU needed for certification renewal because free courses are available throughout the state. The fiscal benefit to a locally-operated Community Water System of avoiding backflow incidents by employing a certified Cross Connection Control Program Administrator is inestimable. The backflow of contaminated water into a drinking water system may require the expenditure of funds to replace equipment, flush water lines, notify customers of the event, and install equipment to prevent future backflow incidents. Non-fiscal costs to be borne by the locally-operated Community Water Systems would include time off from work for employees to attend certification courses, certification examinations, and CEU-eligible courses. The non-fiscal benefits of avoiding a backflow incident include providing safe drinking water to the public and maintaining public trust in the safety of drinking water.

◆ **SMALL BUSINESSES:** These proposed amendments are expected to have a direct fiscal impact on Public Water Systems that are classified as Community Water Systems under the Safe Drinking Water Act. In Utah, there are 163 privately-operated Community Water Systems. The Division assumes that all 163 water systems are operated by businesses with fewer than 50 employees. The water systems are expected to experience a total one-time expenditure of \$67,600 to obtain certification for a Cross Connection Control Program Administrator and total ongoing expenditures of \$29,900 per year for certification renewal and contract maintenance. The Division assumes that privately-operated Community Water Systems serving 500 or more persons will use an existing employee as a Cross Connection Control Program Administrator and that privately-owned

Community Water Systems serving less than 500 persons will contract with someone to act as a Program Administrator. Therefore, the Division assumes that privately-operated Community Water Systems serving 500 or more persons will have no new salary or benefit costs but will have to pay a one-time fee of \$480 per system for initial certification and an ongoing fee of \$110 per system annually for certification renewal. The Division assumes that privately-owned Community Water Systems serving less than 500 persons will have to pay a one-time fee of \$400 per water system for an initial contract with a certified Program Administrator to set up a cross connection control program and an ongoing annual fee of \$200 per water system for a contract to maintain the program, both fees based on an estimated cost of \$50/hr. The new requirement will be implemented in two phases based on the size of the Community Water System. Beginning in Fiscal Year 2021, the total one-time expenditure for privately-operated water systems will be \$14,400 and the annual ongoing expenditure will be \$3,300. In FY 2023, the total one-time expenditure will be \$53,200 and the annual ongoing expenditure will increase by \$26,600. Travel costs related to attending an initial certification course and certification examination are inestimable. The Division cannot predict who will have to travel and what the costs would be for various individuals. The Division assumes that there will be no costs associated with attending courses to obtain Continuing Education Units (CEU) needed for certification renewal because free courses are available throughout the state. The fiscal benefit to a privately-operated Community Water System of avoiding backflow incidents by employing a certified Cross Connection Control Program Administrator is inestimable. The backflow of contaminated water into a drinking water system may require the expenditure of funds to replace equipment, flush water lines, notify customers of the event, and install equipment to prevent future backflow incidents. Non-fiscal costs to be borne by the privately-operated Community Water Systems would include time off from work for employees to attend certification courses, certification examinations, and CEU-eligible courses. The non-fiscal benefits of avoiding a backflow incident include providing safe drinking water to the public and maintaining public trust in the safety of drinking water.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: These proposed amendments are expected to have a direct fiscal impact on Public Water Systems that are classified as Community Water Systems under the Safe Drinking Water Act. In Utah, there are 10 Community Water Systems operated by "other persons", in this case the federal government, that are expected to experience a total one-time expenditure of \$4,560 to obtain certification for a Cross Connection Control Program Administrator and total ongoing expenditures of \$1,370 per year for certification renewal and contract maintenance. The Division assumes that federally-operated Community Water Systems serving 500 or more persons will use an existing employee as a Cross Connection Control Program Administrator and that federally-owned Community Water Systems serving less than 500 persons will contract with someone to act as a Program Administrator.

Therefore, the Division assumes that federally-operated Community Water Systems serving 500 or more persons will have no new salary or benefit costs but will have to pay a one-time fee of \$480 per system for initial certification and an ongoing fee of \$110 per system annually for certification renewal. The Division assumes that federally-owned Community Water Systems serving less than 500 persons will have to pay a one-time fee of \$400 per water system for an initial contract with a certified Program Administrator to set up a Cross Connection Control Program and an ongoing annual fee of \$200 per water system for a contract to maintain the program, both fees based on an estimated cost of \$50/hr. The new requirement will be implemented in two phases based on the size of the Community Water System. Beginning in Fiscal Year 2021, the total one-time expenditure for federally-operated water systems will be \$3,360 and the annual ongoing expenditure will be \$770. In FY 2023, the total one-time expenditure will be \$1,200 and the annual ongoing expenditure will increase by \$600. Travel costs related to attending an initial certification course and certification examination are inestimable. The Division cannot predict who will have to travel and what the costs would be for various individuals. The Division assumes that there will be no costs associated with attending courses to obtain CEU needed for certification renewal because free courses are available throughout the state. The fiscal benefit to a federally-operated Community Water System of avoiding backflow incidents by employing a certified Cross Connection Control Program Administrator is inestimable. The backflow of contaminated water into a drinking water system may require the expenditure of funds to replace equipment, flush water lines, notify customers of the event, and install equipment to prevent future backflow incidents. Non-fiscal costs to be borne by the federally-operated Community Water Systems would include time off from work for employees to attend certification courses, certification examinations, and CEU-eligible courses. The non-fiscal benefits of avoiding a backflow incident include providing safe drinking water to the public and maintaining public trust in the safety of drinking water.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for affected persons, in this case Community Water Systems, would increase because of these proposed amendments. Community Water Systems would be required to have a Cross Connection Control Program Administrator either through direct employment or by contract. This is a new requirement; previously a water system was required to have a Cross Connection Control Program but was not required to employ a certified person to administer the program. The compliance costs would result from paying fees for employees to obtain certification and renew that certification annually or from contracting with a certified Cross Connection Control Program Administrator. Specific estimated costs are shown above.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These proposed amendments would directly affect 163

privately-owned Community Water Systems in Utah that would be required to employ a certified Cross Connection Control Program Administrator. All are assumed to have fewer than 50 employees. The total one-time expenditure for the water systems to comply with the new requirement to employ certified Cross Connection Control Program Administrators is estimated to be \$67,600 and the total ongoing annual expenditure is estimated to be \$29,900. Because the new requirement will begin in phases, the one-time expenditures are estimated to be \$14,400 in Fiscal Year 2021 and \$53,200 in Fiscal Year 2023. The total annual ongoing expenditures are estimated to be \$3,300 in Fiscal Year 2021 and are estimated to increase by \$26,600 per year in Fiscal Year 2023.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Gary Rager by phone at 801-536-4498, by FAX at 801-536-4211, or by Internet E-mail at grager@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2018

AUTHORIZED BY: Alan Matheson, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$0	\$0	\$590
Local Government	\$0	\$0	\$124,490
Small Businesses	\$0	\$0	\$17,700
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$4,130
Total Fiscal Costs:	\$0	\$0	\$146,910
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	(\$146,910)

*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**
 These proposed amendments to Section R309-105-12 are not expected to have a fiscal impact on non-small businesses' revenues or expenditures, because it pertains to Public Water Systems classified as Community Water Systems under the Safe Drinking Water Act. Of the 163 privately-operated Community Water Systems in Utah, it is assumed that none is a non-small business.

The Executive Director of Utah Department of Environmental Quality, Alan Matheson, has reviewed and approved this fiscal analysis.

R309. Environmental Quality, Drinking Water.
R309-105. Administration: General Responsibilities of Public Water Systems.
R309-105-12. Cross Connection Control.

(1) The water supplier shall not allow a connection to his system which may jeopardize its quality and integrity. Cross connections are not allowed unless controlled by an approved and properly operating backflow prevention assembly or device. The requirements of [~~Chapter 6 of~~]the [2009-]International Plumbing Code and its amendments as adopted by the Department of Commerce under R156-56 shall be met with respect to cross connection control and backflow prevention.

(2) Each water system shall have a functioning cross connection control program. The program shall consist of five designated elements documented on an annual basis. The elements are:

- (a) a legally adopted and functional local authority to enforce a cross connection control program (i.e., ordinance, bylaw or policy);
- (b) providing public education or awareness material or presentations;
- (c) an [operator]individual with adequate training in the area of cross connection control or backflow prevention;
 - (i) Community water systems serving a population of 500 or greater shall have a certified Cross Connection Control Program Administrator by December 31, 2020. Refer to R309-305 for specific requirements.

(ii) Community water systems serving a population less than 500 shall have a certified Cross Connection Control Program Administrator by December 31, 2022. Refer to R309-305 for specific requirements.

(iii) Non-transient non-community and transient non-community water systems may be required to have a certified Cross Connection Control Program Administrator at the Director's discretion.

(d) written records of cross connection control activities, such as, backflow assembly inventory; and

(e) test history and documentation of on-going enforcement (hazard assessments and enforcement actions) activities.

(3) Suppliers shall maintain, as proper documentation, an inventory of each pressure atmospheric vacuum breaker, spill resistant pressure vacuum breaker, double check valve, reduced pressure zone principle assembly, and high hazard air gap used by their customers, and a service record for each such assembly.

(4) Backflow prevention assemblies shall be in-line serviceable (repairable), in-line testable and have [certification]approval through third party [certifying]approval agencies to be used within a public drinking water system. Third party [certification]approval shall consist of any combination of two [certifications]approvals, laboratory or field, performed by a recognized testing organization which has demonstrated competency to perform such tests.

(5) Backflow prevention assemblies shall be inspected and tested at least once a year, by an individual certified for such work as specified in R309-305. Suppliers shall maintain, as proper documentation, records of these inspections. This testing responsibility may be borne by the water system or the water system management may require that the customer having the backflow prevention assembly be responsible for having the [device]assembly tested.

(6) Suppliers serving areas also served by a pressurized irrigation system shall prevent cross connections between the two. Requirements for pressurized irrigation systems are outlined in Section 19-4-112 of the Utah Code.

KEY: drinking water, watershed management

Date of Enactment or Last Substantive Amendment: [~~November 8, 2017~~2018]

Notice of Continuation: March 13, 2015

Authorizing, and Implemented or Interpreted Law: 19-4-104

Environmental Quality, Drinking Water

R309-305

Certification Rules for Backflow Technicians

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 43210

FILED: 09/14/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This repeal and reenactment of Rule R309-305 changes the title of the rule to more accurately match the content, renames the classifications of certifications within the Cross Connection Certification Program to match the classifications in use, restructures Cross Connection Control Commission section, and changes requirements for the courses, examinations, and application for the certifications within the Cross Connection Certification Program.

SUMMARY OF THE RULE OR CHANGE: This filing changes the title of this rule and rearranges the entire rule. It changes the names of the different certifications from "Class 1" and "Class 2" to "Cross Connection Control Program Administrator" and "Backflow Assembly Tester", eliminates the terms "technician" and "Class 3" certification, eliminates the current Sections R309-305-6, R309-305-7, R309-305-8, and R309-305-11 and puts the information into the new Sections R309-305-7, R309-305-8, and R309-305-9. Restructures the Cross Connection Control Commission section (R309-305-4) and eliminates reference to agencies that may nominate members to the commission. Also defines roles and responsibilities of the Director, commission members, and commission secretary in regards to Cross Connection Control Commission functions. In the new Section R309-305-7, makes changes and rewrites the training course, examination, and application requirements to attain Cross Connection Control Program Administrator certificates and renewals. In the new Section R309-305-8, makes changes and rewrites the training course requirements, examination issuance, and application requirements to attain Backflow Assembly Tester certificates and renewals. The new Section R309-305-9 requires that a proctor for a Backflow Tester certification hold a proctor certificate from accredited agency accepted by the Cross Connection Control Commission. The new Section R309-305-11, removes obsolete reference to the state code, rewrites and defines fee responsibilities of the applicant.

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

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The proposed repeal and reenactment of this rule is expected to have a fiscal impact on state revenues. The costs of renewing Cross Connection Control Program Administrator and Backflow Assembly Tester certificates are expected to fall because the completion of classroom courses provided by the state will no longer be required for certification renewal. Therefore, state revenues will be reduced because fees for the courses will no longer be paid to the state. Revenues from Cross Connection Control Program Administrators are expected to be reduced by \$38.33 per certificate renewal. There are currently 226 Program Administrator certificates that could be renewed over

the next 3 fiscal years for a total revenue loss to the state of \$8,663. Revenues from Backflow Assembly Testers are expected to be reduced by \$70 per certificate renewal. There are currently 706 Assembly Tester certificates that could be renewed over the next 3 fiscal years for a total revenue loss to the state of \$49,420. Therefore, for both certificate levels, total state revenue is expected to be reduced by \$58,083 over the next 3 fiscal years.

◆ LOCAL GOVERNMENTS: The proposed repeal and reenactment of this rule is not expected to have a fiscal impact on local governments' revenues or expenditures. This rule pertains to certification of Cross Connection Control Program Administrators and Backflow Assembly Testers for Public Water Systems. It rearranges the requirements of the current rule and revises certification titles.

◆ SMALL BUSINESSES: The proposed repeal and reenactment of this rule is not expected to have a fiscal impact on small businesses' revenues or expenditures. This rule pertains to certification of Cross Connection Control Program Administrators and Backflow Assembly Testers for Public Water Systems. It rearranges the requirements of the current rule and revises certification titles.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The proposed amendments are expected to have a direct fiscal benefit to Cross Connection Control Program Administrators (currently certified under the title of Class I Backflow Technicians) and Backflow Assembly Testers (currently certified under the title of Class II Backflow Technicians). In Utah, there are currently 226 Cross Connection Control Program Administrators and 706 Backflow Assembly Testers. Cross Connection Control Program Administrators are expected to save \$38.33 per certificate renewal for a total savings of \$8,663 in certification renewal fees over the course of the next 3 fiscal years because the completion of classroom courses will no longer be required for certification renewal. Backflow Assembly Testers are expected to save \$70 per certificate renewal for a total of \$49,420 annually in certification renewal fees over the course of the next 3 fiscal years because the completion of classroom courses will no longer be required for certification renewal. Therefore, for both certificate levels, total renewal fees are expected to be reduced by \$58,083 over the next 3 fiscal years. The Division of Drinking Water does not anticipate any direct fiscal costs to certified Cross Connection Control Program Administrators and Backflow Assembly Testers because of these proposed amendments. Non-fiscal costs for Cross Connection Control Program Administrators and Backflow Assembly Testers may include time off from work to attend CEU-eligible courses, which the proposed amendment would require for certification renewal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs for affected persons, certified Cross Connection Control Program Administrators and certified Backflow Assembly Testers, are expected to be reduced by the reenacted rule because the completion of classroom courses will no longer be required for certification renewal. Instead, Continuing Education Units (CEU) will be required

for certification renewal. The Division assumes that there will be no costs associated with attending courses to obtain CEU's needed for certification renewal because free courses are available throughout the state. Specific estimated cost savings for affected persons are shown above under other persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed repeal and reenactment is not expected to have a direct fiscal impact on businesses. This rule pertains to certification requirements for Cross Connection Control Program Administrators and Backflow Assembly Testers at public water systems. Therefore, this proposed rule has a direct fiscal impact on certified Program Administrators and Assembly Testers. A business that employs a certified Cross Connection Control Program Administrator or Backflow Assembly Tester could indirectly realize reduced costs if it reimburses an employee for certification renewal because those costs are expected to be lower under this proposed rule.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Gary Rager by phone at 801-536-4498, by FAX at 801-536-4211, or by Internet E-mail at grager@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2018

AUTHORIZED BY: Alan Matheson, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$19,325	\$19,325	\$19,433
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$19,325	\$19,325	\$19,433

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	\$19,325	\$19,325	\$19,433
Total Fiscal Benefits:	\$19,325	\$19,325	\$19,433
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 repeal and reenactment of Rule R309-305 is not expected to have a fiscal impact on non-small businesses' revenues or expenditures, because it pertains specifically to certification requirements for Cross Connection Control Program Administrators and Backflow Assembly Testers at Public Water Systems.

The Executive Director of the Utah Department of Environmental Quality, Alan Matheson, has reviewed and approved this fiscal analysis.

R309. Environmental Quality, Drinking Water.
[R309-305. Certification Rules for Backflow Technicians.
R309-305-1. Purpose.

These rules are established:
 (1) In order to promote the use of trained, experienced professional personnel in protecting the public's health;
 (2) To establish standards for training, examination, and certification of those personnel:
 (a) involved with cross connection control program administration
 (b) testing, maintaining and repairing backflow prevention assemblies; and
 (3) To establish standards for the instruction of Backflow Technicians.

R309-305-2. Authority.
 This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(4)(a) of the Utah Code and in accordance with 63G-3 of the same, known as the Administrative Rulemaking Act.

R309-305-3. Extent of Coverage.
 These rules shall apply to all personnel who will be:
 (1) involved with the administration or enforcement of any cross connection control program being administered by a drinking water system; or
 (2) testing, maintaining and/or repairing any backflow prevention assembly; or
 (3) instructors within the certification program, regardless of institution or program.

R309-305-4. Definitions.
 Definitions for certain terms used in this rule are given in R309-110 but may be further clarified herein:
 (1) Backflow Technician - An individual who has met the requirements and successfully completed the course of instruction and certification requirements for Class I, II or III backflow technician certification as outlined herein:
 (a) Class I Backflow Technician is a Cross Connection Control Program Administrator.
 (b) Class II Backflow Technician is a Backflow Assembly Tester.
 (c) Class III Backflow Technician is a Backflow Instructor Trainer.
 (2) Class - means the level of certification for a Backflow Technician.
 (3) Director - means the Director of the Division of Drinking Water.
 (4) Performance Examination - means a closed book, hands on demonstration of an individual applicant's ability to conduct an accurate field test on backflow prevention assemblies.
 (5) Proctor - means a Class III Backflow Technician authorized to administer the written or the performance examination.
 (6) Renewal Course - means a course of instruction, approved by the Commission, which is a prerequisite to the renewal of a Backflow Technician's Certificate.
 (7) Secretary to the Commission - means that individual appointed by the Director to conduct the business of the Commission and to make recommendations to the Director regarding the backflow technician certification program.
 (8) Written Examination - means a closed book examination for record used to determine the competency and ability of an individual applicant's understanding of the required course of instruction.

R309-305-5. General.
 (1) Certification Application: Any individual may apply for certification.
 (2) Certification Classes: The classes of certificates shall be: Class I, Class II, and Class III.
 (a) Class I Backflow Technician - Cross Connection Control Program Administrator: This certificate shall be issued to those individuals who are involved in administering a cross connection control program, who have demonstrated their knowledge and ability by successfully completing the approved certification examination.
 (i) These individuals may NOT test, maintain or repair any backflow prevention assembly for purposes of submitting legal documentation of the operational status of a backflow prevention assembly, including performance of any record test demonstrating backflow prevention assembly compliance with required standards.

These individuals may test to insure proper testing techniques are being utilized within their jurisdiction:

(ii) These individuals may conduct plan/design reviews, hazard assessment investigations, compliance inspections, and enforce local laws, codes, rules and regulations and policies within their jurisdictions, and offer technical assistance as needed.

(b) Class II Backflow Technician – Backflow Assembly Tester: This certificate shall be issued to those individuals who have demonstrated their knowledge and ability by successfully completing the approved written and performance certification examinations.

(c) Class III Backflow Technician – Backflow Instructor-Trainer:

(i) This certificate shall be issued to those individuals who have successfully completed a 3-year renewal cycle as a Class II Technician and in addition have proven qualified and competent to instruct approved Backflow Technician Certification classes by participating in and successfully completing an approved Class III certification course.

(ii) In order to successfully complete a Class III certification course, the applicant shall be required to make a presentation about one or more randomly picked topics in backflow prevention, successfully demonstrating the applicant's knowledge of the subject. The applicant shall also successfully complete a performance examination in a manner that demonstrates knowledge and skill with randomly selected available testing equipment; the applicant shall identify, diagnose and document malfunctions of the backflow assembly and verify the design operating criteria are achieved.

(iii) Class III Backflow Technicians will also be required to attend additional training provided periodically by the Division to ensure knowledge of any regulatory changes and to ensure consistency in the evaluation of applicants.

(3) Certification Requirements: Those individuals seeking certification as a Backflow Technician must participate in an approved Technician's course of instruction and successfully complete the examination required per class of certification.

(4) Backflow Technician Course Instructors: All individuals who instruct Backflow Technician training courses must hold a current Class III – Backflow Technician certificate.

(5)(a) No person shall install, replace or repair a backflow prevention assembly unless that person holds a Class II or Class III Certification.

(b) This requirement shall not apply when the Backflow Technician is the assembly owner or an employee of the assembly owner.

(c) No person shall install, replace or repair a backflow prevention assembly that has not been certified as provided in R309-105-12(4).

R309-305-6. Technician Responsibilities:

(1) All technicians shall notify the Division of Drinking Water, local health department and the appropriate public water system of any backflow incident as soon as possible, but within eight hours. The Division can be reached during business hours at 801-536-4200 or after hours at 801-536-4123;

(2) All technicians shall notify the appropriate public water system of a failing backflow prevention assembly within five days;

(3) All technicians shall ensure that acceptable and approved procedures are used for testing, repairing and maintaining any backflow prevention assembly;

(4) All technicians shall report the backflow prevention assembly test results to the appropriate public water system within 30 days;

(5) All technicians shall include, on the test report form, any materials or replacement parts used to repair or to perform maintenance on a backflow prevention assembly;

(6) All technicians shall ensure that any replacement part is equal to or greater than the quality of parts originally supplied within the backflow prevention assembly and are supplied only by the assembly manufacturer or their agent;

(7) All technicians shall not change the design, material, or operational characteristics of the assembly during any repair or maintenance;

(8) All technicians shall perform each test and shall be responsible for the competency and accuracy of all testing and reports thereof;

(9) All technicians shall ensure the status of their technician certification is current; and

(10) All technicians shall be equipped with and competent in the use of all tools, gauges, and equipment necessary to properly test, repair and maintain a backflow prevention assembly.

(11) All technicians shall be responsible for any additional licensure.

R309-305-7. Examinations:

(1) Examination Issuance:

(a) The examination recognized by the Commission for certification shall be issued through the Division of Drinking Water for both initial certification and renewal of certification.

(b) If an individual fails an examination, the individual may submit an application for reexamination on the next available scheduled test date.

(c) Examinations (both written and performance) that are used to determine competency and ability shall be approved by the Cross-Connection Control Commission prior to being issued.

(2) Exam Scoring: Class I, Class II and Class III Technician's must successfully complete a written exam with a score of 70% or higher. Class II Technician's must also successfully demonstrate competence and ability in the performance examination; for the testing of a Pressure Vacuum Breaker Assembly, a Spill-Resistant Pressure Vacuum Breaker Assembly, a Double Check Valve Assembly, and a Reduced Pressure Principal Backflow Prevention Assembly:

(a) The performance examination shall be conducted by a minimum of two Class III Technicians.

(b) Each candidate must demonstrate competence. Competence shall be evaluated by a proctor and determined with a pass or fail grade in each of the following areas:

- (i) Properly identify backflow assembly;
- (ii) Properly identify test equipment needed;
- (iii) Properly connect test equipment;
- (iv) Properly test assembly;
- (v) Properly identify assembly malfunctions;
- (vi) Properly diagnose assembly malfunctions; and
- (vii) Properly record test results.

The candidate must receive a pass grade from the proctor in all areas listed above for each assembly tested in order to successfully complete the performance examination.

~~(c) An individual may apply for reexamination of either portion of the examination a maximum of two times. After a third failing grade, the individual must register for and complete another technician's training course prior to any further reexamination.~~

~~(3) Class III Technicians: Class III Technicians shall participate in and successfully complete a Class III Certification course, approved by the Cross Connection Control Commission. Class III Technicians shall maintain their Class II Technician certification.~~

R309-305-8. Certificates.

~~(1) Certificate Issuance: For a certificate to be issued, the individual must complete a Technician's training course and pass with a minimum score of 70% the written examination. For Class II and III certificates, successful completion of the performance examination shall also be required.~~

~~(2) Certificate Renewal: The Backflow Technician's certificate is issued by the Director and shall expire December 31, three years from the year of issuance.~~

~~(a) Backflow Technician certificates shall be issued by the Director after considering the recommendation of the Commission Secretary.~~

~~(b) The Backflow Technician's certificate may be renewed up to six months in advance of the expiration date.~~

~~(c) A Backflow Technician may retain the Technician's certification number when the Technician renews certification within twelve months after the certification's expiration date. The technician shall not test, maintain or repair any backflow prevention assembly for purposes of submitting legal documentation of the operational status of a backflow prevention assembly as described in R305-5(2)(a)(i).~~

~~(d) To renew a Class I or II Technician certificate, the Technician must register for and participate in an approved backflow prevention renewal course, and successfully complete the renewal examination (minimum score of 70%) which shall include a performance portion for Class II Certification.~~

~~(e) To renew a Class III Technician certificate, the following criteria shall be met:~~

~~(i) In the 3 year certification period a total of three events from the following list shall be obtained in any combination:~~

~~(A) Instruction at a Commission approved backflow technician certification or renewal course.~~

~~(B) Serve as a proctor for the performance examination at a Commission approved backflow technician certification or renewal course.~~

~~(ii) Attendance at a minimum of two of the annual Class III coordination meetings or receive a meeting update from the Commission Secretary.~~

~~(iii) Attendance and successful review at a Class III renewal course, as approved by the Cross Connection Control Commission.~~

~~(f) Should the applicant fail the renewal written examination (minimum score of 70%), renewal of that existing license shall not be allowed until a passing score is obtained. If the applicant fails to successfully complete the test after three attempts, the applicant shall be required to participate in an approved Backflow Technician's course before retaking the written and performance examinations. Class I Technicians only need to successfully complete the written examination.~~

R309-305-9. Certification Revocation.

~~(1) The Director may suspend or revoke a Backflow Technician's certification, for good cause, including any of the following:~~

~~(a) The certified person has acted in disregard for public health or safety;~~

~~(b) The certified person has engaged in activities beyond the scope of their certification;~~

~~(c) The certified person has misrepresented or falsified figures or reports concerning backflow prevention assembly or test results;~~

~~(d) The certified person has failed to notify proper authorities of a failing backflow prevention assembly within five days, as required by R309-305-6(2);~~

~~(e) The certified person has failed to notify proper authorities of a backflow incident for which the technician had personal knowledge, as required by R309-305-6(1);~~

~~(f) The certified person has installed or repaired a backflow prevention assembly that is not certified or has implemented a change in the design, material or operational characteristics of a certified backflow prevention assembly thereby invalidating the backflow assembly certification.~~

~~(2) Disasters or "Acts of God", which could not be reasonably anticipated or prevented, shall not be grounds for suspension or revocation actions.~~

~~(3) The Commission Secretary shall inform the technician, in writing, if the certification is being considered for suspension or revocation. The communication shall state the reasons for considering suspension or revocation, and the technician shall be given an opportunity for a hearing.~~

R309-305-10. Fees.

~~(1) Fees: The fees for certification shall be submitted in accordance with Section 63-38-3.2.~~

~~(2) All fees shall be deposited in a special account to defray the costs of administering the Cross Connection Control and Certification programs.~~

~~(3) Renewal Fees: The renewal fee for all classes of Technicians shall be in accordance with Section 63-38-3.2.~~

~~(4) All fees shall be deposited in a special account to defray the cost of the program.~~

~~(5) All fees are non-refundable.~~

R309-305-11. Training.

~~(1) Training: Minimum training course curriculum, written tests and performance tests shall be established by the Commission and implemented by the Secretary of the Commission for both the Technician Class I and Class II courses and the renewal courses.~~

~~(a) The length of the initial certification course for a Class I cross connection control program administrator shall be a minimum of 32 hours, including examination time.~~

~~(b) The length of the initial certification course for a Class II backflow assembly tester shall be a minimum of 32 hours, excluding examination time.~~

~~(c) The length of each renewal course shall be a minimum of 16 hours including the renewal examination times, for both written and performance.~~

R309-305-12. Cross Connection Control Commission.

~~(1) Appointment of Members: A Cross Connection Control Commission shall be appointed by the Director from nominations made by cooperating agencies.~~

~~(2) Responsibility: The Commission is charged with the responsibility of conducting all work necessary to promote the cross connection program as well as recommending qualified individuals for certification, and overseeing the maintenance of necessary records.~~

~~(3) Representative Agencies: The Commission shall consist of seven members:~~

~~(a) One member (nominated by the League of Cities and Towns) shall represent a community drinking water supply.~~

~~(b) One member (nominated by the Utah Pipes Trades Education Program) shall represent the plumbing trade and must be a licensed Journeyman Plumber.~~

~~(c) One member (nominated by the Utah Mechanical Contractors Association) shall represent the mechanical trade contractors.~~

~~(d) One member (nominated by the Utah Plumbing and Heating Contractors Association) shall represent the non-union plumbing and mechanical contractors and plumbers.~~

~~(e) One member (nominated by the Rural Water Association of Utah) shall represent small water systems.~~

~~(f) One member (nominated by the Utah Chapter American Backflow Prevention Association) shall represent Class II Backflow Technicians and shall be a Backflow Technician.~~

~~(g) One member (nominated by the Utah Association of Plumbing and Mechanical Officials) shall represent plumbing inspection officials and shall be a licensed plumbing inspector.~~

~~(4) Term: Each member shall serve a two year term.~~

~~(5) Nominations of Members: All nominations of Commission members shall be presented to the Director, who may refuse any nomination.~~

~~(6) Unexpired Term: An appointment to succeed a Commission member who is unable to complete his full term shall be for the unexpired term only, and shall be nominated to, and appointed by, the Director in accordance with R309-305-11(1).~~

~~(7) Quorum: At least four Commission members shall be required to constitute a quorum to conduct the Commission's business.~~

~~(8) Officers: Each year the Commission shall elect officers as needed to conduct its business.~~

~~(a) The Commission shall meet at least once a year.~~

~~(b) All actions taken by the Commission shall require a minimum of four affirmative votes.~~

R309-305-13. Secretary of the Commission.

~~(1) Appointment: The Director shall appoint, with the consent of the Commission, a staff member to function as the Secretary to the Commission. This Secretary shall serve to coordinate the business of the Commission and to bring issues before the Commission.~~

~~(2) Duties: The Secretary's duties shall be to:~~

~~(a) act as a liaison between the Commission, certified Technicians, public water suppliers, and the public at large;~~

~~(b) maintain records necessary to implement and enforce these rules;~~

~~(c) notify sponsor agencies of Commission nominations as needed;~~

~~(d) coordinate and review all cross connection control programs, certification training and the certification of Backflow Technicians;~~

~~(e) serve as a source of public information for Certified Technicians, water purveyors, and the public at large;~~

~~(f) receive and process applications for certification;~~

~~(g) investigate and verify all complaints against or concerning certified Backflow Prevention Technicians, and advise the Director regarding any enforcement actions that are being recommended by the Commission;~~

~~(h) develop and administer examinations;~~

~~(i) review and correct examinations.~~

~~(3) The Secretary to the Commission is also responsible for making recommendations to the Director regarding backflow technician certification as provided in these rules.]~~

R309-305. Cross Connection Control and Backflow Prevention Certification.**R309-305-1. Purpose.**

~~The purpose of this rule is to:~~

~~(1) adopt standards for the training, examination, and certification of persons engaged in:~~

~~(a) administration of cross connection control programs for public water systems;~~

~~(b) repair and testing of backflow prevention assemblies at public water systems; and~~

~~(c) instruction or examination monitoring for backflow assembly tester certification.~~

~~(2) establish certification fee requirements; and~~

~~(3) establish the Cross Connection Control Commission and its responsibilities.~~

R309-305-2. Authority.

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

R309-305-3. Definitions.

~~(1) Definitions for certain terms used in this rule are given in R309-110.~~

~~(2) In addition to terms defined in R309-110:~~

~~(a) "Accredited Agency" means a third-party organization approved by the Cross Connection Control Commission to provide written and performance examinations for Backflow Assembly Tester certification;~~

~~(b) "Backflow Assembly Tester" means a person certified under this rule to conduct testing of backflow prevention assemblies;~~

~~(c) "Backflow Proctor/Trainer" means a person qualified to instruct cross connection control certification courses and to act as a proctor or exam monitor for cross connection control certification examinations;~~

~~(d) "Cross Connection Control Program Administrator" means a person certified under this rule to administer a cross connection control program for a public drinking water system;~~

~~(e) "Performance examination" means a closed-book, hands-on demonstration of an applicant's ability to conduct an accurate field test of backflow assemblies; and~~

(f) "Written examination" means a closed-book examination for record to determine the competency and ability of an applicant to understand the requirements.

R309-305-4. Cross Connection Control Commission.

(1) Cross Connection Control Commission Organization and Members.

(a) The Director may establish a Cross Connection Control Commission.

(b) The Commission shall consist of seven members representing the following sectors:

(i) One member who represents community water systems.

(ii) One member who represents the plumbing trade and is a licensed Journeyman Plumber.

(iii) One member who represents the mechanical trade contractors.

(iv) One member who represents the non-union plumbing and mechanical contractors and plumbers.

(v) One member who represents small public water systems.

(vi) One member who represents Backflow Assembly Testers and Cross Connection Control Program Administrators and is certified as either

(vii) One member who represents plumbing inspection officials and is a licensed plumbing inspector.

(c) Commission members shall be appointed by the Director. The Director may consider or accept nominations made by entities representing specific sectors.

(2) Cross Connection Control Commission Responsibilities. The Cross Connection Control Commission may:

(a) advise the Director concerning the training, examination, and certification of persons engaged in cross connection control and backflow prevention for public water systems;

(b) review findings and recommend to the Director suspension or revocation of certificates; and

(c) review and accept certification training courses.

(3) Cross Connection Control Commission Operations.

(a) Each appointed Commission member shall serve a two-year term.

(b) The Commission shall annually elect, at a minimum, a chairperson and a vice chairperson to conduct the business of the Commission.

(c) The Commission shall meet at least twice a year.

(d) Four members shall be present to constitute a quorum to conduct the Commission's business.

(e) A vote by a majority of the members present shall be required for the Commission to take an action.

R309-305-5. Secretary to the Cross Connection Control Commission.

(1) The Director shall appoint a Secretary to the Commission.

(2) The Secretary's responsibilities may include:

(a) coordinating the Commission's business;

(b) bringing pertinent issues before the Commission;

(c) being a liaison between the Commission and persons certified under this rule, public water systems, and the public;

(d) maintaining records to implement and enforce the requirements of this rule;

(e) coordinating nominations to the Commission;

(f) coordinating and reviewing public water system cross connection control programs and training and certifications in the cross connection control and backflow prevention program;

(g) processing applications for certification and renewals;

(h) investigating and verifying all complaints against or concerning certified Backflow Assembly Testers, Cross Connection Control Program Administrators, and Backflow Proctor/Trainers, and inform the Director regarding any enforcement actions that are being recommended by the Commission;

(i) administering examinations; and

(j) making recommendations to the Director regarding cross connection control certifications.

R309-305-6. Cross Connection Control and Backflow Prevention Certifications.

(1) Two types of certification may be obtained by persons engaged in cross connection control or backflow prevention for public water systems:

(a) Cross Connection Control Program Administrator; and

(b) Backflow Assembly Tester.

(2) To obtain either of the above certifications, a person must comply with the training and examination requirements specified in the following sections.

R309-305-7. Cross Connection Control Program Administrator Certification.

(1) Application for a Certificate.

(a) To obtain a Program Administrator Certificate, a person shall:

(i) complete a certification course of at least 18 hours, including examination time, approved by the Cross Connection Control Commission;

(ii) pass a written examination accepted by the Cross Connection Control Commission by correctly answering 70% or more of the questions;

(iii) submit a complete application to the Director; and

(iv) pay the required fee.

(b) A Program Administrator Certificate issued by the Director is valid for one year from the date of issuance.

(c) A Program Administrator Certificate may be renewed annually by meeting the renewal requirements below.

(2) Certificate Renewal.

(a) A Program Administrator Certificate may be renewed:

(i) for a period of one year; and

(ii) an unlimited number of times.

(b) To renew a certificate, a person shall:

(i) complete a minimum of 0.6 Continuing Education Units (CEU's) annually;

(ii) submit evidence of CEU's completed to the Commission Secretary; and

(iii) pay the required fee.

(c) Continuing Education Units shall:

(i) be specific to cross connection control or backflow prevention; and

(ii) be approved by the Commission Secretary.

(3) Certificate Expiration. A Program Administrator Certificate expires if a person fails to fulfill the requirements to maintain the certification.

(4) Program Administrator Responsibilities.

(a) A person with a valid Program Administrator Certificate may perform the following specifically regarding cross connection control and backflow prevention:

- (i) review plans and designs for compliance;
- (ii) investigate and assess hazards;
- (iii) inspect facilities for compliance;
- (iv) enforce local laws, codes, rules, and policies; and
- (v) provide technical assistance.

(b) A Program Administrator may test a backflow assembly only for the purpose of assuring that proper testing techniques are being used within a water system's jurisdiction.

(5) Program Administrator Certificate Restrictions.

A person with a valid Program Administrator Certificate may not perform the following specifically regarding a backflow prevention assembly:

- (a) test, maintain, or repair the assembly for the purpose of legally documenting the operational status of the assembly; or
- (b) perform a test for record demonstrating compliance of the assembly with required standards.

R309-305-8. Backflow Assembly Tester Certification.(1) Application for a Certificate.

(a) To obtain a Backflow Assembly Tester Certificate, a person shall:

- (i) complete a certification course accepted by the Cross Connection Control Commission;
- (ii) pass a written examination offered by an Accredited Agency accepted by the Cross Connection Control Commission;
- (iii) successfully demonstrate competence and ability in a performance examination offered by an Accredited Agency accepted by the Cross Connection Control Commission for the testing of:

- (A) a pressure vacuum breaker assembly,
- (B) a spill resistant pressure vacuum breaker assembly,
- (C) a double check valve assembly, and

(D) a reduced pressure principal backflow prevention assembly;

(iv) submit a complete application, including a valid certificate issued by an Accredited Agency accepted by the Cross Connection Control Commission, to the Commission Secretary; and

(v) pay the required fee.

(b) A Backflow Assembly Tester Certificate issued by the Director is valid for three years from the date of issuance.

(c) A Backflow Assembly Tester Certificate may be renewed by meeting the renewal requirements below.

(2) Certificate Renewal.

(a) A Backflow Assembly Tester Certificate may be renewed:

- (i) for a period of three years; and
- (ii) an unlimited number of times.

(b) To renew a certificate, a person shall:

- (i) complete the written and performance examination requirements of R309-305-8(1)(a)(ii) and (iii);
- (ii) submit a renewal application; and
- (iii) pay the required fee.

(3) Certificate Expiration.

(a) A Backflow Assembly Tester Certificate expires if a person fails to complete the certificate renewal requirements of R309-305-8(2).

(b) A Backflow Assembly Tester with an expired certificate may not test, maintain, or repair a backflow assembly for the purpose of legally documenting the operational status of the assembly.

(4) Backflow Assembly Tester Obligations. A person with a valid Backflow Assembly Tester Certificate shall:

(a) notify the Division of Drinking Water, local health department, and the appropriate public water system of any backflow incident as soon as possible and within eight hours of discovery;

(b) notify the appropriate public water system of a failing backflow prevention assembly within five days;

(c) ensure that acceptable and approved procedures are used for testing, repairing, and maintaining a backflow prevention assembly;

(d) report backflow prevention assembly test results to the appropriate public water system within 30 days;

(e) include, on the test report form, any materials or replacement parts used to repair or to perform maintenance on a backflow prevention assembly;

(f) ensure that the quality of a replacement part is equal to or greater than the quality of the part originally supplied within the backflow prevention assembly and is supplied only by the assembly manufacturer or its agent;

(g) perform each test and be responsible for the competency and accuracy of all testing and reporting;

(h) ensure that Backflow Assembly Tester certification is current;

(i) be equipped with and competent in the use of all tools, gauges, and equipment necessary to properly test, repair, and maintain a backflow prevention assembly; and

(j) be responsible for any additional licensure.

(5) Backflow Assembly Tester Restrictions.

A person with a valid Backflow Assembly Tester Certificate may not change the design, material, or operational characteristics of the assembly during any repair or maintenance.

R309-305-9. Proctor/Trainer for Backflow Assembly Tester Qualifications.

A proctor or trainer for Backflow Assembly Tester Certification shall maintain a current proctor certificate issued by an Accredited Agency accepted by the Cross Connection Control Commission.

R309-305-10. Certification Suspension and Revocation.

(1) A certificate may be suspended or revoked for unacceptable or unprofessional conduct, including:

(a) acting in disregard for public health or safety;

(b) engaging in activities beyond the scope of certification;

(c) misinterpreting or falsifying figures or reports concerning backflow prevention assembly or test results;

(d) failing to notify proper authorities of a known backflow incident, as required by R309-305-8(4)(a);

(e) failing to notify proper authorities of a failed backflow prevention assembly within five days, as required by R309-305-8(4)(b);

(f) installing or repairing a backflow prevention assembly that is not certified; or

(g) implementing a change in the design, material, or operational characteristics of a certified backflow prevention assembly thereby invalidating the backflow assembly certification.

(2) The Commission Secretary shall investigate unprofessional or unacceptable conduct.

(3) The Commission shall evaluate the investigation findings and make a recommendation to the Director regarding certification suspension or revocation.

(4) The Commission Secretary shall notify a person in writing of the Commission's recommendation if certification is being considered for suspension or revocation.

(5) The Director may suspend or revoke a certificate based on the Commission's recommendation.

R309-305-11. Certification Fees.

(1) Certification fees shall be:

(a) paid by the applicant to the Division of Drinking Water prior to issuance or renewal of a certificate according to the Department of Environmental Quality fee schedule; and

(b) used for administering the Cross Connection Control and Backflow Prevention Certification program.

(2) Certification fees are non-refundable.

KEY: drinking water, cross connection control, backflow assembly tester

Date of Enactment or Last Substantive Amendment: [~~November 13, 2013~~]**2018**

Notice of Continuation: March 13, 2015

Authorizing, and Implemented or Interpreted Law: 19-4-104(4) (a); 63G-3

Environmental Quality, Waste
Management and Radiation Control,
Waste Management
R315-301-7
Self-Inspection of Solid Waste
Management Facility

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43207

FILED: 09/14/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: A new section, R315-301-7, is being added to establish the requirements for conducting a self-inspection of a solid waste management facility. During the 2018 General Session, H.B. 373, Waste Management Amendments, was enacted and subsequently signed by the governor. H.B. 373 (2018) amended Section 19-6-109 of the Solid and Hazardous Waste Act to allow an owner or operator of a solid waste management facility the option of performing self-inspections of the owner or operator's facility. These proposed rule changes set the requirements associated with an owner or operator performing a self-inspection. These

proposed rule changes also incorporate the use of electronic information resources, as envisioned by H.B. 373 (2018).

SUMMARY OF THE RULE OR CHANGE: On 09/13/2018, the Waste Management and Radiation Control Board authorized the proposed changes to Section R315-301-7 for formal rulemaking and public comment. The proposed new section, R315-301-7, implements the provisions of Section 19-6-109, as amended by H.B. 373 (2018). Three new definitions for "self-inspection", "training program", and "certificate" are added. An owner or operator who elects to perform self-inspections will be required to provide the director of the Division of Waste Management and Radiation Control (Division), by December 1, written notification of the intent to self-inspect during the following calendar year. The annual notification will need to identify the individual(s) who will be conducting the self-inspections. Those conducting self-inspections will need to complete the Division's training program and receive a completion certificate issued by the Division director prior to performing self-inspections. Self-inspections are to be conducted at least annually to determine compliance with permit, plan of operation, or applicable regulatory requirements. Documentation of each self-inspection is required using the inspection form prescribed by the Division director and submitted in an electronic format prescribed by the Division director within 30 days after completing a self-inspection. The proposed section allows the Division to inspect a facility conducting self-inspections. For a severe violation of a permit, plan of operation, or rule, the Division director may determine that an owner or operator is temporarily or permanently ineligible to perform self-inspections.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-105 and Section 19-6-108 and Section 19-6-109 and Section 19-6-126

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: H.B. 373 (2018) appropriated one-time funding to the Division to account for costs related to the development of an electronic inspection form and associated inspection data management system. The development of this new system will be done by an outside contractor. A cost proposal of \$19,200 has been submitted by a contractor. There may be some undetermined, longer-term savings due to the implementation of electronic information resources. Additionally, the fiscal note for H.B. 373 (2018) stated if all facilities choose to opt-in to self-inspection, this could result in ongoing costs to the agency up to \$63,100 to review self-inspection reports and administer the certification and training program. Depending on the number of facilities that choose to perform self-inspections, this may result in a potential cost of \$82,300 for FY2019 and a potential cost of \$63,100 for subsequent years. Depending on the number of facilities that choose to self-inspect, this may also result in a potential annual savings range of \$118,700.

◆ LOCAL GOVERNMENTS: If a local government that owns and/or operates a solid waste management facility chooses to

self-inspect, there may be undefined minimal administrative costs associated with the management of the inspection data in an electronic format. There will be no cost or savings impact to facilities that choose not to perform self-inspections. The fiscal note for H.B. 373 (2018) stated the cost to waste management facilities that opt-in to the self-inspection program could be up to \$100 per facility for training and compliance. Utilizing an Internet browser based electronic data management system will also result in an inestimable savings compared to a non-browser based system since there will be no direct software costs.

♦ **SMALL BUSINESSES:** If any small businesses that own or operate a solid waste management facility choose to self-inspect, there may be undefined minimal administrative costs associated with the management of the inspection data in an electronic format. There will be no cost or savings impact to facilities that choose not to perform self-inspections. The fiscal note for H.B. 373 (2018) stated the cost to waste management facilities that opt-in to the self-inspection program could be up to \$100 per facility for training and compliance. Utilizing an Internet browser based electronic data management system will also result in an inestimable savings compared to a non-browser based system since there will be no direct software costs.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Those entities that own or operate a solid waste management facility and choose to self-inspect, may result in undefined minimal administrative costs associated with the management of the inspection data in an electronic format. There will be no cost or savings impact to facilities that choose not to perform self-inspections. The fiscal note for H.B. 373 (2018) stated the cost to waste management facilities that opt-in to the self-inspection program could be up to \$100 per facility for training and compliance. Utilizing an Internet browser based electronic data management system will also result in an inestimable savings compared to a non-browser based system since there will be no direct software costs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Severe violations may result in temporary or permanent ineligibility to conduct self-inspections as well as administrative penalties as amended by H.B. 373 (2018) (Section 19-6-109) and as provided by existing statute. Other compliance costs associated the management of the inspection data in an electronic format are undefined. The fiscal note for H.B. 373 (2018) stated the cost to waste management facilities that opt-in to the self-inspection program could be up to \$100 per facility for training and compliance.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Those entities that own or operate a solid waste management facility and choose to self-inspect, may incur undefined minimal administrative costs associated with the management of the inspection data in an electronic format. There will be no cost or savings impact to facilities that choose not to perform self-inspections. The fiscal note for

H.B. 373 (2018) stated the cost to waste management facilities that opt-in to the self-inspection program could be up to \$100 per facility for training and compliance. Utilizing an Internet browser based electronic data management system will also result in an inestimable savings compared to a non-browser based system since there will be no direct software costs. Severe violations may result in temporary or permanent ineligibility to conduct self-inspections, as well as administrative penalties as amended by H.B. 373 (2018) (Section 19-6-109) and as provided by existing statute.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 WASTE MANAGEMENT AND RADIATION
 CONTROL, WASTE MANAGEMENT
 SECOND FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-3097
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Rusty Lundberg by phone at 801-536-4257, by FAX at 801-536-0222, or by Internet E-mail at rlundberg@utah.gov
 ♦ Thomas Ball by phone at 801-536-0251, or by Internet E-mail at tball@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 11/09/2018

AUTHORIZED BY: Scott Anderson, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$82,300	\$63,100	\$63,100
Local Government	\$100	\$100	\$100
Small Businesses	\$100	\$100	\$100
Non-Small Businesses	\$100	\$100	\$100
Other Person	\$100	\$100	\$100
Total Fiscal Costs:	\$82,700	\$63,500	\$63,500
Fiscal Benefits			
State Government	\$118,700	\$118,700	\$118,700
Local Government	\$0	\$0	\$0

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$118,700	\$118,700	\$118,700
Net Fiscal Benefits:	\$36,000	\$55,200	\$55,200

*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
 Conducting self-inspections is voluntary; therefore, the complete fiscal impact is unknown and inestimable. However, the fiscal note for H.B. 373 (2018) stated that the fiscal impact to an individual solid waste management facility that chooses to perform self-inspections is estimated to be \$100 for training and compliance with the self-inspection requirements. Additionally, the electronic self-inspection reporting system will be Internet browser based which will be an inestimable savings compared to a non-browser based system which would otherwise require costs to acquire software to be installed and operated on individual facility computers.

The Executive Director of the Department of Environmental Quality, Alan Matheson, has reviewed and approved this fiscal analysis.

R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.

R315-301. Solid Waste Authority, Definitions, and General Requirements.

R315-301-7. Self-Inspection of Solid Waste Management Facility.

(1) Authority. This section is authorized by Section 19-6-109.

(2) Purpose. The purpose of this section is to set standards for the owner or operator of a solid waste management facility who elects to conduct self-inspections of the facility and to set qualification requirements for a person who performs self-inspections.

(3) Definitions. Terms used in this section are defined in Section 19-6-102 and Section R315-301-2.

(a) In addition, the following definitions apply:

(i) "Self-inspection" means an inspection conducted by an employee or authorized representative of the owner or operator of a solid waste management facility to determine compliance with the permit, plan of operation or applicable solid waste rules.

(ii) "Training Program" means the program conducted by the Director or an authorized representative to ensure that the owner or operator's self-inspections are sufficient to evaluate compliance with the owner or operator's permit, plan of operation or applicable rules.

(iii) "Certificate" means the document issued by the Director certifying that the owner or operator, or an authorized representative, has completed the required training and is eligible to conduct self-inspections under this section.

(4) Notification.

(a) An owner or operator of a solid waste management facility may elect to self-inspect the owner or operator's solid waste management facility. The owner or operator shall provide a written notification to the Director by December 1 of the intent to self-inspect during the next calendar year.

(b) The yearly notification of Subsection R315-301-7(4)(a) shall identify the individual(s) who will be conducting self-inspections under this section.

(5) Training.

(a) Prior to conducting self-inspections, each owner or operator, or an authorized representative, shall complete the training program prescribed by the Director.

(b) Upon completion of the training, the Director shall issue a certificate to each person who completes the training.

(c) No person shall conduct a solid waste management facility self-inspection under this section before receiving a certificate to conduct a self-inspection.

(6) Inspections.

(a) The owner or operator shall inspect the facility at least annually to determine compliance with all the conditions of the permit, plan of operation or applicable solid waste rules.

(b) The owner or operator shall document each inspection using the inspection form prescribed by the Director.

(c) The owner or operator shall submit the inspection form to the Director in an electronic format prescribed by the Director.

(d) The owner or operator shall submit the inspection form to the Director within 30 days after the date of inspection.

(e) The owner or operator shall include a copy of the completed inspection form in the facility operating record.

(f) The Division may inspect a facility conducting self-inspections to ensure compliance with this section.

(7) Suspension or Revocation of Self-Inspection Privileges.

(a) The Director may determine that, upon a severe violation by an owner or operator of Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, a rule made by the board, the permit or plan of operation, an owner or operator is temporarily or permanently ineligible to conduct self-inspections under this section.

KEY: solid waste management, solid waste disposal, self-inspections

Date of Enactment or Last Substantive Amendment: [~~August 31, 2017~~]2018

Notice of Continuation: January 12, 2018

Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-108; 19-6-109; 40 CFR 258

**Health, Disease Control and
 Prevention, Environmental Services
 R392-800
 General Sanitation in Public Places**

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43182

FILED: 09/10/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is authorized under Section 26-1-5, Subsections 26-1-30(9) and 26-1-30(23), and Sections 26-7-1 and 26-15-2. Many of the businesses and facilities specifically listed in Section 26-15-2 share common public health risks and concerns, and a certain few of the listed businesses have demonstrated a reduced frequency or severity of public health hazards. As such, the Department of Health (Department) has elected to develop this general sanitation rule for categories of public places rather than developing numerous individual, stand-alone rules for each. These proposed standards apply generally and uniformly to public places such as retail stores and malls; physician and dentist offices, including waiting rooms; commercial establishments, including lobbies; public conveyances and terminals; public baths, including saunas; public bathing beaches; amusement parks; public parks and green space; and service stations.

SUMMARY OF THE RULE OR CHANGE: This rule establishes minimum standards for the sanitation, operation, and maintenance of public places, as defined, and provides for the prevention and control of health hazards associated with public places that are likely to affect public health including risk factors contributing to injury, sickness, death, and disability.

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 R392-800 will not result in a cost or benefit to the state budget because this proposed rule does not require a change to state operations or programs, and it does not include requirements for the payment of fines or fees.

♦ **LOCAL GOVERNMENTS:** Enacting Rule R392-800 will not result in a direct cost or benefit to local governments because no construction, equipment, or operational changes are required by this rule. This proposed rule does not include requirements for permit or inspection fees. Inspection frequency is not specified in this rule.

♦ **SMALL BUSINESSES:** Enacting Rule R392-800 will not result in a direct cost or benefit to small businesses because no construction, equipment, or operational changes are required by this rule.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Enacting Rule R392-800 will not result in a direct cost or benefit to any one specific person.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Affected persons are as follows: Utah Department of Health; 13 local health departments; small businesses such as retail stores and malls; physician and dentist offices; commercial establishments, including lobbies; public conveyances and terminals; public baths, including saunas; amusement parks; and service stations.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be no cost to businesses because this proposed rule does not require changes to construction, equipment or operational standards. This rule does not include requirements for permit or inspection fees, and does not specify inspection frequency.

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 10/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
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 Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

There are 917 non-small businesses operating in Utah in the industry in question (NAICS codes 452210, 453920, 453910, 453998, 453991, 453220, 453210, 453310, 442299, 442210, 442110, 444130, 444110, 441110, 452311, 493110, 446130, 446199, 446120, 446110, 443142, 443141, 448130, 448150, 448140, 448310, 448110, 448190, 448210, 448120, 621210, 488119, 485111, 812199, 713990, 713120, 713110, 713910, 713940, 713950, 713920, 447190, 512131, 512132, 711110, 711120, 712110, 531120, and 711310). Enacting Rule R392-800 will not result in a direct cost or benefit to non-small business because no construction, equipment, or operational changes are required by this rule.

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

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

R392-800. General Sanitation in Public Places.

R392-800-1. Authority and Purpose.

(1) This rule is authorized under Sections 26-1-5, 26-1-30(9), 26-1-30(23), 26-7-1, and 26-15-2.

(2) This rule establishes minimum standards for the sanitation, operation, and maintenance of public places, as defined, and provides for the prevention and control of health hazards associated with public places that are likely to affect public health including risk factors contributing to injury, sickness, death, and disability.

R392-800-2. Applicability.

(1) Unless exempted in Subsection R392-800-2(2), this rule applies to any person who owns or operates a facility or place listed in Subsection 26-1-30(23) or Section 26-15-2 that is made available for public use. This rule applies to the repair, maintenance, and operation of public places as defined by this rule.

(2) This rule does not apply to:

(a) a private residence or its premises;

(b) a publicly or privately owned property that is not operated or intended for public use; or

(c) a facility, institution, location, or place whose primary purpose or intent is already regulated by another rule promulgated by the Department under Title R392.

R392-800-3. Definitions.

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

(1) "Department" means the Utah Department of Health.

(2) "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 can cause infection, disease transmission, pest infestation, or hazardous condition that requires immediate correction or cessation of operation to prevent injury, illness, or death.

(3) "Local health department" has the same meaning as provided in Section 26A-1-102(5).

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

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

(6) "Operator" means a person with ownership or overall responsibility for managing or operating a public place.

(7) "Pest" means a noxious, destructive, or troublesome organism whether plant or animal, when found in and around places of human occupancy, habitation, or use which threatens the public health or well being of the people within the state.

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

(9) "Plumbing fixture" means a receptacle or device that is connected to the water supply system of the premises; or discharges wastewater, liquid-borne waste materials, or sewage to the drainage system of the premises.

(10) "Premises" means any lot, parcel, or plot of land, including any buildings or structure.

(11)(a) "Public place" means a place, facility, or location listed in Section 26-15-2 or Subsection 26-1-30(23) which may be an indoor or outdoor area, whether privately or publicly owned, to which persons not employed at the place have general and regular access by right or by invitation, expressed or implied, whether by payment of money or not, including:

(i) orphanages;

(ii) boarding homes;

(iii) factories;

(iv) workshops;

(v) private sanatoria;

(vi) physician and dentist offices, including waiting rooms;

(vii) public conveyances and terminals;

(viii) public baths, including saunas;

(ix) public bathing beaches;

(x) amusement parks;

(xi) public parks and green space;

(xii) service stations; and

(xiii) state, county, or municipal institutions, including hospitals.

(b) A public place may also include public buildings and grounds, as well as centers and places used for public gatherings such as auditoriums, theaters, libraries, museums, concert halls, indoor arenas, and meeting rooms.

(c) A public place is not a place used exclusively by one or more individuals for a private gathering or other personal purpose.

(12) "Sanitary" means the condition of being free from infective, physically hurtful, diseased, poisonous, or otherwise unhealthful substances and being free from vectors and pests and from the traces of either, and free of harborage for vectors or pests.

(13) "Toilet fixture" means:

(a) a water flush toilet that discharges to a public sanitary sewer system or an approved onsite wastewater disposal system;

(b) a privy seat in a vault privy; or

(c) a chemical toilet in a portable restroom.

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

(15) "Vector" means any organism, such as insects or rodents, that transmits a pathogen that can affect public health.

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

R392-800-4. General Health and Sanitation Requirements.

(1) A public place shall be maintained sanitary and free of imminent health hazards.

(2) The operator shall prevent any leaking or defective water pipe, sewer pipe, hydrant, sprinkler systems, well, gutter, drain, rain-gutter, or any seepage in or about any public building or structure from creating a nuisance or public health hazard.

(3)(a) The operator shall effectively secure or make safe any vacant building, structure, storage tank, machinery, vehicle, trench, pit, shaft, or well;

(b) The operator shall remove any other deleterious object, condition, or material that is a nuisance or imminent health hazard.

(c) When a local health officer has identified a vacant public place as posing an imminent health hazard, the operator shall remediate the health hazard within a period indicated by the local health officer.

(4) The operator may be required to abate a pest infestation. All abatement activities shall be in compliance with Title 4, Chapter 14, Utah Pesticide Control Act.

(5) A person shall not demolish any infested building or structure unless provisions are made and carried out to abate pest infestations prior to demolition.

(6) The operator shall drain, make drainage possible, or employ other acceptable methods to prevent the pooling of water that may become a breeding place for mosquitoes or other vectors.

(7) The operator shall not store materials in a way that allows the accumulation of water that may become a breeding place for mosquitoes or attract other vectors.

R392-800-5. Water Supply Requirements.

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

(a) Plumbing Code;

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

(c) local health department regulations.

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

R392-800-6. Wastewater Disposal Requirements.

(1) When sewer systems are made available for use by the public, the operator shall ensure that sewer services are designed, installed, and operated according to the requirements set forth by:

(a) Plumbing Code;

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

(c) local health department regulations; and

(d) the local sewer district having jurisdiction.

(2) The operator shall not discharge, allow the discharge, or allow the existence of any wastewater, or liquid waste into or on any premises.

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

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

(a) an approved onsite wastewater disposal system; or

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

(i) users do not contact waste matter deposited;

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

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

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

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

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

R392-800-7. Solid Wastes.

(1) The operator shall provide adequate containers conveniently located on the premises to contain litter and other solid waste and to prevent the accumulation of solid waste in or around the public place or premises.

(2) Any solid waste that may create a nuisance or imminent health hazard that is generated at a public place and stored on its exterior premises shall be stored in a leak-proof, non-absorbent container with a tight-fitting lid that shall be kept closed at all times except when placing waste in or emptying waste from the container.

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

(4) No person shall accumulate solid waste, or cause or allow any person to accumulate solid waste in any public place except for:

(a) waste properly disposed in containers meeting Subsection R392-800-7(2); or

(b) Solid waste temporarily accumulated as approved by the local health officer.

(5) Compost may be maintained in a public place if:

(a) The compost is located and maintained in a defined space and managed in a way that prevents the spread of disease, the propagation or harborage of insects or rodents, the creation of any nuisance, offensive odor at the property line, or any other condition that might adversely affect public health.

(6) An operator shall not sweep or place solid waste from sidewalks, steps, or other locations into streets.

(7) Solid waste too large or otherwise unsuitable for disposal containers may be stored temporarily on the premises of a public place if the solid waste storage does not create a health or safety hazard, nuisance, or rodent harborage.

(8) Solid waste storage areas located indoors shall be rodent and insect proof, adequately ventilated, easily cleanable, properly drained, and maintained to prevent any nuisance or unsanitary conditions.

(9) Solid waste containers shall be placed where they do not create adverse health or nuisance conditions.

R392-800-8. Maintenance Requirements.

(1) The operator shall maintain all buildings, rooms, equipment, and the premises in a sanitary condition, free of an imminent health hazard.

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

R392-800-9. Operation Requirements.

(1) When an operator provides plumbing fixtures as described in Subsection R392-800-5(2), the operator shall supply in each toilet room:

(a) handwashing facilities;

(b) soap and toilet tissue in suitable dispensers;

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

(d) a solid, durable, and easily cleanable waste receptacle.

(2) Any toilet fixture or privy provided for or used by the public or employees shall be maintained clean, sanitary, and in good repair.

(3) When a vault privy is provided for patron use as described in Subsection R392-800-6(4)(b), and potable water is not plumbed, connected, or supplied to the toilet room, the operator shall supply in each toilet room:

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

(b) toilet tissue in a suitable dispenser.

R392-800-10. Inspections and Investigations.

Upon presenting proper identification, the operator shall permit a local health officer to enter the public place or premises to perform inspections, investigations, and other actions as necessary to ensure compliance with Rule R392-800.

R392-800-11. Closing or Restricting of a Public Place.

(1) If a local health officer deems a public place or portion thereof to be an imminent health hazard, the public place may be closed or its use may be restricted, as determined by the local health officer.

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

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

KEY: public places, public restrooms, public health, general sanitation

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, Family Health and Preparedness, Emergency Medical Services **R426-5** Emergency Medical Services Training and Certification Standards

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43203

FILED: 09/14/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for these amendments is to update language to be consistent with Title 26, Chapter 8a, requiring personnel to have new training, licensure, and certification requirements.

SUMMARY OF THE RULE OR CHANGE: These changes update language to be consistent with Title 26, Chapter 8a, by changing the term "licensed" to include individuals. They remove redundant training verification, change license terms to two years for individuals, and allow services to offer equivalent training in lieu of some certifications.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 8a

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** These proposed rule changes are not expected to have any fiscal impact on state government revenues or expenditures because they are for the changing of terms, and documentation for licensed individuals providers. State expenditures and staff time are not affected. Reduced verification steps will likely offset the frequency needed to process licenses due to shortening the term from four years to two years.

◆ **LOCAL GOVERNMENTS:** Local governments affected by these proposed rule amendments will have a fiscal impact if they pay fees for EMTs, AEMTs, EMT-IAs, Paramedics, and EMDs. A total cost estimate is based on 2,600 annual licenses issued for non-Paramedics, and 850 annual licenses for Paramedics. The net fiscal cost for each year is $\$32,500 + \$12,750 = \$45,250$. Fiscal benefits for local governments include the allowance of a Department of Health (Department) approved equivalent for current certifications in the following categories: CPR, ACLS, PEP, PALS, PHTLS, and IRS. Equivalent training could save up to an estimated $(3,450 \times \$47) = \$162,150$ for two years. The possible annual benefit is estimated at $\$81,075$. Indirect benefits for local governments include time savings to verify training requirements in two systems (National Registry of EMTs and the State EMS training system).

◆ **SMALL BUSINESSES:** Small businesses affected by these proposed rule amendments will have a fiscal impact if they pay fees for EMTs, AEMTs, EMT-IAs, Paramedics, and EMDs. A total cost estimate is based on 2,600 annual licenses issued for non-Paramedics, and 850 annual licenses for Paramedics. The net fiscal cost for each year is $\$32,500 + \$12,750 = \$45,250$. An estimate cost of \$150 per year for additional licensing expenses. An estimated possible benefit of \$470 if providing department approved training for third party certifications is performed.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The non-small businesses that choose to pay for the licensing of their staff will have fiscal impacts. The Department information was used to estimate the number of employed personnel for non-small businesses. These licensed and designated EMS providers who are businesses employ approximately 432 EMTs and AEMTs along with approximately 243 paramedics. The proposed rule amendments will coincide with a lower the personnel licensure fee. The Department was able to have the Utah Legislature reduce the existing fee of \$60 to \$40 starting 07/01/2018. The proposed amendments will change the term of a license from four years to two year for a licensure period. The amended rule will also require all personnel are certified

by the Department-approved vendor. EMT, AEMT and paramedics will be required to pay the current approved vendor (National Registry of Emergency Medical Technicians) \$15 per EMT and AEMT certifications and \$20 for Paramedics certifications on a two year basis. The total change in fees for certification and licensure will be \$55 per 2 years and \$60 for 2 years for EMTs and Paramedics respectively. Currently, the fees are \$60 per 4 years for both license levels. These averages will be \$27.50 per EMT/AEMT annually and \$30 per Paramedic annually. Current averages are \$15 annually for both types. Using the annual cost differences of \$12.50 for EMT/AEMTs and \$15 for paramedics the total impact is $(432 \times \$12.50) + (243 \times \$15) = \$9,045$ per year for non-small businesses affected by the proposed rule amendments. Fiscal benefits for non-small businesses include the allowance of a Department-approved equivalent for current certifications in the following categories: CPR, ACLS, PEP, PALS, PHTLS, and IRS. Equivalent training could save up to an estimated $675 \times \$47 = \$31,725$ for 2 years. The possible annual benefit is estimated at \$15,863. Indirect benefits for non-small businesses include time savings to verify training requirements in two systems (National Registry of EMTs and the State EMS training system).

COMPLIANCE COSTS FOR AFFECTED PERSONS: These proposed rule amendments are not expected to have any fiscal impact for persons, such as patients or hospitals, who normally pay for EMS services.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The total fiscal benefit of these proposed amendments outweigh the total fiscal costs resulting in a net fiscal benefit which is appropriate to implement the changes required by statute.

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

HEALTH
FAMILY HEALTH AND PREPAREDNESS,
EMERGENCY MEDICAL SERVICES
3760 S HIGHLAND DR
SALT LAKE CITY, UT 84106
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Guy Dansie by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at gdansie@utah.gov or mail at PO Box 142004, Salt Lake City, UT 84114-2004

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$0	\$0	\$0
Local Government	\$45,250	\$45,250	\$36,205
Small Businesses	\$150	\$150	\$1500
Non-Small Businesses	\$9,045	\$9,045	\$9,045
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$54,445	\$54,445	\$54,445
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$81,705	\$81,705	\$81,705
Small Businesses	\$470	\$470	\$470
Non-Small Businesses	\$15,863	\$15,863	\$15,863
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$98,038	\$98,038	\$98,038
Net Fiscal Benefits:	\$43,593	\$43,593	\$43,593

*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 non-small businesses that choose to pay for the licensing of their staff will have fiscal impacts. The Department of Health (Department) information was used to estimate the number of employed personnel for non-small businesses. These licensed and designated EMS provider who are businesses employ approximately 432 EMTs and AEMTs along with approximately 243 Paramedics. These proposed rule amendments will coincide with a lower the personnel licensure fee. The Department was able to have the Utah Legislature reduce the existing fee of \$60 to \$40 starting 07/01/2018. These proposed amendments will change the term of a license from four years to two years for a licensure period. The amended rule will also require all personnel to be certified by a Department-approved vendor. EMTs, AEMTs, and Paramedics will be required to pay the current approved vendor (National Registry of Emergency Medical Technicians)\$15 per EMT and AEMT certifications and \$20 for Paramedics certifications on a 2-year basis.

The total change in fees for certification and licensure will be \$55 per 2 years and \$60 for 2 years for EMTs and Paramedics respectively. Fees were \$60 per 4 years for both license levels. These averages will be \$27.50 per EMT/AEMT annually and \$30 per Paramedic annually. Current averages are \$15 annually for both types.

Using the annual cost differences of \$12.50 for EMT/AEMTs and \$15 for Paramedics the total impact is (432 X \$12.50)+(243 X \$15.00)= \$9,045 per year for non-small businesses affected by the proposed rule amendments.

Indirect fiscal benefits include time savings for training officers employed by licensed and designated EMS providers and the State will reduce considerable time verifying personnel training records. The amendments will consolidate two different sets of training requirements and processes for verification by the National Registry of Emergency Medical Technicians and the Utah Department of Health. These proposed rule amendments will eliminate duplicate verification procedures previously performed by the licensed and designated EMS providers.

The Executive Director of the Department of Health, Joseph K. Miner, MD, has reviewed and approved this fiscal analysis.

R426. Health, Family Health and Preparedness, Emergency Medical Services.

R426-5. Emergency Medical Services Training, [and—] Certification, and Licensing Standards.

R426-5-100. Authority and Purpose.

(1) This rule is established under [Title 26, Chapter 8a]to provide uniform minimum standards to be met by those providing emergency medical services in the State of Utah; and for the training, certification, and [recertification]licensing of individuals who provide emergency medical service and for those providing instructions and training to pre-hospital emergency medical care providers.

[—(2) The definitions in Title 26, Chapter 8a are adopted and incorporated by reference into this rule.]

R426-5-200. Scope of Practice.

(1) The Department may [certify]license an individual as an EMR, EMT, AEMT, EMT-IA Paramedic, or EMD [an individual]who meets the [initial certification]requirements in this rule.

(2) The Committee adopts as the standard for EMR, EMT, AEMT, EMT-IA, or Paramedic training and competency in the state, the [following]United States Department of Transportation's National Emergency Medical Services Education Standards.

(3) An EMR, EMT, AEMT, or Paramedic may perform the skills as described in the EMS National Education Standards, to their level of [certification]licensure, as adopted in this section.

[—(4) Per Utah Code section 41-6a-523 persons authorized to draw blood/immunity from liability and section 53-10-405 DNA specimen analysis — Saliva sample to be obtained — Blood sample to be drawn by a professional. Acting at the request of a peace officer a paramedic may draw field blood samples to determine alcohol or drug content and for DNA analysis. Acting at the request of a peace officer an AEMT may draw field blood samples to determine alcohol or drug content and for DNA analysis if they have received certification pursuant to administrative rule R438-12. A person authorized by this section to draw blood samples may not be held criminally or civilly liable if drawn in a medically acceptable manner.]

R426-5-300. [Certification]EMS Individual Licensure for EMR, EMT, AEMT, EMT-IA, and Paramedic.

(1) The Department may ~~[certify]~~license an EMR, EMT, EMT-IA, AEMT, ~~or Paramedic~~[, or EMD] for a ~~[four]~~two-year period.

(2) An individual who wishes to become ~~[certified]~~licensed as an EMR, EMT, AEMT, EMT-IA, ~~or Paramedic~~[, or EMD] shall:

(a) successfully complete a Department-approved EMR, EMT, AEMT, EMT-IA, ~~or Paramedic~~[, or EMD] course as described in this rule;

(b) be able to perform the functions listed in the National EMS Education Standards adopted in this rule as verified by personal attestation and successful accomplishment by certified EMS Instructors during the course;

(c) achieve a favorable recommendation from the course coordinator and course medical director stating technical competence during field and clinical training and successful completion of all training requirements for an EMR, EMT, AEMT, EMT-IA, ~~or Paramedic~~[, or EMD] certification;

(d) submit the applicable fees and a completed application, including social security number~~[and signature]~~, to the Department;

(e) submit to and pass a background investigation, including an FBI background investigation~~[if the applicant has not resided in Utah for the past consecutive five years]~~;

(f) ~~[maintain and submit]~~retain documentation of having completed a Department approved CPR course within the prior two years that is consistent with the most current ~~[version of the]~~ American Heart Association Guidelines for the level of Healthcare ~~[Provider]~~ Cardiopulmonary Resuscitation (CPR) and Emergency Cardiac Care (ECC) Basic Life Support (BLS); and

(g) ~~[submit]~~retain TB test results~~[as per R426-5-700]~~.

(3) Age requirements:

(a) EMR may certify at 16 years of age or older; and

(b) EMT, AEMT, EMT-IA and Paramedic may certify at 18 years of age or older.

(4) Within ~~[+20 days]~~two years after the official course end date the applicant shall successfully complete the Department's approved National Registry of Emergency Medical Technician's written and practical EMR, EMT, AEMT, EMT-IA, ~~or Paramedic~~[, or EMD] examinations, or reexaminations, if necessary.

(5) Licensed personnel shall retain and submit upon request by the Department any documentation required for licensure.

~~[(5) Test development, the Department shall:~~

~~(a) develop or approve written and practical tests for each certification;~~

~~(b) establish the passing score for certification and recertification written and practical tests;~~

~~(c) the Department may administer the tests or delegate the administration of any test to another entity; and~~

~~(d) the Department may release only to the individual who took the test and to persons who have a signed release from the individual who took the test:~~

~~(i) whether the individual passed or failed a written or practical test; and~~

~~(ii) the subject areas where items were missed on a written or practical test.~~

~~(6) An individual who fails any part of the EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD certification or recertification written or practical examination may retake the examination twice without further course work.~~

~~(7) If the individual fails both re-examinations, they shall take a complete EMR, EMT, AEMT, Paramedic, or EMD training course respective to the certification level sought to be eligible for further examination.~~

~~(8) The individual may retake the course as many times as they desire, but may only take the examinations three times for each completed course. If an individual retakes the course because of failure to pass the examinations, the individual shall pass both the practical and written test administered after completion of the new course.]~~

~~[(9)]~~(6) An individual who wishes to enroll in an AEMT, EMT-IA, or Paramedic course shall have as a minimum a Utah EMT ~~[certification]~~license. This ~~[Certification]~~license or other equivalent state license or certification approved by the Department shall remain current until new ~~[certification]~~license level is obtained.

~~[(10)]~~(7) The Department may extend ~~[the]~~time limits for an individual who ~~[demonstrates that the inability to meet the requirements within the 120 days was due to]~~has unusual circumstances or hardships, [beyond the applicant's control, such as for documented medical circumstances that prevent completion of testing, military deployment out of the state, extreme illness in the immediate family, or the like.]

R426-5-310. Emergency Medical Dispatcher (EMD) Individual Licensure.

(1) The Department may license an EMD for a two-year period.

(2) An individual who wishes to become licensed as an EMD shall:

(a) successfully complete and become certified in a Department approved EMD protocol system by the system vendor no later than July 1, 2020;

(b) submit to and pass a criminal background investigation and screening clearance;

(c) retain documentation of having completed a Department approved CPR course within the prior two years. CPR training shall be kept current during licensure.

(3) An EMD may be licensed at 18 years of age or older.

R426-5-400. [Certification]Licensure at a Lower Level.

(1) An individual who has taken a Paramedic course, but has not been recommended for ~~[certification]~~licensure, may request to become ~~[certified]~~licensed at the AEMT levels if:

(a) the paramedic course coordinator submits to the Department a favorable letter of recommendation stating that the individual has successfully obtained the knowledge and skills of the AEMT level as required by this rule; and

(b) the individual successfully completes all other application and testing requirements for an AEMT.

R426-5-500. [Certification]License Challenges.

(1) The Department may ~~[certify]~~license as an EMT or AEMT; a registered nurse licensed in Utah, a nurse practitioner licensed in Utah, a physician assistant licensed in Utah, or a physician licensed in Utah who:

(a) is able to demonstrate knowledge, proficiency and competency to perform all the functions listed in the National EMS Education Standards as verified by personal attestation and successful demonstration to a currently certified course coordinator and an off-

line medical director~~[of all cognitive, affective, and psychomotor skills listed in the National EMS Education Standards];~~

(b) has a knowledge of:

(i) medical control protocols;

(ii) state and local protocols; and

(iii) the role and responsibilities of an EMT or AEMT respectively~~[-];~~

(c) maintain and submit documentation of having completed a CPR course within the prior two years that is consistent with the most current version of the American Heart Association Guidelines for adult and ~~[p]Pediatric~~ ~~[h]Healthcare~~ ~~[provider]Professional~~ CPR and ECC ~~BLS~~; and

(d) is 18 years of age or older.

~~[-] each level shall be challenged sequentially and individually]~~

(2) To become ~~[certified]~~licensed, the applicant shall:

(a) submit three letters of recommendation from health care providers attesting to the applicant's patient care skills and abilities;

(b) submit a favorable recommendation from a currently certified course coordinator attesting to competency of ~~[aH]~~knowledge and skills contained within the National EMS Education Standards;

(c) submit the applicable fees and a completed application, including social security number, signature, and, proof of current Utah license as a Registered Nurse, a Physician Assistant, or a Medical Doctor;

(d) ~~[within 120 days after submitting the challenge application,]~~successfully complete the Department approved written and practical EMT or AEMT examinations, or reexaminations, if necessary;

~~[-] the Department may extend the time limit for an individual who demonstrates the inability to meet the requirements within 120 days was due to circumstances beyond the applicant's control;]~~

(f) ~~[e]~~ submit to and pass a background screening clearance as per R426-5-~~[2700]~~3100; and

(g) ~~[f]~~ ~~[submit]~~retain a statement from a physician, confirming the applicant's results of a TB examination conducted within one year prior to submitting the application.

R426-5-600. ~~[Recertification]~~License Renewal Requirements for EMR, EMT, AEMT, EMT-IA, and Paramedic.

(1) The Department may ~~[recertify]~~renew an individual license for a ~~[four]~~two-year period or for a shorter period as modified by the Department to standardize ~~[recertification]~~renewal cycles.

(2) An individual seeking recertification shall:

(a) submit the applicable fees and a completed application, including social security number ~~[and signature,]~~ to the Department;

(b) submit to and pass a background screening clearance as per R426-5-~~[2700]~~3100;

(c) ~~[maintain and submit]~~retain documentation of having completed a CPR course within the prior two years that is consistent with the most current version of the American Heart Association Guidelines for the level of Adult and Pediatric Healthcare ~~[Provider]Professional~~ CPR and ECC ~~BLS~~. CPR shall be kept current during ~~[certification]~~licensure;

(d) ~~[submit]~~retain TB test results as per R426-5-~~[700]~~800; and

~~[-] (e) successfully complete the Department applicable written and practical recertification examinations, or reexaminations if necessary, within one year prior to expiration; and]~~

(f) ~~[e]~~ provide documentation of completion of Department-approved CME requirements.

(3) The EMR, EMT, AEMT, EMT-IA and Paramedic shall complete the required CME hours, as outlined in the ~~[d]~~Department's ~~[Recertification]~~Renewal Protocol for EMS Personnel ~~[m]Manual~~, ~~[- and in accordance with the National EMS Education Standards.]~~ The hours shall be completed throughout the prior ~~[four]~~two years.

~~[-] (4) As well as requirements in (2)(c) The following course completion documentation is required for the specific certification level and may be included in the CME required hours:~~

~~----- (a) EMR 52 hours of CME.~~

~~----- (b) EMT 98 hours of CME.~~

~~----- (c) AEMT 108 hours of CME.~~

~~----- (d) EMT-IA 108 hours of CME.~~

~~----- (e) Paramedic 144 hours of CME; and,~~

~~----- (f) EMD 48 hours of CME.~~

~~----- (5) An EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD may complete CME hours through various methodologies, but 30 percent of the CME hours shall be practical hands-on training.~~

~~----- (6) All CME shall be related to the required skills and knowledge of the EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD's level of certification.~~

~~----- (7) The CME Instructors need not be certified EMS instructors, but shall be knowledgeable in the subject matter.]~~

(8) ~~[4]~~ The EMR, EMT, AEMT, EMT-IA, or Paramedic~~[-or EMD]~~ shall complete and provide documentation upon request of demonstrating the psychomotor skills listed in the current National EMS Education Standards at their level of ~~[certification]~~licensure.

(9) ~~[5]~~ An EMR, EMT, AEMT, EMT-IA, or Paramedic~~[-or EMD]~~ who is affiliated with ~~[an EMS organization]~~a licensed or designated EMS provider ~~[should]~~shall have the ~~[organization's designated]~~licensed or designated EMS provider's training officer submit a letter verifying the completion of the ~~[recertification]~~renewal requirements. An EMR, EMT, AEMT, EMT-IA, or Paramedic~~[-or EMD]~~ who is not affiliated with a licensed or designated EMS provider shall ~~[submit]~~provide upon the request of the Department verification of all ~~[recertification]~~renewal requirements directly to the Department.

(10) ~~[6]~~ An AEMT, EMT-IA or Paramedic shall ~~[submit a letter]~~obtain verification from a certified off-line medical director recommending the individual for ~~[recertification]~~renewal ~~[and]~~ verifying the individual has demonstrated proficiency in the psychomotor skills listed in the current National EMS Education Standards at their license level~~[-of certification]~~.

(11) ~~[7]~~ ~~[Each EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD is individually]~~Individuals are responsible to complete and submit all required ~~[recertification]~~renewal material to the Department at one time, no later than 30 days and no earlier than ~~[one year]~~six months prior to the individual's current ~~[certification]~~license expiration date. Renewal material submitted less than 30 days may result in a license expiration. ~~[- If the Department receives incomplete or late recertification materials, the Department may not be able to process the recertification before the certification expires.]~~ The Department processes ~~[recertification]~~renewal material in the order received.

~~[(12)8] A [licensed or designated EMS provider, or a] Department approved entity who provides CME may compile and submit [recertification]renewal materials on behalf of an EMR, EMT, AEMT, EMT-IA, or Paramedic[; or EMD]; however, the individual EMR, EMT, AEMT, EMT-IA, or Paramedic[; or EMD remains] is responsible for a timely and complete submission.~~

~~[(13) The Department may shorten recertification periods. An EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD whose recertification period is shortened shall meet the CME requirements in each of the required and elective subdivisions on a prorated basis by the expiration of the shortened period.]~~

~~[(14)2] The Department may not lengthen [certification]an individual's license period[s] to more than the [four]two-years[certification], unless the individual is a member of the National Guard or reserve component of the armed forces and is on active duty when [certification]the license expired.[-If this happens, the individual shall recertify in accordance with Utah Code 39-1-64.]~~

R426-5-700. License Renewal Requirements for EMD.

(1) The Department may renew an individual license for a two-year period or for a shorter period as modified by the Department to standardize renewal cycles.

(2) An individual seeking renewal shall:

(a) submit the applicable fees and a completed application, including social security number to the Department;

(b) submit to and pass a background screening clearance as per R426-5-3100;

(c) retain documentation of having completed a CPR course within the prior two years that is consistent with the most current version of the American Heart Association Guidelines for the level of Adult and Pediatric Healthcare Professional CPR and ECC BLS. CPR shall be kept current during licensure;

(d) a minimum of a two-hour course in critical incident stress management (CISM);

(e) successfully complete certification in a Department approved EMD protocol system; and

(3) An EMD applying for renewal shall have the communications center supervisor or Department certified training officer of the designated medical dispatch center submit a letter verifying the completion of renewal requirements.

(4) Individuals are responsible to complete and submit all required renewal material to the Department at one time, no later than 30 days and no earlier than one year prior to the individual's current license expiration date. Renewal material submitted less than 30 days may result in license expiration. The Department processes renewal material in the order received.

(5) The Department may shorten an individual's license period.

(6) The Department may not lengthen an individual's license period to more than two years unless the individual is a member of the National Guard or reserve component of the armed forces and was on active duty when their license expired.

R426-5-[700]800. TB Test Requirements for EMR, EMT, AEMT, EMT-IA, and Paramedic Licensure and Renewals.

(1) [All levels of certification and recertification except EMD]Individuals applying for a license or the renewal of a license for EMR, EMT, AEMT, EMT-IA, or Paramedic shall be able to provide, upon request [shall submit]a statement from a physician or other

health care provider, confirming the applicant's negative results of a Tuberculin Skin Test or equivalent (TB test) examination conducted within the prior three years, or complete the following requirements:

(a) if the test is positive, and there is no documented history of prior Latent TB Infection (LTBI) treatment, the applicant shall see his primary care physician for a chest x-ray (CXR) in accordance with current Center for Disease Control and Prevention (CDC) guidelines and further evaluation; and

(b) Results of CXR and medical history shall be submitted to the Department.

(2) If the CXR is negative, the applicant's medical history will be reviewed by the State EMS Medical Director. For individuals at high risk for developing active TB, treatment will be strongly recommended.

(3) If the CXR is positive, the applicant is considered to be suspect Active TB. Should the diagnosis be confirmed:

(a) Completion of treatment or release by an appropriate physician will be required prior to certification; and

(b) each such case will be reviewed by the State EMS Medical Director.

(4) If an applicant who is required to get treatment refuses the treatment, the Department may deny certification.

(5) A TB test should not be performed on a person who has a documented history of either a prior positive TB test or prior treatment for tuberculosis. The applicant shall instead have a CXR in accordance with current CDC guidelines and provide documentation of negative CXR results to the department.

(6) If the applicant has had prior treatment for active TB or LTBI, the applicant shall provide documentation of this treatment prior to certification. Documentation of this treatment will be maintained by the [Department]employer or individual if not employed,[-and needs only to be provided once.]

(7) Each such case will be reviewed by the State EMS Medical Director.

R426-5-[800]900. Reciprocity for EMR, EMT, AEMT, and Paramedic.

(1) The Department may [certify]license an individual as an EMR, EMT, AEMT, or Paramedic[; or EMD an individual certified] who is licensed or certified by another state or certifying body [outside of the State of Utah]if the applicant can demonstrate the applicant's out-of-state training and experience requirements are equivalent to or greater than what is required in Utah.

(2) An individual seeking reciprocity for [certification]licensure in Utah based on out-of-state training and experience shall:

(a) Submit the applicable fees and a completed application, including social security number [and signature,]to the Department and complete all of the following within [120 days]two years of submitting the application;

(b) submit to and pass a background screening clearance as per R426-5-[2700]3100;

(c) [maintain and submit]retain documentation of having completed a CPR course within the prior two years that is consistent with the most current version of the American Heart Association Guidelines for the level of Healthcare [Provider]Professional CPR and ECC and BLS. A Paramedic candidate shall also retain documentation of successful completion of ACLS or equivalent. All AMET, EMT-IA,

and Paramedic licensed personnel shall retain documentation of PEPP, PALS, or equivalent courses within the prior two years;

(d) ~~[submit]~~retain TB test results as per R426-5-~~[700]~~800;

(e) successfully complete the ~~[Department]~~National Registry of Emergency Medical Technician's written and practical EMR, EMT, AEMT, or Paramedic~~[-or-EMD]~~ examinations, or reexaminations, if necessary; and

(f) submit a current certification or license from one of the states of the United States or its possessions, or current registration and the name of the training institution if registered with the National Registry of EMTs;~~;~~and

~~(g) provide documentation of completion of 25 hours of continuing medical education (CME) within the prior year. EMDs shall provide documentation of completion of 12 hours of CME within the prior year~~

~~(3) The Department may certify as an EMD an individual certified by the National Academy of Emergency Medical Dispatch (NAEMD) or equivalent. An individual seeking reciprocity for certification in Utah based on NAEMD or equivalent certification shall:~~

~~(a) Submit documentation of current NAEMD or equivalent certification;~~

~~(b) maintain and submit documentation of having completed within the prior two years;~~

~~(i) a Department approved CPR course that is consistent with the most current version of the American Heart Association Guidelines for CPR and ECC; and~~

~~(ii) a minimum of a two-hour course in critical incident stress management (CISM).~~

~~(4) An individual who fails the written or practical EMR, EMT, or AEMT examination three times will be required to complete a Department approved EMR, EMT, or AEMT, course respective to the certification level sought.~~

~~(5) A candidate for paramedic reciprocity who fails the written or practical examinations three times can request further consideration of reciprocity after five years if the candidate has worked for an out of state EMS provider and can verify steady employment as a paramedic for at least three of the five years.]~~

R426-5-~~[900]~~1000. Lapsed ~~[Certification]~~Licenses.

(1) An individual whose EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD ~~[certification]~~license has expired for less than one year may, within one year after expiration, complete all ~~[re certification]~~renewal requirements, pay a late ~~[re certification]~~licensure fee~~;~~. Individuals applying for EMR, EMT, AEMT, or Paramedic licensure also may be required to ~~[and]~~ successfully pass the Department's approved written ~~[certification]~~ examination to become ~~[certified]~~licensed. The individual's new expiration date will be ~~[four]~~two years from the previous expiration date.

(2) An individual whose ~~[certification]~~license for EMR, EMT, AEMT, EMT-IA, or Paramedic has expired for more than one year shall:

(a) submit a letter of recommendation including results of an oral examination, from a certified off-line medical director, verifying proficiency in patient care skills at the ~~[certification]~~licensure level;

(b) successfully complete the applicable Department's approved written ~~[and practical]~~ examination~~[s]~~;

(c) complete all ~~[re certification]~~renewal requirements; and

(d) the individual's new expiration date will be ~~[four]~~two years from the completion of all ~~[re certification]~~renewal materials.

(3) An individual whose certification has lapsed, is not authorized to provide care as an EMR, EMT, AEMT, EMT-IA, Paramedic, or EMD until the individual completes the ~~[re certification]~~renewal process.

~~[R426-5-1000. Transition to 2009 National EMS Education Standards.~~

~~(1) The Department adopts the 2009 National Education Standards as noted in this rule resulting in a need for specific dates for a transition period. These dates shall be as follows:~~

~~(a) EMT Basic to EMT January 1, 2012 to January 1, 2016; and~~

~~(b) EMT Intermediate to Advanced EMT, October 1, 2011 to September 30, 2013.~~

~~(2) Transition for EMT-B to EMT will be accomplished through the Department's written examination as part of the Individual's recertification process during the transition period.~~

~~(3) Transition for EMT-I and EMT-IA to AEMT will be accomplished through the Department's written AEMT transition examination during the transition period.~~

~~(4) Transition will not change the Individual's recertification date.~~

~~(5) During the transition period:~~

~~(a) EMT-I and EMT-IA will be deemed equivalent to AEMT certification, in accordance with the respective licensed or designated EMS provider's waivers; and~~

~~(b) EMT-B will be deemed equivalent to EMT certification.~~

~~(c) EMT-IA may maintain level of certification as long as employed by a licensed EMT-IA provider.~~

~~(6) After the deadline of September 31, 2013 of the AEMT transition period:~~

~~(a) an EMT-I who has not yet transitioned will be deemed an EMT; and;~~

~~(b) an EMT-IA who is not working for a licensed EMT-IA provider shall be deemed an AEMT.]~~

R426-5-1100. Emergency Medical Care During Clinical Training.

A student enrolled in a Department-approved training program may, under the direct supervision of the course coordinator, an instructor in the course, or a preceptor for the course, perform activities delineated within the training curriculum that otherwise requires ~~[certification]~~licensure to perform.

R426-5-1200. Instructor Requirements.

(1) The Department may certify as an EMS Instructor an individual who:

(a) meets the initial certification requirements in R426-5-1300; and

(b) is currently ~~[certified]~~in Utah as an EMR, EMT, AEMT, EMT-IA, or Paramedic~~[-or-EMD]~~.

(2) The ~~[Committee]~~Department adopts the United States Department of Transportation's "EMS Instructor Training Program as the standard for EMS Instructor training and competency in the state, which is adopted and incorporated by reference.

(3) An EMS instructor may only teach up to the ~~[certification]~~license level to which the instructor is ~~[certified]~~licensed.

~~[An EMS instructor who is only certified as an EMD may only teach EMD courses.]~~

(4) An EMS instructor shall comply with the teaching standards and procedures in the EMS Instructor Manual.

(5) An EMS instructor shall maintain the EMS ~~[certification]~~license for the level the instructor is certified to teach. If an individual's EMS ~~[certification]~~license lapses, the instructor certification is invalid until EMS ~~[certification]~~license is renewed.

(6) The Department may waive a particular instructor certification requirement if the applicant can demonstrate the applicant's training and experience requirements are equivalent or greater to what are required in Utah.

R426-5-1300. Instructor Certification.

(1) The Department may certify an individual who is an EMR, EMT, AEMT, EMT-IA, or Paramedic~~[-or EMD]~~ as an EMS Instructor for a two-year period.

(2) An individual who wishes to become certified as an EMS Instructor shall:

- (a) Submit an application and pay all applicable fees;
- (b) submit three letters of recommendation regarding EMS skills and teaching abilities;
- (c) submit documentation of 15 hours of teaching experience;
- (d) successfully complete all required examinations; and
- (e) successfully complete the Department-sponsored initial EMS instructor training course, or equivalent.

(3) An individual who wishes to become certified as an EMS Instructor to teach EMR, EMT, AEMT, or ~~[p]~~Paramedic courses shall ~~also:~~

~~_____ (a) P] provide documentation of 30 hours of patient care within the prior year.~~

(4) The Department may waive portions of the initial EMS instructor training courses for previously completed Department-approved instructor programs.

_____ (5) An individual shall submit every two years a completed and signed "instructor contract" to the Department agreeing to abide by the standards and procedures in the current Instructor Manual.

R426-5-1400. Instructor Recertification.

(1) An EMS instructor who wishes to recertify as an instructor shall:

- (a) maintain current EMS ~~[certification]~~license;~~[-and]~~
- (b) attend the required Department-approved ~~[recertification training]~~instructor seminar at least once in the two year recertification cycle; and

~~(2) [S] submit an application and pay all applicable fees.~~

R426-5-1500. Instructor Lapsed Certification.

(1) An EMS instructor whose instructor certification has expired for less than two years may again become certified by completing the recertification requirements.

(2) An EMS instructor whose instructor certification has expired for more than two years shall complete all initial instructor certification requirements and reapply as if there were no prior certification, however the Department may waive portions of the initial EMS instructor training courses if the individual is able to demonstrate competency to the Department.

R426-5-1600. Training Officer Certification.

(1) The Department may certify an individual who is a certified EMS instructor as a training officer for a two-year period.

(2) An individual who wishes to become certified as an EMS Training officer shall:

- (a) Be currently certified as an EMS instructor;
 - (b) successfully complete the Department's course for new training officers;
 - (c) submit an application and pay all applicable fees; and
 - (d) submit biennially a completed and signed "Training Officer Contract" to the Department agreeing to abide by the standards and procedures in the then current Training Officer Manual.
- (3) A training officer shall maintain EMS instructor certification to retain training officer certification.

(4) An EMS training officer shall abide by the terms of the Training Officer Contract, and comply with the standards and procedures in the Training Officer Manual as incorporated into the respective Training Officer Contract.

R426-5-1700. Training Officer Recertification.

(1) A training officer who wishes to recertify as a training officer shall:

- (a) Attend a training officer seminar at least once in the two year recertification cycle;
- (b) maintain current EMS instructor and EMS ~~[certification]~~license;
- (c) submit an application and pay all applicable fees;
- (d) successfully complete any Department-examination requirements; and

(e) submit ~~[biennially]~~a completed and signed new "Training Officer Contract" to the Department agreeing to abide by the standards and procedures in the current training officer manual.

R426-5-1800. Training Officer Lapsed Certification.

(1) An individual whose training officer certification has expired for less than two years may again become certified by completing the recertification requirements. The individual's new expiration date will be two years from the old expiration date.

(2) An individual whose training officer certification has expired for more than two year shall complete all initial training officer certification requirements and reapply as if there were no prior certification.

R426-5-1900. Course Coordinator Certification.

(1) The Department may certify an individual as an EMS course coordinator for a two-year period.

(2) An individual who wishes to certify as a course coordinator shall:

- (a) Be certified as an EMS instructor;
- (b) be a co-coordinator of record for one Department-approved course with a certified course coordinator;
- (c) submit a written evaluation and recommendation from the course coordinator in the co-coordinated course;
- (d) complete certification requirements within one year of completion of the Department's course for new course coordinators;
- (e) submit an application and pay all applicable fees;
- (f) complete the Department's course for new course coordinators;

(g) sign and submit [~~annually~~]the "Course Coordinator Contract" to the Department agreeing to abide to the standards and procedures in the then current Course Coordinator Manual; and

(h) maintain EMS instructor certification.

(3) A Course Coordinator may only coordinate courses up to the [~~certification~~]licensure level to which the course coordinator is [~~certified~~]licensed. [~~A course coordinator, who is only certified as an EMD, may only coordinate EMD courses.~~]

(4) A course coordinator shall abide by the terms of the "Course Coordinator Contract" and comply with the standards and procedures in the Course Coordinator Manual as incorporated into the "Course Coordinator Contract."

(5) A Course Coordinator shall maintain an EMS Instructor certification and the EMS [~~certification~~]license for the level that the course coordinator is certified to coordinate. If an individual's EMS [~~certification~~]license lapses, the Course Coordinator certification is invalid until EMS [~~certification~~]license is renewed.

R426-5-2000. Course Coordinator Recertification.

(1) A course coordinator who wishes to recertify as a course coordinator shall:

(a) Maintain current EMS instructor and EMR, EMT, AEMT, EMT-IA, or Paramedic [~~or EMD certification~~]license;

(b) coordinate or co-coordinate at least one Department-approved course every two years;

(c) attend a course coordinator seminar at least once in the two year recertification cycle;

(d) submit an application and pay all applicable fees; and

(e) sign and submit [~~biannually~~]a Course Coordinator Contract to the Department agreeing to abide by the policies and procedures in the then current Course Coordinator Manual.

R426-5-2100. Course Coordinator Lapsed Certification.

(1) An individual whose course coordinator certification has expired for less than two year may again become certified by completing the recertification requirements. The individual's new expiration date will be two years from the recertification date.

(2) An individual whose course coordinator certification has expired for more than two year [~~must~~] shall complete all initial course coordinator certification requirements and reapply as if there were no prior certification. The Department may waive portions of the initial course coordinator requirements such as the co-coordinator requirements if the candidate has coordinated or co-coordinated a course within the past three years.

R426-5-2200. Course Approvals.

(1) A course coordinator offering EMS training to individuals who wish to become [~~certified~~]licensed as an EMR, EMT, AEMT, EMT-IA, or Paramedic [~~or EMD~~] shall obtain Department approval prior to initiating an EMS training course. The Department shall approve a course if:

(a) The applicant submits the course application and fees no earlier than 90 days and no later than 30 days prior to commencing the course;

(b) the applicant has sufficient equipment available for the training or if the equipment is available for rental from the Department;

(c) the Department finds the course meets all the Department rules and contracts governing training;

(d) the course coordinators and instructors hold current respective course coordinator and EMS instructor certifications; and

(e) the Department has the capacity to offer the applicable examinations in a timely manner after the conclusion of the course.

R426-5-2300. Paramedic Training Institutions Standards Compliance.

(1) A person shall be authorized by the Department to provide training leading to the [~~certification~~]licensure of a [~~p~~]Paramedic.

(2) To become authorized and maintain authorization to provide [~~p~~]Paramedic training, a person shall:

(a) Enter into the Department's standard [~~p~~]Paramedic training contract; and

(b) adhere to the terms of the contract, including the requirement to provide training in compliance with the Course Coordinator Manual and the Utah Paramedic Training Program Accreditation Standards Manual.

R426-5-2400. Off-line Medical Director Requirements.

(1) The Department may certify an off-line medical director for a four-year period.

(2) An off-line medical director shall be:

(a) a physician actively engaged in the provision of emergency medical care;

(b) familiar with the Utah EMS Systems Act, Title 26, Chapter 8a, and applicable state rules; and

(c) familiar with medical equipment and medications required.

R426-5-2500. Off-line Medical Director Certification.

(1) An individual who wishes to certify as an off-line medical director shall:

(a) have completed an American College of Emergency Physicians or National Association of Emergency Medical Services Physicians medical director training course or the Department's medical director training course within twelve months of becoming a medical director;

(b) submit an application and;

(c) pay all applicable fees.

(2) An individual who wishes to recertify as an off-line medical director shall:

(a) attend the medical directors annual workshop at least once every four years;

(b) submit an application; and

(c) pay all applicable fees.

R426-5-2600. Epinephrine Auto-Injector Use.

(1) Any qualified entities or qualified adults as defined in 26-41-102 in accordance with 26-41-107 shall receive training approved by the Department. [~~]~~

~~(a)~~ The training shall include:

(~~i~~)a recognition of life threatening symptoms of anaphylaxis;

(~~ii~~)b appropriate administration of an epinephrine auto-injector;

- ~~(iii)~~ (c) proper storage of an epinephrine auto-injector;
- ~~(iv)~~ (d) disposal of an epinephrine auto-injector; and
- ~~(v)~~ (e) an initial and annual refresher course.

(2) The annual refresher course requirement may be waived

if:

(a) ~~(F)~~ the qualified entities or qualified adults are currently licensed ~~[or certified]~~ at the EMR or higher level by the State of Utah, or

(b) ~~(F)~~ the approved trainings are the Red Cross and American Heart Association epinephrine auto-injector modules.

(3) Training in the school setting shall be based on approved Department trainings found on <http://www.choosehealth.utah.gov/prek-12/school-nurses.php> and provided in accordance with 26-41-104.

(4) All epinephrine auto injectors shall be stored and disposed of following the manufacturer's specifications.

R426-5-2700. Law Enforcement Blood Draws Authorized Individual Qualifications.

(1) ~~Individuals who are not authorized to draw blood pursuant to Utah Code Title 41-6a-523(1)(b), or individuals who are not [certified] licensed by the Department such as [EMTs,] AEMTs, EMT-IAs, or Paramedics [pursuant to Utah Code Title 26-8a-302]~~ shall meet one of the following requirements as a prerequisite for authorization to withdraw blood for the purpose of determining its alcohol~~[ie]~~ or drug content when requested to do so by a peace officer:

~~(1)~~ (a) training in blood withdrawal procedures obtained as a defined part of a successfully completed college or university course taken for credit, or

~~(2)~~ (b) training in blood withdrawal procedures obtained as a defined part of a successfully completed training course which prepares individuals to function in routine clinical or emergency medical situations, or

~~(3)~~ (c) training of no less than three weeks duration in blood withdrawal procedures under the guidance of a licensed physician.

R426-5-2800. Permits for Blood Draws.

(1) ~~[Pursuant Utah Code Title 41-6a-523(1)(b), the]~~ The Department may issue permits to withdraw blood for the purpose of determining the alcohol~~[ie]~~ or drug content therein, when requested by a peace officer, to qualified applicants, as determined by the Department. Individuals described in R426-5-2700 are exempt from permit requirements.

~~(2) The permit shall be of a size suitable for framing and a wallet-sized permit card shall be issued with the permit. Permits for blood draws are not required for people.]~~

~~(3)~~ (2) Application to obtain a permit shall be made to the ~~[Director, Division of Epidemiology and Laboratory Services]~~ BEMSP on forms provided by the Department.

~~(4)~~ (3) ~~[The permit shall be prominently displayed in the facility where the permit holder is employed.]~~ When the permit holder is requested to withdraw blood for the above stated purpose at a location other than the facility indicated above, ~~[he must] they shall possess [have] a valid permit card [on his person].~~

~~(5)~~ (4) ~~[The effective date of a permit shall be the date the application is approved by the Department, which date shall appear on the permit and on the wallet-sized permit card. Permits shall be valid for a three year period on a calendar year basis. The date the permit expires shall appear on the permit and on the wallet-sized permit card.]~~

~~Permits shall be subject to termination or revocation pursuant to R426-5-2900.] Permits shall be valid for a three year period. The date the permit expires shall appear on the permit.~~

~~(6)~~ (5) Application to renew permits shall be made to the ~~[Director, Division of Epidemiology and Laboratory Services]~~ Department ~~[before the end of each three year permit period]~~ within three months prior to the expiration date to ensure that it will not lapse. Such application shall be made on forms provided by the Department. The permit holder shall either certify that he has been engaged in performing blood withdrawal procedures during the current permit period or submit a certificate signed by a physician attesting to his competence to perform blood withdrawal procedures.

~~(7)~~ (6) Permit holders ~~[must] shall~~ notify the ~~[Director, Division of Epidemiology and Laboratory Services]~~ Department within 15 days of a change in name or mailing address. ~~[Permits or permit cards that are destroyed or lost may be replaced upon written request from the permit holder.]~~

R426-5-2900. Cause for Blood Draw Permit Termination or Revocation.

~~[Violation of this rule is a class B misdemeanor under Utah Code Title 26-23-6 and is cause to cancel any permit issued under this rule.]~~

(1) Permits shall be subject to termination or revocation under any one of the following:

~~(1)~~ (a) ~~(F)~~ the permit holder has made any misrepresentation of a material fact in his application, or any other communication to the Department or its representatives, which misrepresentation was material to the eligibility of the permit holder;

~~(2)~~ (b) ~~(F)~~ the permit holder is not qualified ~~[under R426-5-2700]~~ to hold a permit;

~~(3)~~ (c) ~~(F)~~ the permit holder after having received a permit has been convicted of a felony or of a misdemeanor which misdemeanor involves moral turpitude; or

~~(4)~~ (d) ~~(F)~~ the permit holder does not comply with the ~~[display or] possession requirements [stated in R426-5-2800(3)].~~

R426-5-3000. Published List of Authorized Individuals Permitted to Draw Blood.

~~(1) The Department [shall publish annually,] will make available to the public a list of individuals authorized to withdraw blood for determination of its alcohol[ie] or drug content [when requested to do so by a peace officer. This list shall include the individual's name, mailing address, and permit number. The list shall be made available to all state and local law enforcement agencies, all local health departments, and any other person or agency requesting the information.]~~

~~(2) The Department may publish amended lists when deemed necessary.~~

KEY: emergency medical services

Date of Enactment or Last Substantive Amendment: [April 26, 2017] 2018

Notice of Continuation: December 6, 2016

Authorizing, and Implemented or Interpreted Law: 26-1-30; 26-8a-302

**Health, Disease Control and
Prevention, Laboratory Services
R438-13**

**Rules for the Certification of Institutions
to Obtain Impounded Animals in the
State of Utah**

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 43185
FILED: 09/12/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for these amendments is to clarify process and committee membership.

SUMMARY OF THE RULE OR CHANGE: These changes are made to section headings and numbering systems. Instructions are rearranged to make it easier for the reader to understand their responsibilities in carrying out this rule. These changes also update references and changes are made to clarify committee membership. No changes are made to the process or the intent of this rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-21-1 et seq.

MATERIALS INCORPORATED BY REFERENCE:
 ♦ Updates Guide for the Care and Use of Laboratory Animals, published by National Institute of Health, 12/27/2010

ANTICIPATED COST OR SAVINGS TO:
 ♦ **THE STATE BUDGET:** These proposed rule changes are not expected to have any fiscal impact on state government revenues or expenditures because these changes do not affect the implementation of this rule; they simply clarify the process.
 ♦ **LOCAL GOVERNMENTS:** These proposed rule changes are not expected to have any fiscal impact on local governments' revenues or expenditures because these changes do not affect the implementation of this rule. These changes simply clarify the process.
 ♦ **SMALL BUSINESSES:** These proposed rule changes are not expected to have any fiscal impact on small businesses' revenues or expenditures because these changes do not affect the implementation of this rule. These changes simply clarify the process.
 ♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These proposed rule change are not expected to have any fiscal impact on other person's revenues or expenditures because these changes do not affect the implementation of this rule. These changes simply clarify the process.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These proposed rule change are not expected to have any fiscal impact on any person's revenues or expenditures because these changes do not affect the implementation of this rule. These changes simply clarify the process.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Most of these changes are nonsubstantive for reorganization and clarification of existing requirements. The only substantive change was to remove the term of appointment for membership on the Impound Animals Advisory Committee. There is no fiscal impact to businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 HEALTH
 DISEASE CONTROL AND PREVENTION,
 LABORATORY SERVICES
 4431 S 2700 W
 TAYLORSVILLE, UT 84119
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Robyn Atkinson by phone at 801-965-2424, by FAX at 801-969-3704, or by Internet E-mail at rmatkinson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
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
 These proposed rule changes are not expected to have any fiscal impacts on non-small business revenues or expenditures because the changes do not affect the implementation of the rule; they simply clarify the process.

The Executive Director of the Department of Health, Joseph Miner, has reviewed and approved this fiscal analysis.

R438. Health, Disease Control and Prevention, Laboratory Services.

R438-13. Rules for the Certification of Institutions to Obtain Impounded Animals in the State of Utah.

R438-13-1. Introduction.

The purpose of ~~[these rules]~~ this rule is to enable the proper execution of Section 26-26-1 et seq., for controlling the humane use of animals obtained from impound establishments for the diagnosis and treatment of human and animal diseases; the advancement of veterinary, dental, medical, and biological sciences; and the testing, improvement, and standardization of laboratory specimens, biologic products, pharmaceuticals and drugs.

R438-13-2. Definitions.

(1) "ADMINISTRATOR" means a Department of Health staff member appointed by the Director to administer this rule ~~[these rules]~~.

(2) "ANIMAL" means any unredeemed, abandoned or stray dog or cat impounded and requested by an institution for purposes specified in Section 26-26-1 et seq. ~~[(4-7)]~~, as amended, and this rule ~~[these rules]~~. Animals obtained from any source other than an establishment are not covered by this rule ~~[these rules]~~. Owners of voluntarily released animals may elect, by signature, whether the animal may or may not be used in research.

(3) "ANIMAL FACILITY" means an area of the institution where ~~[impounded]~~ animals are housed or kept. ~~[for recovery]~~.

(4) "COMMITTEE" means a body of seven individuals appointed by the Administrator with the Director's approval for carrying out the purpose of this rule ~~[purposes of these rules]~~.

(5) "DEPARTMENT" means the Utah Department of Health (DOH).

(6) "DIRECTOR" means the Executive Director of the Department of Health.

(7) "ESTABLISHMENT" means any ~~[public]~~ place maintained for the impounding, care, and disposal of animals seized by lawful authority.

(8) "INSPECTION TEAM" means ~~[an]~~ one animal control officer, recommended by the Utah Animal Control Officers' Association (UACO), and one licensed veterinarian, both approved by the institution being inspected and appointed by the Administrator.

(9) "INSPECTOR" means a representative of the United States Department of Agriculture (USDA) or a qualified person acceptable to the Director or Administrator.

(10) "INSTITUTION" means any school or college of agriculture, veterinary medicine, medicine, pharmacy, dentistry, or other educational, hospital or scientific establishment, as determined by the committee and approved by the Director, which is properly concerned with the investigation of or instruction concerning the structure or functions of living organisms, or the cause, prevention, control, or cure of diseases or abnormal conditions of human beings or animals.

(11) "PHYSICIAN" means any person who is licensed by the Utah Department of Commerce under either the Utah Medical Practice Act or the Utah Osteopathic Medicine Licensing Act to practice medicine and/or surgery in all its branches, or a physician in the employment of the government of the United States who is similarly qualified.

(12) "VETERINARIAN" means any person who is licensed by the Department of Commerce under the Veterinary Practice Act to practice veterinary medicine, surgery, and dentistry or a veterinarian in the employment of the government of the United States who is similarly qualified.

R438-13-3. Department of Health - Power to Certify Institutions.

The Department, under the powers and duties conferred upon it by Section 26-26-2, may issue a certificate to obtain impounded animals to any institution requesting such certification upon being assured that the institution meets the requirements of Section 26-26-1 et seq., and has satisfied the requirements for certification ~~[as detailed in these rules]~~, as determined after an inspection.

R438-13-4. Committee -- Responsibilities and Membership. [Responsibilities, Membership, and Term of Appointment:]

(1) There is created an Impounded Animals Advisory Committee pursuant to Section 26-1-20 ~~[Utah]~~.

~~[A. Responsibilities]~~
 (2) The committee shall review and evaluate all applications of institutions requesting certification under this rule ~~[these rules]~~, or applications for renewal of certification ~~[as well as cause to be investigated]~~. The committee shall investigate any complaints of violation of Section 26-26-1 et seq. and/or this rule ~~[these rules]~~ by any individual, institution, or establishment, and shall inform the Director of its findings. ~~[and]~~ The committee shall make recommendations for

or against certification or enforcement of the law and ~~this rule~~[these rules].

~~[B. Membership]~~

~~_____](3) The committee shall include not less than one representative from the following: institutions directly involved with the use of laboratory animals, a physician, a representative of establishments, a veterinarian, a representative of animal welfare advocates, and two other members to be appointed by the Director, one of which must represent the public. The committee shall elect a chairman and a vice chairman from its membership[for terms not to exceed one year]. The committee shall be convened when an application or violation complaint is received by the Administrator or the Director[meet a minimum of two times annually].~~

~~[_____C. Terms of Appointment]~~

~~_____Appointments shall be made for a period of three years. Any member may be appointed to a second consecutive term; however, no more than two consecutive terms may be served. A former committee member may return after an absence of one term.]~~

R438-13-5. Administrator - Duties and Responsibilities.

The Director may appoint a member of the Department staff to be responsible for the administration of ~~this rule~~[these rules]. The ~~[a]Administrator~~ shall be a nonvoting member of the committee and shall issue certificates, receive and review all applications and records, conduct investigations, and receive and review reports of an inspector, consistent with the requirements of Section 26-26-1 et seq. and shall advise the committee of all findings.

R438-13-6. Requirements ~~[for Institutions]~~for Certification.

~~(1) Any institution requesting certification under this rule[act]~~ shall be found to have the proper personnel and facilities for the care and humane treatment of any animal procured under this ~~rule[act]~~, and so shown by the application and by an inspection of the ~~institution's animal facility~~[facilities] by an inspector.

~~[_____A. Personnel]~~

~~(2) The care and management of animals shall be performed by qualified personnel.~~

~~[+](3) The institution's animal facilities shall be under the direct supervision of a diplomate of the American College of Laboratory Animal Medicine, a physician, veterinarian, or dentist, or a person formally trained in the biological sciences and having no less than three years of pertinent training and experience in animal care, or a person qualified by specialized education, training and experience essentially equivalent to the above categories.~~

~~[2-](4) Animal care personnel shall be qualified by training and experience in the care of animals as determined by the institution's animal facility supervisor.~~

~~[3-](5) Apprentice personnel shall be under the direct and immediate supervision of regular animal care personnel.~~

~~[4-](6) The size of the animal care staff shall be adequate to assure daily attention to the needs of the animals.~~

~~[5-](7) Provision shall be made for the emergency care of animals whenever needed.~~

~~[_____B. Physical Facilities and Animal Care]~~

~~[+](8) Sanitary practices and humane care of animals shall conform to standards as described in the National Institutes of Health Publication, ~~[No. 86-23]~~revised 2011[1985], "Guide for the Care and Use of Laboratory Animals, 8th ed" and the Animal Welfare Act, ~~[9 CFR parts 1, 2, 3 1990 edition]~~which are incorporated by reference.~~

~~[_____2. At the conclusion of an experiment which does not require euthanasia for the collection of samples, the institution may, providing the establishment agrees and for the purpose of adoption, return to the establishment any healthy animal posing no contagious threat to humans. If the establishment does not agree to accept the animal, the institution shall euthanize the animal.~~

~~[_____C. Inspections]~~

~~(9) Institutions seeking initial certification must submit evidence of a successful on-site inspection of their impounded animal facilities by the United States Department of Agriculture (USDA). Institutions unable to be inspected by USDA are subject to inspection by a Department of Health inspection team. After initial certification, institutions wishing to maintain certified status shall be inspected at least annually by the USDA, an inspection team or both.~~

~~[_____D. Fees]~~

~~_____Fees for certification will be set and administered by the Department, with approval of the State Legislature.~~

~~[_____E. Animal Care and Use Committee]~~

~~(10) Each institution shall appoint an animal care and use committee. This committee should include a scientist from the institution, a doctor of veterinary medicine, and a person who is not affiliated with the institution in any way other than a member of the committee.~~

~~(11) This committee should be responsible for evaluating the animal care and use program. Its duties should include those described in the National Institutes of Health Publication, revised 2011, "Guide for the Care and Use of Laboratory Animals, 8th ed." [NIH publication No. 86-23, Guide for the Care and Use of Laboratory Animals.]~~

R438-13-7. Application for Certification.

~~(1) Application for certification shall be initiated by the institution wishing to obtain unredeemed impounded animals. The application shall be made on a form furnished by the Department, and shall include:~~

~~[A-](a) the name and address of the institution;~~

~~[B-](b) the name of the person [who will be]responsible for the supervision of procurement and handling of the animal(s).[The Administrator must be notified within ten days of personnel changes;]~~

~~[C-](c) an estimate of the maximum number and species of animals to be obtained by the institution during the calendar year[-];~~

~~[D-](d) the names of members of the institution's animal care and use committee.~~

~~_____ (2) Fees for certification will be set and administered by the Department, with approval of the State Legislature.~~

R438-13-8. Issuance of Certificate.

~~[A-](1) Upon receipt of an application, an inspector shall review the animal facility of the institution and shall submit a report of the review to the committee, unless an inspection report is submitted at the same time as the application. ~~[The inspector's report shall be attached to the application and the]~~The committee will review the application and the inspection report. The committee will review, submit written recommendations ~~[made by the committee and submitted]~~to the Director. It shall be the prerogative of the Director to determine if the institution meets the requirements of Section 26-26-1 et seq. and ~~this rule~~[these rules].~~

~~[_____B. A certificate, once granted, cannot be transferred.]~~

~~[E-](2)~~ Any certificate ~~is~~~~shall be~~ valid only for the ~~calendar year~~~~time frame~~ for which it is issued, ~~not to exceed 12 months~~. Any institution wishing to renew a certificate shall do so on a form furnished by the Department, and shall state any changes made or contemplated since the most recent application was submitted.

~~[D-](3)~~ The certificate of approval or duplicate thereof, as supplied by the Department, shall be displayed in a prominent place in the approved institution's animal facility.~~[quarters or approved laboratory.]~~

(4) A certificate cannot be transferred.

R438-13-9. [Records.]Requirements for Certified Institutions.

(1) Each institution shall appoint a person to be responsible for the procurement of and maintenance of records on all animals obtained from establishments.

(2) Records shall be kept by the institution of all animals procured under certification.~~[on forms provided by the Department. Information for the purpose of record keeping shall be provided on the "Record of Transfer and Receipt of Impounded Animal" form and the "Requisition of Impounded Animals" form.]~~

~~[A-](3)~~ Records shall include:

~~[1-](a)~~ a description of the animal, including breed, if known;

~~[2-](b)~~ the date and place where the animal was procured;

~~[3-](c)~~ the physical condition of the animal when received by the institution;

~~[4-](d)~~ the cage or pen number or other identification;

~~[5-](e)~~ the experimental or scientific use of the animal, including information as to whether anesthesia was or was not used;

~~[6-](f)~~ name and address of person who adopted animal, if adopted at the end of the study period;

~~[7-](g)~~ the method of euthanasia of the animal, if euthanasia is performed.

~~[B-](4)~~ The institution is to provide a copy of the information in 438-13-9(3)~~[the "Record of Transfer and Receipt of Impounded Animals" form, with parts A and B completed,]~~ to an establishment for each animal received.

~~[C-](5)~~ After the final disposition of the animal, a copy of the completed ~~record~~~~[form]~~ shall be mailed or delivered to the ~~[a]~~Administrator by the institution.

(6) The completed ~~records~~~~[form]~~ shall be maintained by the institution for not less than two years and shall be made available for inspection at any time deemed necessary by the Director or his authorized representative.

[R438-13-10. Requisitions.

~~An establishment may require]~~

(7) Written~~[written]~~ requisitions ~~[for animals]~~~~may be required by an establishment~~ prior to the~~[#]~~ release of an animal to an institution.~~[The requisition shall be executed in duplicate on forms provided by the Department.]~~ The institution~~[original]~~ shall ~~[be-]~~ furnish~~[ed]~~ one copy of the requisition to the establishment and one copy shall be retained by the institution.

(8) The requisition shall include:

~~[A-](a)~~ name and address of the institution;

~~[B-](b)~~ name and address of the establishment;

~~[C-](c)~~ number, species, size and sex of the animals desired;

~~[D-](d)~~ number of certificate;

~~[E-](e)~~ date requisition was issued.

(9) The institution shall accept the available animals and provide for the their transportation to the institution.

(10) The institution shall compensate the establishment for the actual expense for holding animals beyond the time of the notice to the institution of their availability until they have been obtained by the institution.

(11) At any time after a requisition has been issued to an establishment and before notice of the availability of the animals requisitioned has been made to the institution, the institution may cancel all or any unfilled part of the requisition.

(12) Whenever unredeemed animals are received by an institution, the institution shall furnish the establishment a receipt. Receipts shall be issued in triplicate and shall be countersigned by a representative of the establishment. A copy shall be mailed or delivered to the Administrator by the institution and one copy shall be retained by the institution. A receipt shall be issued for each animal obtained. The receipt shall show the date that the animal was delivered to the agent of the institution by the establishment and the signature of the person to who it was delivered.

(13) At the conclusion of an experiment which does not require euthanasia for the collection of samples, the institution's animal facility may, providing the establishment agrees and for the purposes of adoption, return to the establishment any healthy animal posing no contagious threat to humans. If the establishment does not agree to accept the animal, the institution's animal facility shall euthanize the animals.

(14) The Administrator must be notified within ten days of personnel changes.

R438-13-~~[H]~~10. [Duties of Establishments.]Requirements of an Establishment.

~~[A-](1)~~ Each establishment shall keep a public record of all animals received and disposed.

~~[B-](2)~~ Whenever a requisition~~[request]~~ for impounded animals is submitted to ~~[a supervisor of]~~an establishment, it shall be ~~[his]~~its duty to make available to the institution the number of animals of the species, size, and sex specified in the requisition, from the unredeemed animals in ~~[his]~~their charge. The establishment shall then withhold from the destruction all unredeemed animals of the species, size, and sex specified by the requisition until the number of animals is sufficient to complete the requisition.

(3) If the number of animals specified by the requisition is not available, the ~~[supervisor]~~establishment shall immediately make available all unredeemed animals ~~[as are then-]~~in the establishment under his supervision.~~[The supervisor shall then withhold from destruction all unredeemed animals of the species, size, and sex specified by the requisition until the number of animals is sufficient to complete the requisition. The institution shall accept the available animals and provide for their transportation to the institution.]~~

~~C. The institution shall compensate the establishment for the actual expense for holding animals beyond the time of notice to the institution of their availability until they have been obtained by the institution.~~

~~D. At any time after a requisition has been issued to an establishment and before notice of the availability of the animals requisitioned has been made to the institution, the institution may cancel all or any unfilled part of the requisition.]~~

[E-](4) It shall be unlawful for any establishment to release any animal to an institution not holding a valid certificate issued under this rule[these rules].

~~R438-13-12. Receipts.~~

~~Whenever unredeemed animals are received by an institution, the institution shall furnish the establishment a receipt therefor. Receipts shall be issued in triplicate and shall be countersigned by a representative of the establishment. A copy shall be mailed or delivered to the administrator by the institution and one copy shall be retained by the institution. A receipt shall be issued for each animal obtained. The receipt shall show the date that the animal was delivered to the agent of the institution by the establishment, and the signature of the person to whom it was delivered.]~~

R438-13-[13]11. Maintenance and Release of Animals by the Institution.

[A-](1) No animal obtained by an institution on requisition as herein provided shall be sold or given into the possession of any other person or organization unless released to its previous owner or adopted after the experiment to a private citizen for possession as a pet. All animals shall be transported immediately from the establishment to the institution in a humane manner and maintained by the institution for the remainder of the life of the animal unless adopted under the provision of this rule[these rules]. Nothing shall prohibit the institution from releasing an animal to its previous owner if satisfactory proof of ownership is provided to the institution. The institution may require the owner to reimburse the institution for actual expenses for maintaining the animal from the time it was received by the institution until it was delivered to the previous owner.

[B-](2) Any animal procured by an institution under this rule[these rules] shall be handled, transported and disposed of in a humane manner.

R438-13-[14]12. Revocation of Certification.

(1) Violation of Section 26-26-1 et seq. or this rule[these rules] violates Section 26-23-6 and is cause to consider the cancellation of any certificate issued under this rule[these rules].

[A-](2) Notification of Intent To Revoke

Upon receipt of evidence of a violation, the Director shall issue written notice, pursuant to Section [63-46b-3]63G-4-2, of intent to revoke the certificate of the institution 30 days following receipt of notice.

[B-](3) Notice of Hearing

The institution shall have 15 days from receipt of notice to file a written response to show why the certificate should not be revoked, and to request an informal hearing under [Sections 63-46b-4 and 63-46b-5]Section 63G-4-2. If requested by the institution, the Director shall grant an informal hearing upon 15 days written notice.

[C-](4) Action On Hearing

If after the hearing the Director decides the certificate shall be revoked, copies of the revocation shall be sent to the institution and all establishments providing animals for the institution. Institutions may seek review of agency action as outlined in Section [63-46b-12]63G-4-2.

R438-13-[15]13. Renewal of [Canceled]Revoked Certificate.

An institution may submit an application for the renewal of a certificate canceled by reason of violation of the law or this rule[these

rules] not less than 30 days after final action was taken. The application shall be accompanied by documented evidence that the reason for cancellation has been removed. Upon being assured that the institution is acting in good faith and upon receipt of a favorable recommendation from the committee, the Director may issue a new certificate.

R438-13-[16]14. Complaint.

Anyone who files a complaint with the Department against an individual, institution or establishment violating any part of R438-13 et seq., shall supply in writing specific information regarding the alleged violation or violations. The complaint shall include the time, date, place, individual or persons involved and the names of witnesses who may be called upon to testify. This statement must be in the form of a sworn affidavit and must be notarized. Preliminary investigations of complaints may be conducted at the discretion of the Director or a designated representative without the filing of a notarized sworn affidavit.

KEY: animals, laboratories, laboratory animals

Date of Enactment or Last Substantive Amendment: [1989]2018

Notice of Continuation: July 12, 2013

Authorizing, and Implemented or Interpreted Law: 26-26-1 to 7

**Human Services, Substance Abuse
and Mental Health
R523-17
Behavioral Health Crisis Response
Systems Standards**

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43213

FILED: 09/14/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is designed to create standards of care and practice for statewide behavioral health crisis response system, crisis line services, and a certification for crisis workers.

SUMMARY OF THE RULE OR CHANGE: This new rule includes: a) definitions are provided for uncommon/industry specific terms used in this rule; b) standards established and defined for the "Behavioral Health Crisis Response System" that is being created through this rule; c) certification requirements, standards, and the certification process for Certified Crisis Workers are established for professionals who will be working in the Behavioral Health Crisis Response System; d) a process for revoking an individual's crisis worker certification, and appeals process are established; e) standards are established for mental health crisis lines that are created and maintained by local authorities; f) standards of care and services provided by entities that maintain mental

health crisis lines to individuals who use that service are established; g) standards are established for the Statewide Mental Health Crisis Line; h) standards of care and services provided by the Statewide Mental Health Crisis Line to individuals who use that service are established; and i) the Division of Substance Abuse and Mental Health (DSAMH) oversight activities and responsibilities over the Behavioral Health Crisis Response System are established and defined.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-15-1302

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The Department of Human Services' (DHS) DSAMH was allocated \$2,380,000 in FY 2019 to administer this program that includes: expansion of mental health crisis line services i.e. contracting for a central line provider and improve telecommunications infrastructure, developing training materials, hiring a program administrator, and advertising. Contracting for a Central Emergency Mental Health Crisis Line: The DHS/DSAMH is contracting with the University Neuropsychiatric Institute (UNI) to develop and maintain the statewide crisis phone line at approximately a cost of \$1,910,800 per annum. This cost includes setup of the telecommunications system, maintenance of referral resources statewide, personnel that meet the requirements of this rule, and all overhead and administrative costs. Additional costs to DHS/DSAMH: The remainder of the costs, \$469,200 per annum, will be used to administer the certification of crisis workers statewide, develop a training curriculum, provide annual training and oversee the monitoring of the statewide emergency response system, plus any additional administrative costs. Cost of Administrative Oversight: DHS/DSAMH has hired a Program Administrator I to oversee and coordinate efforts to develop a statewide crisis response system, whose job duties include all the cost identified in this analysis. This position will be responsible to create a curriculum for Certified Crisis Workers, assist with advertisement, and monitor provider crisis services. This position is funded through another bill so the cost of this salary will not be stated in this analysis. Cost of Processing Certifications: These cost include printing and mailing certificates, and time in reviewing applications and providing certificates. DSAMH does not have clear understanding of how many potential applications will be received, but the cost to create a certificate is about \$0.90 per certificate which includes bonded paper, gold seal, printing, signature, and mail costs. Per-event time costs can be set at around 17 minutes per application. This calculation includes review of the application, receipt of information that a passing score was achieved, recording of the certification in the Division database, production of the certificate, signing the certificate, and mailing the certificate. Based on these calculations, it will cost DSAMH an additional \$0.90 and 17 minutes to process all new crisis management certifications that are generated by this rule. This rule requires the Director or designee to review the application, and the Director to make a determination if certain training can be waived based on the applicants' past experience and training. The time

needed to review applications is not estimable nor is the time needed to review a waiver. Financial costs would be the reviewing and making a determination on applications seeking waivers will be a minimum cost of \$83.84 per hour based on the Director's compensation salary including benefits. Currently, 250 individuals work in the crisis system as it stands today, so there is an assumption that all financial costs reported in this section could initially be multiplied by 250 which will equal: 1) for certificates \$225 and roughly take 1 hour and 10 minutes, and 2) it is unknown how long the review of each application will take so the salary costs cannot be added at this time. Training Costs: At this point the DHS/DSAMH is unable to give a fully accurate accounting for these costs, especially since the actual curriculum has not been developed. This rule will require 40 hours of training, but it is unclear how much the materials will cost, but DSAMH does provide similar training for another type of certification and those current materials costs are \$2,000 per year. Un-estimable Portion of Remaining \$466,975 is advertising costs. These costs have not been fully researched at this time, and there are no similar cost to the DHS/DSAMH to compare; therefore, these costs are un-estimable at this time.

◆ **LOCAL GOVERNMENTS:** This rule will require local governments to adapt their crisis line program to upgrade to a statewide crisis line if they choose to have a certified crisis line. These costs will include setting up a dedicated phone line that meets the standards of this rule, staffing the crisis response system in a manner commensurate with the standards of this rule, and maintaining a crisis response program. Some of these costs are startup and onetime in nature, i.e. setup and development of the system, and others are ongoing i.e. maintaining the system in accordance with the standards set-forth in this rule. It is unknown which local governments will participate in this certification and the level of sophistication already existing within their current 24-hour crisis systems, so these costs are un-estimable at this time. This rule will require all local authorities to have certified crisis workers to man their crisis response system. It is anticipated that the local authorities will pick up all costs associated with the certification process. The potential costs to individuals who receive a Crisis Worker Certification, are both time and financial. Anticipated time costs include the amount of time it will take an individual to attend and participate in training which will be at least 40 for initial training and then at least 40 hours every 2 years after that, and the amount of time needed to complete, document, and report the 8 hours of CEUs to maintain certification. The anticipated financial costs include the costs of CEU courses, costs associated with certifying i.e. travel, food and salary while taking the training, and salaries paid to employees who are required to certify as crisis workers including the funds associated with the loss of 40 billable hours. The DHS/DSAMH has been unable to estimate these costs because there are too many variables such as distance traveled, the need for overnight stays, and per diem rates offered by each local authority.

◆ **SMALL BUSINESSES:** It is anticipated that no small businesses will participate in the certification or development of a crisis line as described in this rule. This rule mostly affects local governments, employees of local governments,

and possibly businesses contracted with local governments to provide substance use and/or mental health treatment services (none of which are small businesses at this time).

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** It is anticipated that these cost will be picked up by the local authorities in the state, and since this rule pertains to local governments only, there is no reason to believe that other persons will be affected by this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are compliance cost associated this new rule to local governments, if these entities choose to create a crisis program with a mental health crisis phone line and response program. These cost are not estimable, but depending on the sophistication of each entity's current crisis response programs, these cost will include: setting up a dedicated phone line that meets the standards of this rule, staffing the crisis response system in a manner commensurate with the standards of this rule, and maintaining a crisis response program. Some of these costs are startup and onetime in nature, i.e. setup and development of the system, and others are ongoing i.e. maintaining the system in accordance with the standards set-forth in this rule. Also, costs associated with manning their crisis response system with Certified Crisis Works. These costs include productivity, certification reimbursements, and loss of billable hours by employees engaged in the certification process. None of these costs are estimable because there are too many variables such as distance traveled, the need for overnight stays, and per diem rates offered by each local authority and the number of billable hours that will be lost.

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
 SUBSTANCE ABUSE AND MENTAL HEALTH
 195 N 1950 W
 SALT LAKE CITY, UT 84116
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Thomas Dunford by phone at 801-538-4181, by FAX at 801-538-4696, or by Internet E-mail at tdunford@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2018

AUTHORIZED BY: Doug Thomas, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$1,913,025	\$1,913,025	\$1,913,025
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$1,913,025	\$1,913,025	\$1,913,025
Fiscal Benefits	\$0	\$0	\$0
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:	\$(1,913,025)	\$(1,913,025)	\$(1,913,025)

*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 are no estimable or inestimable costs or benefits to non-small businesses in this rule. The statute and funding associated with this rule only effect state and local government agencies and budgets, and those cost have been described in the attached new rule analysis.

R523. Human Services, Substance Abuse and Mental Health.
R523-17. Behavioral Health Crisis Response Systems Standards.

R523-17-1. Authority.
 (1) This rule establishes procedures and standards for administration of substance use disorder and mental health services as granted by Section 62A-15-1302.

R523-17-2. Purpose.
 (1) This rule is designed to create standards of care and practice for statewide behavioral health crisis response system, crisis line services and a certification for crisis workers.

R523-17-3. Intent.
 (1) Create standards of care and practice and certification of crisis workers for statewide behavioral health crisis response system, statewide and local mental health crisis lines.

(2) Agencies and individuals impacted by this rule have until June 30, 2019 to come into compliance.

R523-17-4. Definitions.

(1) "Bridging Strategies" are transition strategies that include brief patient education that helps the patient understand his or her condition and what treatment options exist to facilitate patient and family follow-through;

(a) Provides assistance with understanding and navigating the system of potential supports, preferably from a peer;

(b) May include counseling by staff from a community-based organization who can then see the patient for follow-up care after discharge and giving the patient a copy of their safety plan and making sure it is relevant to their current level of care; and

(c) Sometimes called peer-or community bridging. Also providing onsite counseling.

(2) "Caring Connection" is defined as a follow up phone call, mailed note, text or e-mail checking back in with the caller. This can be done by crisis staff or other support staff.

(3) "Caring Contacts" Caring contacts are brief communications with patients during care transitions such as discharge from treatment or when patients miss appointments or drop out of treatment. These contacts, through which care providers continue to show support for a patient, can promote patient's feeling of connection to treatment and increase their participation in collaborative treatment. Caring contacts may be especially helpful for patients who have barriers to outpatient care or are unwilling to access outpatient care.

(4) "Certified Crisis Worker" means an individual who:

(a) meets the standards of qualification or certification that the Division of Substance Abuse and Mental Health (division) sets, in accordance with Section 62A-15-1302; and

(b) staffs the statewide mental health crisis line or a local mental health crisis line under the supervision of at least one mental health therapist.

(5) "Local Mental Health Crisis Line" means the same as that term is defined in Subsection 63C-18-102(2).

(6) "Mental Health Crisis" is defined as any intense behavioral, emotional, or psychiatric situation perceived to be a crisis by the individual experiencing the crisis, family, or others who closely observe the individual. The crisis may include a mental health condition that manifests itself by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention of intervention to result in:

(a) serious jeopardy to the individual's health or well-being; or

(b) a danger to others; or

(c) significantly reduced levels of functioning in primary activities of daily living.

(7) "Mental Health Therapist" is an individual licensed in Utah under the mental health professional practice act as defined in Subsection 58-60-102(5).

(8) "Statewide mental health crisis line" means the same as that term is defined in Subsection 63C-18-102(3).

(9) "Rapid Follow-up and Referral" involves taking steps during an emergency department visit or before discharge from inpatient care to facilitate immediate access to an outpatient

treatment appointment for the patient, preferably within 24--48 hours after discharge. To facilitate rapid referral, it may be helpful to establish agreements with outpatient providers to accept rapid follow-up referrals.

(10) "Warm Hand Off" has a goal to increase the likelihood that a patient will follow up on a referral to one provider from another. Rather than simply providing the name and phone number of a provider, a warm hand-off connects the patient with the new provider before the first appointment.

R523-17-5. General Provisions.

(1) The Behavioral Health Crisis Response System is based on the following principles:

(a) cultural competence'

(b) strong community relationships,

(c) the use of peer supports,

(d) the use of evidence based practices,

(e) building on existing foundations with an eye towards innovation,

(f) utilization of an integrated system of care,

(g) outreach to students through school-based clinics,

(h) trauma Informed, and

(i) de-escalation.

(2) Each component within the behavioral health crisis response system must be capable of serving individuals in the context of a behavioral health crisis including:

(a) children, adolescents, adults and older adults,

(b) individuals with co-occurring conditions; including:

(i) mental health conditions,

(ii) substance use disorders,

(iii) medical needs,

(iv) intellectual/developmental disabilities,

(v) physical disabilities,

(vi) traumatic brain injuries, and/or

(vii) Dementia and related neurological disorders.

(c) individuals demonstrating aggressive behavior;

(d) individuals who are uninsured or unable to pay for services, and

(e) individuals who may lack Utah residency or legal immigration status.

(3) Each modality of service within the Behavioral Health Crisis Response System is encouraged to incorporate peer support into the services they provide, when clinically appropriate.

R523-17-6. Certification Requirements of Crisis Workers.

(1) The division shall certify that a crisis worker is qualified by training, experience, and certification. Certification will require successful completion of training provided by the division.

(2) Individuals eligible to apply for crisis worker certification include the following:

(a) Individuals licensed under Utah Department of Professional Licensing for any health or behavioral health license;

(b) Individuals with a minimum of bachelors degree in a human service related field;

(c) Individuals certified as a Certified Peer Support Specialist for a minimum of one year;

(d) Individuals certified as Case Managers for a minimum of one year; or

(e) Individuals certified as Family Resource Facilitator for a minimum of one year.

(3) The training curriculum shall provide at least forty (40) hours of training and shall include, didactic information and skill practice using the following components as they relate to crisis intervention:

(a) Attitudinal Outcomes:

(i) acceptance of persons as different from oneself, and a non-judgmental response toward sensitive issues,

(ii) balances and realistic attitude toward self in the helper role meaning not expecting to "save" all potential suicides by one's own single effort, or to solve all the problems of the distressed person,

(iii) a realistic and humane approach to death, dying,

(iv) self-destructive behavior and other human issues, and

(v) coming to terms with one's own feelings about death and dying in so far as these feelings might deter one from helping others.

(b) Knowledge Areas:

(i) basic suicidology, including suicide assessment of desire, intent, capability, and buffers,

(ii) intervention strategies including active engagement, active rescue, and collaboration, emphasize safety and prevention,

(iii) risk of assaulting others,

(iv) community resources,

(v) consultation process,

(vi) record system and program policies,

(vii) cultural/diversity awareness,

(viii) voluntary and involuntary hospitalization criteria and procedures, and

(ix) psychopathology, psychiatric diagnosis, psychotropic medication, and substance abuse.

(c) Skill Areas:

(i) ability to assess in life-threatening situations, including risk of suicide and/or homicide,

(ii) ability to actively engage,

(iii) ability to mobilize community resources in an efficient and effective manner,

(iv) ability to respond with respect and effectiveness and render assistance to individuals in crisis and distress with appropriate regard to their cultural, racial or ethnic background, their religion or language, their socioeconomic status; or other diversity factors,

(v) provide efficient record keeping and policy implementation (e.g. recording essential notes in succinct form within the same work shift so they are useful to the next worker), and

(vi) use of the consultative process, e.g. knowing who to call under what conditions.

(3) The curriculum methodology shall include but not be limited to:

(a) role playing and other experiential based methods,

(b) use of audiovisual materials, such as simulated recorded calls and videotape,

(c) an opportunity to function as a co-crisis worker with experienced staff before assignment and to work on an independent basis, and

(d) didactic presentation and reading assignments.

(4) In order to maintain crisis worker certification an individual must:

(a) Complete at least 8 hours of continuing education (CEUs) every two (2) years pertaining specifically to crisis services,

(b) shall maintain adequate documentation as proof of compliance with this section, such as a certificate of completion, school transcript, course description, or other course materials,

(c) shall retain this proof for a period of three years after the end of the renewal cycle for which the continuing education is due; and

(d) at a minimum, the documentation shall contain the following:

(i) date of the course,

(ii) name of the course provider,

(iii) name of the instructor,

(iv) course title,

(v) number of hours of continuing education credit; and

(vi) course objectives.

R523-17-7. Revocation of Certified Crisis Worker Certification.

(1) Certified Crisis Workers shall abide by the Provider Code of Conduct pursuant to Section R495-876, and as also found in the Department of Human Services Provider Code of Conduct Policy.

(2) Each employer shall notify the division within 30 days, if a certified crisis worker engages in unprofessional or unlawful conduct.

(3) The division shall revoke, refuse to certify, or renew a certification to an individual who is substantiated to have engaged in unprofessional or unlawful conduct.

(4) An individual who has been served a Notice of Agency Action that the certification has been revoked, or will not be renewed may request a Request for Review to the division Director or designee within 30 days of receipt of notice.

(5) The division Director or designee will review the findings of the Notice of Agency Action and shall determine to uphold, amend or revise the action of denial or revocation of the certification.

(6) If a certified crisis worker fails to complete the requirements for CEUs, their certificate shall be revoked or allowed to expire and shall not be renewed.

(7) The crisis workers certification shall be posted and available upon request.

R523-17-8. Standards for Local Authority Mental Health Crisis Lines.

(1) If a Local Mental Health Authority provides for a local mental health crisis line the Local Mental Health Authority shall:

(a) maintain a 24 hour/7 days per week comprehensive telephonic system capable of assessing any individual experiencing a self-defined crisis situation, leading to appropriate crisis stabilization and making appropriate referrals,

(b) collaborate with the statewide mental health crisis line,

(c) ensure that each individual who answers calls to the local mental health crisis line:

(i) is a mental health therapist and/or certified crisis worker, and

_____ (ii) meets the standards of care and practice established by this rule.

_____ (iii) has access to a licensed mental health clinician by direct transfer of the call that does not require a call back to the person in crisis if the non licensed crisis worker cannot stabilize the caller

_____ (d) ensure that, based on inability to meet needs based on capacity, the calls are immediately routed to the statewide mental health crisis line.

_____ (e) ensure that local authorities have a plan for roll over calls.

_____ (f) ensure that regardless of the time, date, number of individuals trying to simultaneously access the local mental health crisis line, a mental health therapist or crisis worker answers the call:

_____ (i) without the caller waiting on hold.

_____ (ii) being screened by an individual other than a mental health therapist or crisis worker, and

_____ (iii) within 5 rings or 30 seconds, and

_____ (g) ensure the discounted call abandonment rate will not exceed more than 5% of the total volume of calls.

_____ (2) If a Local Mental Health Authority does not provide for a local mental health crisis line they shall use the statewide crisis line as a local resource.

_____ (3) Local Authorities and the statewide crisis line shall develop and implement a plan for collaboration and coordination of care for ongoing support for individuals accessing the statewide crisis line. This plan should:

_____ (a) be created collaboratively between the Local Authority and the statewide crisis line, and

_____ (b) shall include the following components at a minimum:

_____ (i) policies and procedures for coordination,

_____ (ii) timeline for care transitions that includes process for warm hand off, appointment scheduling, and follow up,

_____ (iii) clear expectations of communication between agencies including contact lists and shared resources lists, and

_____ (iv) a plan for regular review of data to ensure collaboration and quality of continuity of care.

R523-17-9. Minimum Standards of Care and Practice.

_____ (1) Certification or accreditation standards include:

_____ (a) The crisis line must provide proof of certification/accreditation from one of the following:

_____ (i) American Association of Suicidology (AAS),

_____ (ii) CONTACT USA,

_____ (iii) Alliance of Information and Referral Systems (AIRS),

_____ (iv) The Joint Commission,

_____ (v) Commission on Accreditation of Rehabilitation Facilities (CARF),

_____ (vi) Council on Accreditation (COA),

_____ (vii) Utilization Review Accreditation Commission (URAC), or

_____ (viii) DNV Healthcare, Inc.

_____ (b) Agencies shall provide State/county licensure, as approved by the division Administrator or designee.

_____ (c) The telephone crisis service must provide:

_____ (i) screening and triage,

_____ (ii) psycho-social support,

_____ (iii) connection to appropriate resources,

_____ (iv) follow-up capability to callers as clinically appropriate.

_____ (d) The 24 hour/7 days per week telephone crisis service must be staffed by skilled professionals capable of assessing and making culturally competent, appropriate referrals.

_____ (e) The telephone crisis service must use trauma-informed screenings and assessments, and incorporate this information into safety planning, referrals and follow-up interventions.

_____ (f) The telephone crisis service must initiate mobile crisis services when available and be linked with walk-in crisis service facilities when available.

_____ (2) Suicide Risk Assessment Standards include:

_____ (a) Crisis centers shall adopt the National Suicide Prevention Lifeline Suicide Risk Assessment Standards minimum requirements.

_____ (3) Imminent Risk Policies include:

_____ (a) Crisis centers shall adopt the National Suicide Prevention Lifeline Policy for Helping Callers at Imminent Risk of Suicide

_____ (4) Follow Up Policies include:

_____ (a) Crisis Centers shall maintain and implement a policy detailing follow-up procedures including but not limited to:

_____ (i) safe-care transitions,

_____ (ii) rapid referrals,

_____ (iii) caring contacts, and

_____ (iv) care bridging strategies.

_____ (b) This will detail how crisis centers will work with community partners and the statewide crisis line.

_____ (5) Warm Hand Off Policies include:

_____ (a) Agencies shall maintain written procedure defining and detailing a "warm hand off" process that allows for unique adaptations for each LA crisis service structure, in collaboration with the statewide crisis line.

_____ (b) This initial procedure for a Warm Hand Off will be as follows:

_____ (i) If clinically indicated, provide a warm handoff to LAs providers or other identified providers of care or care managers with an identified health plan. A warm handoff may include:

_____ (A) a conference call or other direct communication with the LA provider, other provider or care manager to arrange immediate crisis support and scheduling an appointment for follow up support.

_____ (B) if other needs are expressed by callers then additional resources may be offered to help access local recovery oriented support services as needed.

_____ (C) Coordination with each local authority, regarding preferred communication and resources access as uniquely adapted to each local community, and

_____ (D) a warm hand off will be done via conference call to facilitate a personal introduction between a Lifeline caller and their local behavioral health treatment providers or care managers, as well as the exchange of pertinent information, to promote the continuity of care.

_____ (ii) The elements of a successful warm hand off include:

_____ (A) orienting the caller as to what to expect,

_____ (B) a positive provider to provider communications, and

(C) provision of accurate information regarding the caller's current condition, treatment and service needs, and safety goals.

(iii) The steps to initiate a warm hand off include:

(A) assessing callers for their level of acuity and need.

(B) offer to provide a person to person introduction to a representative in their local area.

(C) explain the conference call process to the caller

(D) Contact the predetermined designated number for provider in their local area

(E) Communicate the caller's situation and needs.

(F) Introduce the caller and remain on the line as needed to facilitate the conversation, and

(G) in the event that a warm handoff is clinically indicated and the individual is not able to receive a warm handoff for any reason, a minimum of one follow up "Caring Connection" shall be provided within 72 hours of initial contact, if contact information was able to be collected for the caller.

(6) Crisis Line Community Collaboration and Coordination Policies include:

(a) Crisis Centers shall have a published plan in place that outlines community resources available.

(b) The Crisis Centers shall have a collaboratively created plan published that outlines the plan for community collaboration with the following partners at minimum:

(i) Law Enforcement,

(ii) hospitals (Emergency Departments),

(iii) local mental health and substance abuse authorities,

(iv) schools, and

(v) any other crisis services in the local community.

R523-17-10. Statewide Mental Health Crisis Line Standards.

(1) The 24 hour/7 days per week statewide crisis Line shall adhere to the following standards:

(a) collaborate with Local Authorities running local crisis line,

(b) the statewide crisis line shall develop, and implement a plan for collaboration and coordination of care for ongoing support for individuals accessing services with Local Authorities,

(c) plans should be created collaboratively between the Local Authority and the statewide crisis line,

(d) plans shall include the following components at a minimum:

(i) policies and procedures for coordination,

(ii) timelines for care transitions that includes process for warm hand off, appointment scheduling, and follow up,

(iii) clear expectations of communication between agencies including contact lists and shared resources lists,

(iv) a plan for regular review of data to ensure quality of continuity of care.

(v) assurance that each individual who answers calls to the statewide crisis line:

(A) is a mental health therapist and/or certified crisis worker

(B) meets the standards of care and practice established by this rule

(C) has access to a licensed mental health clinician by direct transfer of the call that does not require a call back to the

person in crisis if the non licensed crisis worker cannot stabilize the caller.

(vi) assurance that regardless of the time, date, number of individuals trying to simultaneously access the local mental health crisis line a mental health therapist or crisis worker answers the call:

(A) without the caller waiting on hold,

(B) being screened by an individual other than a mental health therapist or crisis worker, and

(C) within 5 rings or 30 seconds,

(vii) the discounted call abandonment rate will not exceed more than 5% of the total volume of calls,

(viii) 90% of statewide crisis line calls shall be answered in state as reported by the National Suicide Prevention Lifeline call data, and

(ix) assurance that the statewide crisis line has the capacity to accept all calls that local mental health crisis lines route to the statewide crisis line.

R523-17-11. Minimum Standards of Care and Practice for the Statewide Crisis Line.

(1) Certification or accreditation include:

(a) The crisis line must provide proof of certification/accreditation from one of the following:

(i) American Association of Suicidology (AAS),

(ii) CONTACT USA,

(iii) Alliance of Information and Referral Systems (AIRS)

(iv) The Joint Commission on Accreditation of Rehabilitation Facilities (CARF),

(v) Council on Accreditation (COA),

(vi) Utilization Review Accreditation Commission (URAC), or

(vii) DNV Healthcare, Inc.

(b) State/county licensure, as approved by the division Administrator or designee,

(c) The telephone crisis service must provide:

(i) screening and triage,

(ii) psycho-social support, and

(iii) connection to appropriate resources.

(d) follow-up capability to callers as clinically appropriate, and

(e) The 24 hour/7 days per week telephone crisis service must be staffed by skilled professionals capable of assessing and making culturally competent, appropriate referrals.

(f) The telephone crisis service must use trauma-informed screenings and assessments and incorporate this information into safety planning, referrals and follow-up interventions.

(g) The telephone crisis service must initiate mobile crisis services when available and be linked with walk-in crisis service facilities when available.

(2) Suicide Risk Assessment Standards shall include:

(a) Statewide Crisis Line shall adopt the National Suicide Prevention Lifeline Suicide Risk Assessment Standards minimum requirements.

(3) Imminent Risk Policies shall include:

(a) Statewide Crisis Line shall adopt the National Suicide Prevention Lifeline Policy for Helping Callers at Imminent Risk of Suicide

(4) Follow Up Policies shall include:

(a) Statewide Crisis Line shall maintain and implement a policy detailing follow-up procedures including but not limited to:

- (i) safe-care transitions,
- (ii) rapid referrals,
- (iii) caring contacts, and
- (iv) care bridging strategies.

(b) This will detail how Statewide Crisis Line will work with community partners and the local crisis line.

(5) Warm Hand-off Policies shall include:

(a) Agencies shall maintain written procedure defining and detailing a "warm hand off" process that allows for unique adaptations for each LA crisis service structure, in collaboration with the statewide crisis line.

(b) This initial procedure for a Warm Hand Off shall be as follows:

(i) If clinically indicated, provide a warm handoff to LAs providers.

(ii) A warm handoff may include:

(A) a conference call or other direct communication with the LA provider to arrange immediate crisis support and scheduling an appointment for follow up support.

(B) If other needs are expressed by callers then additional resources may be offered to help access local recovery oriented support services as needed.

(C) coordination with each local authority regarding preferred communication and resources access as uniquely adapted to each local community.

(iii) A warm hand off will be done via conference call to facilitate a personal introduction between a Statewide Crisis Line caller and their local behavioral health treatment providers, as well as the exchange of pertinent information, to promote the continuity of care.

(iv) The elements of a successful warm hand off include:

(A) orienting the caller as to what to expect,

(B) positive provider to provider communications, and

Providing accurate information regarding the caller's current

(C) condition, treatment and service needs, and safety goals.

(v) The steps to initiate a warm hand off includes:

(A) assessing callers for their level of acuity and need,

(B) offer to provide a person to person introduction to a representative in their local area,

(C) explain the conference call process to the caller,

(D) contact the predetermined designated number for provider in their local area,

(E) communicate the caller's situation and needs; and

(F) introduce the caller and remain on the line as needed to facilitate the conversation.

(vi) In the event that a warm handoff is clinically indicated and the individual is not able to receive a warm handoff for any reason, a minimum of one follow up "Caring Connection" shall be provided within 72 hours if contact information was able to be collected for the caller.

(6) Crisis Line Community Collaboration and Coordination plan shall include:

(a) Statewide Crisis Line shall have a published plan in place that outlines community resources available.

(b) The statewide Crisis Line shall have a plan published that outlines the plan for community collaboration with the following partners at minimum:

(i) Local Authorities including Mobile Crisis Outreach Teams,

(ii) law enforcement,

(iii) hospitals (Emergency Departments),

(iv) health plans,

(v) schools, and

(vi) any other crisis services in the local community.

(c) The Statewide Crisis Line shall enter into MOU's with each Local Authority operating a Crisis Line and/or Mobile Crisis Outreach Teams and shall make good faith efforts to enter into MOU's with parties described in R523-17-11 (6b).

R523-17-12. Division Oversight of Program.

(1) The division may enter and survey the physical facility, program operation, and review curriculum and interview staff to determine compliance with this rule or any applicable contract to provide such services.

(2) Participating organizations including Local Authorities and the statewide crisis line shall also allow representatives from the division and from the local authorities as authorized by the division to monitor services. Such visits may be announced or unannounced.

KEY: crisis response services, crisis worker certification, statewide crisis line standards

Date of Enactment or Last Substantive Amendment: 2018

Authorizing, and Implemented or Interpreted Law: 62A-15-1302(2)

Human Services, Substance Abuse and Mental Health

R523-18

Mobile Crisis Outreach Teams Certification Standards

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43214

FILED: 09/14/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is enacted for the purpose of promoting the availability of comprehensive behavioral health crisis services throughout the state by: a) creating standards of certification, care, and practice for statewide mental health crisis response system using the Mobile Crisis Outreach Team (MCOT) model of care, and b) outlining the responsibilities of MCOTs including interaction with civil commitment.

SUMMARY OF THE RULE OR CHANGE: This new rule includes: a) definitions for uncommon/industry specific terms used in this rule; b) general provisions and philosophical principles are established and defined; c) minimum standards of care are established and defined for all MCOTs seeking State Certification; d) minimum personnel configuration and certification process are established; e) oversight activities by the Division of Substance Abuse and Mental Health (DSAMH) are established and defined; and f) a revocation of certification and agency recourse are established.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-15-1402 and Subsection 62A-15-116(4)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The Department of Human Services (DHS)/DSAMH was allocated \$2,595,000 to administer this program that includes: the expansion of mental health crisis services i.e. contracting for statewide crisis response teams through five providers, hiring a program administrator, and any additional administrative cost. Contracting for a Central Emergency Mental Health Crisis Line: DHS/DSAMH will be contracting with the five Local Mental Health Authorities to develop a statewide system of crisis response teams that will provide the direct services needed to maintain a comprehensive Mental Health Crisis Management System. Each contracted team will be compensated \$500,000 per annum. This cost includes development of the crisis response teams, maintenance of fidelity to the MCOT model that has been adopted as the service delivery model, and all overhead and administrative costs. Cost of Administrative Oversight: DHS/DSAMH has hired a Program Administrator I to oversee and coordinate efforts to develop a statewide crisis response system, and the salary for this position is a cost of \$95,668 including benefits and fringe.

◆ **LOCAL GOVERNMENTS:** The legislation that necessitates this rule added \$2,500,000 to the DHS/DSMAH budget to fund five MCOTs that will be distributed throughout the state. These funds are to be awarded to county governments and their Local Mental Health Authorities to help offset the costs associated with the development and maintenance of these teams. Each awardee will receive \$500,000, with a minimum of a 20% match in county funds; thus each county receiving a contract for MCOT services will be require to provide a minimum of \$100,000 in matching funds based on the aforementioned requirement. Other costs associated with this rule are tied to the cost of having employees certify as crisis workers with DSAMH, which is a staffing requirement for these teams. These costs could include time, productivity, and financial components. Time cost include whatever accounting process is developed to track all crisis employees and the status of their certification. Productivity costs include the lost opportunities of providing services to a caseload for at least 40 hours every 2 years. Financial costs include per diem and salaries paid to employees who are required to certify as crisis workers and the billable hours that are not provided by an employee that is going through the Crisis Worker certification process.

◆ **SMALL BUSINESSES:** It is anticipated that no small businesses will participate in the certification or development of a crisis line as described in this rule. This rule mostly affects local governments, employees of local governments, and possibly businesses contracted with local governments to provide substance use and/or mental health treatment services (none of which are small businesses at this time).

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no costs in this rule associated with other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are compliance costs associated to local governments in this new rule. These costs are not imposed on any local governments that choose not to participate in developing a state certified MCOT. Some of these costs can be estimated, such as the \$100,000 match required by statute, but others are not estimable, such as startup onetime cost i.e. setup and development of the MCOT, and cost associated with maintaining an eligible team of employees that are Certified Crisis Workers.

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
 SUBSTANCE ABUSE AND MENTAL HEALTH
 195 N 1950 W
 SALT LAKE CITY, UT 84116
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Thomas Dunford by phone at 801-538-4181, by FAX at 801-538-4696, or by Internet E-mail at tdunford@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2018

AUTHORIZED BY: Doug Thomas, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$2,596,668	\$2,596,668	\$2,596,668
Local Government	\$100,000	\$100,000	\$100,000
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0

Total Fiscal Costs:	\$2,696,668	\$2,696,668	\$2,696,668
Fiscal Benefits	\$0	\$0	\$0
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:	\$(2,696,668)	\$(2,696,668)	\$(2,696,668)

*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 are no estimable or inestimable costs or benefits to non-small businesses in this rule. The statute and funding associated with this rule only effect state and local government agencies and budgets, and those cost have been described in the attached new rule analysis.

R523. Human Services, Substance Abuse and Mental Health.

R523-18. Mobile Crisis Outreach Teams Certification Standards.

R523-18-1. Authority.

(1) This rule establishes guidelines, procedures and standards for the establishment of statewide Mobile Crisis Outreach Teams (MCOT) as directed in Subsections 62A-15-116(4) and 62A-15-1402.

R523-18-2. Purpose.

(1) This rule is enacted for the purpose of promoting the availability of comprehensive behavioral health crisis services throughout the state, by:

- (a) creating standards of certification, care and practice for statewide mental health crisis response system using the MCOT model of care, and
- (b) outlining the responsibilities of MCOTs including interaction with civil commitment.

R523-18-3. Definitions.

(1) "Assessment" means a formal and continuous process of collection and evaluating information about an individual to ascertain whether or not a patient is functioning at a healthy psychological, social, or developmental level and aids in service planning, treatment and referral. Assessments establish justification for interventions, services and referrals.

(2) "Certified Crisis Worker" means an individual who meets the standards of certification that the Substance Abuse and

Mental Health (division) sets, in accordance with Subsection R523-17-4.

(3) "Crisis Stabilization" means direct mental health care to non-hospitalized individuals experiencing an acute crisis of a psychiatric nature that may jeopardize their current community living situation, or put them at risk of psychiatric hospitalization by:

- (a) providing emotional support and safety, and
- (b) mobilizing community resources, the individuals support system, family members, and others for ongoing maintenance, and rehabilitation.

(4) "Designated Examiner" is defined in Subsection 62A-15-602(5).

(5) "Emergency medical service personnel" means an individual who provides emergency medical services to a patient and is required to be licensed under Section 26-8a-302, which includes:

- (a) paramedics,
- (b) medical directors of a licensed emergency medical service provider,
- (c) emergency medical service instructors,
- (d) and other categories established by the committee.

(6) "MCOT certification" means the certification created in Section R523-18-5.

(7) "MCOT personnel" means a licensed mental health therapist as defined in Subsection 58-60-102(5) and a certified crisis worker.

(8) "Mental Health Crisis" means any intense behavioral, emotional, or psychiatric situation perceived to be a crisis by the individual or family experiencing the crisis, or others who closely observe the individual where:

- (a) the crisis manifests itself by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:
 - (i) serious jeopardy to the individual's health or well-being, or
 - (ii) a danger to others, or
 - (iii) significantly reduced levels of functioning in primary activities of daily living, including interfering with the ability to go to school, work, and engage in meaningful relationships.

(9) "Mental health crisis services" means mental health services and on-site interventions that a person renders to an individual suffering from a mental health crisis. This includes the provision of:

- (a) safety and care plans,
- (b) stabilization services that are offered for a minimum of 60 days, and
- (c) referrals to other community resources.

(10) "Mobile Crisis Outreach Team" means a mobile team of medical and MCOT personnel that provide mental health crisis services and, based on the individual circumstances of each case, coordinates with local law enforcement, emergency medical service personnel, and other appropriate state or local resources. Medical professionals may serve in a response or oversight role on the team.

(11) "Mental Health Officer" means an individual who is designated by a Local Mental Health Authority as qualified by training and experience in the recognition and identification of mental illness.

(12) "Mental Health Therapist" means an individual licensed in Utah under the mental health professional practice act as defined in Subsection 58-60-102(5).

(13) "Peer Support Specialist (PSS)" means an individual who meet the requirements outlined in R523-5.

(14) "Family Resource Facilitator (FRF)" means an individual who meets the requirements outlined in R523-6.

R523-18-4. General Provisions.

(1) MCOT services are based on the following principles:

(a) cultural competence,

(b) strong community relationships,

(c) the use of peer supports,

(d) the use of evidence based practices,

(e) building on existing foundations with an eye towards innovation,

(f) utilization of an integrated system of care,

(g) outreach to students through school-based clinics,

(h) trauma informed care,

(i) de-escalation,

(j) access to supports and services is timely,

(k) services are provided in the least restrictive manner possible,

(l) crisis is defined by the individual or family,

(m) treatment plans are strengths-based, and

(n) helping the individual and family to regain a sense of control and safety is a priority.

(2) MCOTs must be capable of serving in the context of a crisis as outlined below:

(a) children, adolescents, adults and older adults,

(b) individuals with co-occurring conditions including:

(i) mental health conditions,

(ii) substance use disorders,

(iii) medical needs,

(iv) intellectual/developmental disabilities,

(v) physical disabilities,

(vi) traumatic brain injuries; and/or,

(vii) dementia and related neurological conditions.

(c) individuals demonstrating aggressive behavior,

(d) individuals who are uninsured or unable to pay for services, and

(e) individuals who may lack Utah residency or legal immigration status.

(3) MCOTs shall encourage each modality of service within the Crisis Response System to incorporate peer support into the services they provide, when clinically appropriate.

R523-18-5. Minimum Guidelines and Standards of Care.

(1) Mobile crisis services provide a timely in-person response to a crisis in the community. Mobile crisis services shall collaborate with local and statewide crisis line services, and any additional crisis response services, including the stabilization and mobile response services if available.

(2) When a MCOT is dispatched from the statewide crisis line, the statewide crisis line staff shall provide whenever possible the:

(a) the name of individual in crisis,

(b) their date of birth,

(c) the presenting problem as demonstrated through the individual's current behaviors),

(d) the location of the individual needing services,

(e) any history of violence and/or substance use,

(f) the presence of any weapons and/or dogs in the house, and

(g) the need for a coordination plan to include police assistance, and/or family's willingness to helping coordinate services while accounting for all relevant safety and security issues, so the MCOT can provide a timely face to face response.

(3) When law enforcement requests response from a MCOT, and is staying on scene, it is important to provide as rapid as a response as possible which may mean, responding to the crisis with limited information.

(4) A MCOT must have the capacity to:

(a) intervene wherever the crisis occurs,

(b) serve individuals unknown to the system,

(c) coordinate multiple simultaneous requests for services and,

(d) work closely with police, EMS, Fire, dispatch, crisis hotlines, schools, hospital emergency departments, and other related agencies.

(5) A MCOT must operate 24 hours per day, 7 days per week, and 365 days per year in providing community-based crisis intervention, screening, assessment, and referrals to appropriate resources.

(6) In screening the individual in crisis, the MCOT must collect at least the following information:

(a) identifying information,

(b) the chief complaint/presenting problem,

(c) acute medical concerns and chronic health conditions, and

(d) current healthcare providers.

(7) The MCOT must administer an ongoing assessment, if clinically indicated by the initial screening, that shall include:

(a) any imminent danger to the individual in crisis through potentially lethal means of harm to one's self or others,

(b) risk for suicide using the Columbia Suicide Severity Rating Scale (C-SSRS) or another empirically validated instrument,

(c) the individual's emotional status and imminent psychosocial needs,

(d) individual strengths and available coping mechanisms,

(e) resources that can increase service participation and success, and

(f) the most appropriate and least restrictive service alternative for the individual, and the referral mechanisms and procedures to access services.

(8) Following the assessment, if there is risk for harm to self or others, the MCOT shall engage the person to establish a crisis response plan using:

(a) Crisis Response Planning (CRP),

(b) Stanley Brown Safety Plan, or

(c) another evidenced based safety plan/crisis prevention practice.

(9) If clinically indicated access ER or other crisis receiving facility to address ongoing safety concerns and for further evaluation.

(10) A MCOT must be staffed by skilled and licensed mental health professionals.

(11) A MCOT must understand the emergency civil commitment process as described in Section 62A-15-629, and one of the members must be either a Designated Examiner or Mental Health Officer to facilitate civil commitment should that be the indicated course of action for the safety of the individual, family or the community.

(12) A MCOT will preferably utilize Certified Peer Support Specialists and Family Resource Facilitators, in conjunction with a Mental Health Therapist when deploying for mobile crisis outreach.

(13) A MCOT shall respond to individuals in the community who are in crisis with the goal of resolving the crisis in the least restrictive manner and setting, including:

(a) reducing inpatient treatment admissions and Emergency Department visits if appropriate.

(b) increasing jail diversions, and

(c) reducing law enforcement involvement while maintaining public safety.

(14) A MCOT shall collaborate with stakeholders involved in the crisis service delivery system and partner to resolve service delivery concerns.

(15) MCOT providers shall have a published plan in place that outlines triage policies and coordination of crisis response services with community stakeholders.

(a) The plan shall address community collaboration with the following partners at minimum:

(i) Local Mental Health and Substance Abuse Authorities,

(ii) SMR providers,

(iii) local law enforcement,

(iv) fire departments,

(v) dispatch,

(vi) hospital emergency departments,

(vii) schools,

(viii) EMS,

(ix) Department of Human Services agencies, and

(x) other social service partners, including health plans and other crisis services in the local community.

(16) The MCOT provider shall enter into MOU's with each Local Mental Health and Substance Abuse Authority operating a crisis line in their region, and the Statewide Crisis Line. The MOU shall include the following elements at a minimum:

(a) data sharing process between Statewide Crisis Line, Local Authority and MCOT provider including data on number of callers from region MCOT serves,

(b) mobile deployments from the Statewide Crisis Line,

(c) a clear procedure for coordination between the Statewide Crisis Line and MCOT provider, for deploying MCOT services for individuals in need of MCOT services who have called into the Statewide Crisis Line,

(d) data and a process for warm hand offs between Statewide Crisis Line, MCOT, and Local Authorities to support individuals in ongoing services; and

(e) procedures for case consultation on services, high utilizers, and collaboration.

R523-18-6. MCOT Personnel and Team Certification.

(1) The Following requirements shall be met in order for an agency to receive a certification of their MCOT:

(a) personnel shall consist of a minimum of two members, one of which shall be a:

(i) Mental Health Therapist who is a Certified Crisis Worker, and is either a:

(A) Designated Examiner, or

(B) a Mental Health Officer.

(b) The second member shall be a Certified Crisis Worker, who is preferably a Certified Peer Support Specialist or a Family Resource Facilitator.

(c) All teams shall have access to a Designated Examiner and a medical professional for consultation during the MCOT response.

(2) Agencies shall apply for participation and funding in MCOT activities through a Request For Proposal process that requires:

(a) submitting a plan that describes service delivery and team make-up,

(b) submitting a plan for meeting minimum guidelines and standards of care as outlined in this rule, and

(c) evidence that the statutory match requirement of 20% will be met.

(3) The division shall provide certification to applicant agencies after review of the submitted materials demonstrate that the plan of care and team make up meet the guidelines set forth in this rule.

R523-18-7. Division Oversight of Programs.

(1) The division may enter and survey the physical facility, program operations, and review curriculum and interview staff of a certified MCOT agency, to determine compliance with this rule or any applicable contract to provide such services.

(2) Participating organizations including Local Authorities and the Statewide Crisis Line shall allow representatives from the division and from the local authorities as authorized by the division to monitor services. Such visits may be announced or unannounced.

R523-18-8. Revocation of Certification.

(1) MCOT shall maintain its certification by meeting the guidelines set forth in this rule.

(2) The Division shall review all complaints related to an MCOT that is not meeting the guidelines set forth in this rule.

(3) The Division shall refuse to certify, suspend, revoke, or renew a certification to any MCOT that is found to have a substantiated complaint.

(4) An MCOT that has been served a Notice of Agency Action that the certification has been suspended, revoked, or will not be renewed may request a Request for Review to the Division Director or designee within 30 days of receipt of notice.

(5) The Division Director or designee will review the findings of the Notice of Agency Action and shall determine to uphold, amend or revise the action of denial or revocation of the certification.

(6) The MCOT certification shall be posted and available upon request.

KEY: mobile crisis outreach team, MCOT standards, statewide crisis response standards
Date of Enactment or Last Substantive Amendment: 2018
Authorizing, and Implemented or Interpreted Law: 62A-15-116(4), 62A-15-1402

**Insurance, Title and Escrow
 Commission
 R592-10-5
 Office Report**

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 43187
 FILED: 09/12/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The amendment to this rule is being made at the direction of the Title and Escrow Commission by a vote of 5 to 0.

SUMMARY OF THE RULE OR CHANGE: This rule is being amended to remove a requirement that title agencies must report to the Insurance Department (Department) a change in the manager of an office.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-2-201 and Section 31A-23a-415

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. This change removes a reporting requirement for a somewhat uncommon event, so the state will not save money on not processing manager changes.
- ◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local governments. This rule change only applies to interactions between the Department and its licensees.
- ◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. There is no cost to report to the Department changes in the manager of an office, so there will be no savings for not reporting them.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to other persons. There is no cost to report to the Department changes in the manager of an office, so there will be no savings for not reporting them.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. This change removes a reporting requirement, which does not create a cost.

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:
 INSURANCE
 TITLE AND ESCROW COMMISSION
 ROOM 3110 STATE OFFICE BLDG
 450 N MAIN ST
 SALT LAKE CITY, UT 84114-1201
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2018

AUTHORIZED BY: Steve Gooch, Information Specialist

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
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
 This rule change is not expected to have any fiscal impacts on non-small businesses revenues or expenditures, because this rule change removes a requirement that title agencies must report to the Insurance Department a change in the manager of an office. There is no cost to report such changes to the Department, so there will be no savings for not reporting them.

The head of the Insurance Department, Todd E. Kiser, has reviewed and approved this fiscal analysis.

R592. Insurance, Title and Escrow Commission.
R592-10. Title Insurance Regulation Assessment for Agency Title Insurance Producers and Title Insurers.
R592-10-5. Office Report.

- (1) An agency title insurance producer and a title insurer shall submit a completed Office Report Form not later than 30 days after the date a change described below occurs in a county where the agency title insurance producer or title insurer maintains an office:
 - (a) the opening or closing of an office; or
 - (b) a change of address of an office; ~~or~~
 - ~~(c) a change in the manager of an office].~~
- (2) An Office Report Form shall be submitted electronically via email to licensing.uid@utah.gov.
- (3) The department's Office Report Form, which is available on the department's website, shall be used to report changes in offices.
 - (a) An actual copy of the form may be used or may be adapted to a particular word processing system.
 - (b) If adapted, the content, size, font, and format must be similar.

KEY: title insurance
Date of Enactment or Last Substantive Amendment: ~~[May 19, 2009]~~ **2018**
Notice of Continuation: July 10, 2018
Authorizing, and Implemented or Interpreted Law: 31A-2-201; 31A-23a-415

**Judicial Performance Evaluation
 Commission, Administration
 R597-3
 Judicial Performance Evaluations**

**NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 43181
 FILED: 09/05/2018**

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to establish procedures governing Judicial Performance Evaluations. The reason for these changes are to bring a more fair and precise evaluation process for the judges, including the exclusion of attorneys from an attorney pool that have been referred to the Office of Professional Conduct, clarifying the minimum performance standards, and further clarifying the public comment process.

SUMMARY OF THE RULE OR CHANGE: The changes in this rule include the exclusion of attorneys from an attorney pool that have been referred to the Office of Professional Conduct, clarifying the minimum performance standards, and further clarifying the public comment process.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 78A, Chapter 12

- ANTICIPATED COST OR SAVINGS TO:**
- ◆ **THE STATE BUDGET:** There are no anticipated costs or savings to the state budget. The changes in this rule address the exclusion of attorneys from an attorney pool that have been referred to the Office of Professional Conduct, clarifying the minimum performance standards, and further clarifying the public comment process.
 - ◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local governments. The changes in this rule address the exclusion of attorneys from an attorney pool that have been referred to the Office of Professional Conduct, clarifying the minimum performance standards, and further clarifying the public comment process.
 - ◆ **SMALL BUSINESSES:** There are no anticipated costs or savings to small businesses. The changes in this rule address the exclusion of attorneys from an attorney pool that have been referred to the Office of Professional Conduct, clarifying the minimum performance standards, and further clarifying the public comment process.
 - ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no anticipated costs or savings to persons other than small businesses, businesses, or local government

entities. The changes in this rule address the exclusion of attorneys from an attorney pool that have been referred to the Office of Professional Conduct, clarifying the minimum performance standards, and further clarifying the public comment process.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated compliance costs for affected persons. The changes in this rule address the exclusion of attorneys from an attorney pool that have been referred to the Office of Professional Conduct, clarifying the minimum performance standards, and further clarifying the public comment process.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no fiscal impacts that this rule may have on businesses. The changes in this rule address the exclusion of attorneys from an attorney pool that have been referred to the Office of Professional Conduct, clarifying the minimum performance standards, and further clarifying the public comment process.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 JUDICIAL PERFORMANCE EVALUATION COMMISSION
 ADMINISTRATION
 ROOM B-330 SENATE BUILDING
 420 N STATE ST
 SALT LAKE CITY, UT 84114
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Jennifer Yim by phone at 801-538-1652, or by Internet E-mail at jyim@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2018

AUTHORIZED BY: David Roth, Chair

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
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			
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Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

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

Appendix 2: Regulatory Impact to Non-Small Businesses

There are no anticipated regulatory or fiscal impact that this rule will have on non-small businesses. This rule is authorized by Title 78A, Chapter 12 which allows the Judicial Performance Evaluation to make rules. This rule establishes the procedures governing Judicial Performance Evaluations.

R597. Judicial Performance Evaluation Commission, Administration.

R597-3. Judicial Performance Evaluations.

R597-3-1. Evaluation Cycles.

- (1) For judges not serving on the supreme court:
 - (a) The mid-term evaluation cycle. Except as provided in subsection (3) the mid-term evaluation cycle begins upon the appointment of the judge or on the first Monday in January following the retention election of the judge and ends on September 30th of the third year preceding the year of the judge's next retention election.
 - (b) The retention evaluation cycle. The retention evaluation cycle begins the day after the mid-term evaluation cycle is finished and ends on September 30th of the year preceding the year of the judge's next retention election.
- (2) For justices serving on the supreme court:
 - (a) The initial evaluation cycle. The initial evaluation cycle begins upon the appointment of the justice or on the first Monday in January following the retention election of the justice and ends on September 30th of the seventh year preceding the year of the justice's next retention election.
 - (b) The mid-term evaluation cycle. The mid-term evaluation cycle begins the day after the initial evaluation cycle is

finished and ends on September 30th of the third year preceding the year of the justice's next retention election.

(c) The retention evaluation cycle. The retention evaluation cycle begins the day after the mid-term evaluation cycle is finished and ends on September 30th of the year preceding the year of the justice's next retention election.

(3) Timing of evaluations within cycles. In order to allow judges time to incorporate feedback from midterm evaluations into their practices, no evaluations shall be conducted during the first six months of the retention cycle.

R597-3-2. Survey.

(1) General provisions.

(a) All surveys shall be conducted according to the evaluation cycles described in R597-3-1, *supra*.

(b) The commission may provide a partial midterm evaluation to any judge whose appointment date precludes the collection of complete midterm evaluation data.

(c) The commission shall post on its website the survey questionnaires upon which the judge shall be evaluated at the beginning of the survey cycle.

(d) The commission may select retention survey questions from among the midterm survey questions.

(e) Periodically, reviews may be conducted to ensure compliance with administrative rules governing the survey process.

(f) The commission may consider narrative survey comments that cannot be reduced to a numerical score.

(g) Surveys shall be distributed by the third-party contractor engaged by the commission to conduct the survey. The contractor shall determine the maximum number of survey requests sent to a respondent, but in no event shall any respondent receive more than nine survey requests.

(2) Respondent Classifications

(a) Attorneys

(i) Identification of survey respondents.

(A) Within 10 business days of the end of the evaluation cycle, the clerk for the judge or the Administrative Office of the Courts shall identify as potential respondents all attorneys who have appeared before the judge who is being evaluated at a minimum of one hearing or trial during the evaluation cycle.

(B) Attorneys who have been confirmed as judges during the evaluation cycle shall be excluded from the attorney pool.

(C) Within 10 business days of the end of the evaluation cycle, the Office of the Professional Conduct shall identify all judges who have referred an attorney for allegations of misconduct.

(D) An attorney who has been referred by a judge to the Office of Professional Conduct shall be excluded from the attorney pool of the referring judge.

(ii) Number of survey respondents.

(A) For each judge who is the subject of a survey, the surveyor shall identify the number of attorneys most likely to produce a response level yielding reliability at a 95% confidence level with a margin of error of +/- 5%.

(B) In the event that the attorney appearance list from the Administrative Office of the Courts contains an insufficient number of attorneys with one trial appearance or at least three total appearances before the evaluated judge to achieve the required confidence level, then the surveyor shall supplement the survey pool with other

attorneys who have appeared before the judge during the evaluation cycle.

(iii) Sampling. The surveyor shall design the survey to comply with generally-accepted principles of surveying. All attorneys with one trial appearance or at least three total appearances before the evaluated judge shall be surveyed.

(b) Jurors

(i) Identification and number of survey respondents. All jurors who participate in deliberation shall be eligible to receive an online juror survey.

(ii) Distribution of surveys. Prior to the jury being dismissed, the bailiff or clerk in charge of the jury shall collect email addresses from all jurors. If email addresses are not available, street addresses shall be collected. The bailiff or clerk shall transmit all such addresses to the surveyor within 24 hours of collection. The surveyor shall administer the survey online and deliver survey results electronically to each judge. Paper surveys may be sent to those jurors who do not have access to email.

(c) Court Staff

(i) Definition of court staff who have worked with the judge. Court staff who have worked with the judge refers to employees of the judiciary who have regular contact with the judge as the judge performs judicial duties and also includes those who are not employed by the judiciary but who have ongoing administrative duties in the courtroom.

(ii) Identification of survey respondents. Court staff who have worked with the judge include, but are not limited to:

(A) judicial assistants;

(B) case managers;

(C) clerks of court;

(D) trial court executives;

(E) interpreters;

(F) bailiffs;

(G) law clerks;

(H) central staff attorneys;

(I) juvenile probation and intake officers;

(J) other courthouse staff, as appropriate;

(K) Administrative Office of the Courts staff.

(d) Juvenile Court Professionals

(i) Definition of juvenile court professional. A juvenile court professional is someone whose professional duties place that individual in court on a regular and continuing basis to provide substantive input to the court.

(ii) Identification of survey respondents. Juvenile court professionals shall include, where applicable:

(A) Division of Child and Family Services ("DCFS") child protection services workers;

(B) Division of Child and Family Services ("DCFS") case workers;

(C) Juvenile Justice Services ("JJS") Observation and Assessment Staff;

(D) Juvenile Justice Services ("JJS") case managers;

(E) Juvenile Justice Services ("JJS") secure care staff;

(F) Others who provide substantive professional services on a regular basis to the juvenile court.

(iii) Beginning with juvenile court judges standing for retention in 2014, juvenile court professionals shall be included as an additional survey respondent group for both the midterm and retention evaluation cycles.

(3) Anonymity and Confidentiality

(a) Definitions

(i) Anonymous.

(A) "Anonymous" means that the identity of the individual who authors any survey response, including comments, will be protected from disclosure.

(B) The independent contractor conducting the surveys shall provide to the commission all written comments from the surveys, redacted to remove any information that identifies the person commenting. The contractor shall also redact any information that discloses the identity of any crime victims referenced in a written comment.

(C) The submission of a survey form containing an anonymous narrative comment does not preclude any survey respondent from submitting a public comment in writing pursuant to the Judicial Performance Evaluation Commission Act.

(ii) Confidentiality: Confidentiality means information obtained from a survey respondent that the respondent may reasonably expect will not be disclosed other than as indicated in the survey instrument.

(iii) The raw form of survey results consists of quantitative survey data that contributes to the minimum score on the judicial performance survey.

(iv) The summary form of survey results consists of quantitative survey data in aggregated form.

R597-3-3. Courtroom Observation.

(1) General Provisions.

(a) Courtroom observations shall be conducted according to the evaluation cycles described in R597-3-1(1) and (2), *supra*.

(b) The commission shall provide notice to each judge at the beginning of the survey cycle of the courtroom observation process and of the instrument to be used by the observers.

(c) Only the content analysis of the individual courtroom observation reports shall be included in the retention report for each judge.

(2) Courtroom Observers.

(a) Selection of Observers

(i) Courtroom observers shall be volunteers, recruited by the commission through public outreach and advertising.

(ii) Courtroom observers shall be selected by the commission staff, based on written applications and an interview process.

(iii) Courtroom observers, though volunteers, may be eligible to receive compensation in exchange for successful completion of a specified amount of additional courtroom observation work.

(b) Selection Criteria. Observers with a broad and varied range of life experiences shall be sought. The following persons shall be excluded from eligibility as courtroom observers:

(i) persons with a professional involvement with the state court system, the justice courts, or the judge;

(ii) persons with a fiduciary relationship with the judge;

(iii) persons within the third degree of relationship with a state or justice court judge (grandparents, parents or parents-in-law, aunts or uncles, children, nieces and nephews and their spouses);

(iv) persons lacking computer access or basic computer literacy skills;

(v) persons currently involved in litigation in state or justice courts;

(vi) persons whose background or experience suggests they may have a bias that would prevent them from objectively serving in the program.

(c) Terms and Conditions of Service

(i) Courtroom observers shall serve at the will of the commission staff.

(ii) Courtroom observers shall not disclose the content of their courtroom evaluations in any form or to any person except as designated by the commission.

(d) Training of Observers

(i) Courtroom observers must satisfactorily complete a training program developed by the commission before engaging in courtroom observation.

(ii) Elements of the training program shall include:

(A) Orientation and overview of the commission process and the courtroom observation program;

(B) Classroom training addressing each level of court;

(C) In-court group observations, with subsequent classroom discussions, for each level of court;

(D) Training on proper use of observation instrument;

(E) Training on confidentiality and non-disclosure issues;

(F) Such other periodic trainings as are necessary for effective observations.

(3) Courtroom Observation Program.

(a) Courtroom Requirements

(i) During each midterm and retention evaluation cycle, a minimum of four different observers shall observe each judge subject to that evaluation cycle.

(ii) Each observer shall observe each judge in person while the judge is in the courtroom and for a minimum of two hours while court is in session. The observations may be completed in one sitting or over several courtroom visits.

(iii) If a judge sits in more than one geographic location at the judge's appointed level or a justice court judge serves in more than one jurisdiction, the judge may be observed in any location or combination of locations in which the judge holds court.

(iv) When the observer completes the observation of a judge, the observer shall complete the observation instrument, which will be electronically transferred to the commission or the third party contractor for processing.

(b) Travel and Reimbursement

(i) All travel must be preapproved by the executive director.

(ii) All per diem and lodging will be reimbursed, when appropriate, in accordance with Utah state travel rules and regulations.

(iii) Travel reimbursement forms shall be submitted on a monthly basis or whenever the observer has accumulated a minimum of 200 miles of travel.

(iv) Travel may be reimbursed only after the observer has satisfactorily completed and successfully submitted the courtroom observation report for which the reimbursement is sought.

(v) Overnight lodging

(A) Overnight lodging is reimbursable when the courtroom is located over 100 miles from home base and court is scheduled to begin before 9:30 a.m., with any exceptions preapproved by commission staff.

(B) Multiple overnight lodging is reimbursable where the commission staff determines it is cost-effective to observe several courtrooms in a single trip.

(vi) Each courtroom observer must provide a social security number or tax identification number to the commission in order to process state reimbursement.

(4) Principles and Standards used to evaluate the behavior observed.

(a) Procedural fairness, which focuses on the treatment judges accord people in their courts, shall be used to evaluate the judicial behavior observed in the courtroom observation program.

(b) To assess a judge's conduct in court with respect to procedural fairness, observers shall respond in narrative form to the following principles and behavioral standards:

(i) Neutrality, including but not limited to:

(A) displaying fairness and impartiality toward all court participants;

(B) acting as a fair and principled decision maker who applies rules consistently across court participants and cases;

(C) explaining transparently and openly how rules are applied and how decisions are reached.

(D) listening carefully and impartially;

(ii) Respect, including but not limited to:

(A) demonstrating courtesy toward attorneys, court staff, and others in the court;

(B) treating all people with dignity;

(C) helping interested parties understand decisions and what the parties must do as a result;

(D) maintaining decorum in the courtroom.

(E) demonstrating adequate preparation to hear scheduled cases;

(F) acting in the interests of the parties, not out of demonstrated personal prejudices;

(G) managing the caseload efficiently and demonstrating awareness of the effect of delay on court participants;

(H) demonstrating interest in the needs, problems, and concerns of court participants.

(iii) Voice, including but not limited to:

(A) giving parties the opportunity, where appropriate, to give voice to their perspectives or situations and demonstrating that they have been heard;

(B) behaving in a manner that demonstrates full consideration of the case as presented through witnesses, arguments, pleadings, and other documents.

(C) attending, where appropriate, to the participants' comprehension of the proceedings.

(c) Courtroom observers may also be asked questions to help the commission assess the overall performance of the judge with respect to procedural fairness.

R597-3-4. Minimum Performance Standards.

(1) In addition to the minimum performance standards specified by statute or administrative rule, the judge shall:

(a) Demonstrate ~~[by a preponderance of the evidence, based on courtroom observations and relevant survey responses,]by the totality of the circumstances~~ that the judge's conduct in court promotes procedural fairness for court participants. To determine if the judge meets the minimum performance standard of procedural fairness:

(i) commissioners shall consider only data collected as part of the judge's performance evaluation, pursuant to 78A-12-203(2).

(ii) the standard shall be commensurate with the standard set forth for scored minimum performance standards on the judicial performance survey, as in 78A-12-205(1)(b)(i).

(iii) commissioners shall vote, with a majority of the quorum constituting the decision of the commission.

(iv) the outcome of the vote shall establish the rebuttable presumption as it applies to procedural fairness, in accordance with 78A-12-203(4)(b).

(b) Meet all performance standards established by the Judicial Council, including but not limited to:

(i) annual judicial education hourly requirement;

(ii) case-under-advisement standard; and

(iii) physical and mental competence to hold office.

(2) No later than October 1st of the year preceding each general election year, the Judicial Council shall certify to the commission whether each judge standing for retention election in the next general election has satisfied its performance standards.

R597-3-5. Public Comments.

(1) Persons desiring to comment about a particular judge with whom they have had experience may do so at any time, either by submitting such comments on the commission website or by mailing them to the executive director.

(2) In order for the commission to consider comments in making its retention recommendation on a particular judge, comments about that judge must be received no later than March 1st of the year in which the judge's name appears on the ballot.

(3) Comments received after March 1st of the year in which the judge's name appears on the ballot will be included as part of the judge's mid-term evaluation report in the subsequent evaluation cycle.

(4) Comments received about a judge after the mid-term evaluation cycle ends will be included in the judge's next retention evaluation report.

~~(5) [Persons submitting comments pursuant to this section must include their full name, address, and telephone number with the submission.]~~ Persons submitting comments may choose whether to include their name and contact information with their submission.

(6) All public comments are subject to GRAMA, pursuant to 78A-12-206(1).

R597-3-6. Judicial Retirements and Resignations.

(1) For purposes of judicial performance evaluation, the commission shall evaluate each judge until the judge:

(a) provides written notice of resignation or retirement to the Governor;

(b) is removed from office;

(c) otherwise vacates the judicial office; or

(d) fails to properly file for retention.

(2) For judges who provide written notice of resignation or retirement after a retention evaluation has been conducted but before it is distributed, the retention evaluation shall be sent to the Judicial Council.

R597-3-7. Publication of Retention Reports.

No later than three months after the filing deadline for a retention election, the commission shall post on its website the retention reports of all judges who have filed for that election.

R597-3-8. Judicial Written Statements.

If, pursuant to Utah Code Ann. Subsection 78A-12-206(3), a judge is eligible to provide a written statement to be included in the judge's evaluation report, the statement shall be due to commission staff, in writing, no later than one week after the deadline for the judge to file a declaration of the judge's candidacy in the retention election.

R597-3-9. Judicial Discipline.

(1) For the purposes of judicial performance evaluation and pursuant to Utah Code Ann. Section 78A-12-205, the commission shall consider any public sanction of a judge issued by the Supreme Court during the judge's current term, including:

(a) During the judge's midterm and retention evaluation cycles and

(b) After the end of the judge's retention evaluation cycle until the commission votes whether to recommend the judge for retention.

KEY: judicial performance evaluations, judges, evaluation cycles, surveys

Date of Enactment or Last Substantive Amendment: [December 8, 2017] 2018

Notice of Continuation: February 17, 2014

Authorizing, and Implemented or Interpreted Law: 78A-12

Tax Commission, Auditing

R865-91-2

Determination of Utah Resident Individual Status Pursuant to Utah Code Ann. Sections 59-10-103 and 59-10-136

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43199

FILED: 09/13/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The proposed amendment eliminates language addressed under federal law (50 U.S.C. 4001).

SUMMARY OF THE RULE OR CHANGE: The proposed amendment eliminates special residency language applying only to military servicepersons that is already governed under federal law.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-10-103 and Section 59-10-136

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** None--Current administration is already in accordance with federal law and will remain unchanged.

◆ **LOCAL GOVERNMENTS:** None--Current administration is already in accordance with federal law and will remain unchanged.

◆ **SMALL BUSINESSES:** None--Current administration is already in accordance with federal law and will remain unchanged.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** None--Current administration is already in accordance with federal law and will remain unchanged.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendment eliminates unnecessary language that is already addressed and applied under controlling federal law. The amendment will not result in additional compliance costs for affected persons because it does not change current administration.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendment will not result in additional compliance costs or have any other fiscal impact on affected persons. The amendment does not change current administration.

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

TAX COMMISSION
AUDITING
210 N 1950 W
SALT LAKE CITY, UT 84134
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Jennifer Franklin by phone at 801-297-3901, or by Internet E-mail at jenniferfranklin@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2018

AUTHORIZED BY: Rebecca Rockwell, Commissioner

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
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
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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 rule change is not expected to have any fiscal impacts on non-small business revenues or expenditures, because it only deletes special residency language applying only to military servicepersons that is already governed under federal law.

Commissioner of the Utah State Tax Commission, Rebecca L. Rockwell, has reviewed and approved this fiscal analysis.

R865. Tax Commission, Auditing.

R865-9I. Income Tax.

R865-9I-2. Determination of Utah Resident Individual Status Pursuant to Utah Code Ann. Sections 59-10-103 and 59-10-136.

~~[(1)]~~For purposes of determining whether an individual spends in the aggregate 183 or more days of the taxable year in this state, a "day" means a day in which the individual spends more time in this state than in any other state.

~~[(2) Determination of resident individual status for military servicepersons:~~

~~(a) The status of a military serviceperson as a resident individual or a nonresident individual is determined as follows:~~

~~(i) A resident individual in active military service does not lose his status as a resident individual if the resident individual's absence from the state is a result of military orders.~~

~~(ii) A nonresident individual in active military service who is stationed in Utah does not become a resident individual for income tax purposes if the nonresident individual's presence in Utah is due solely to military orders.~~

~~(b) Subject to federal law, an individual in active military service may change from a resident individual to a nonresident~~

~~individual or from a nonresident individual to a resident individual if he establishes that he satisfies the conditions of Section 59-10-136.~~

~~(c) A nonresident individual serviceperson is exempt from Utah income tax only on his active service pay. All other Utah source income received by the nonresident individual serviceperson is subject to Utah income tax as provided by Section 59-10-116.]~~

KEY: historic preservation, income tax, tax returns, enterprise zones

Date of Enactment or Last Substantive Amendment: [July 27, 2017]2018

Notice of Continuation: November 10, 2016

Authorizing, and Implemented or Interpreted Law: 31A-32A-106; 53B-8a-112; 59-1-1301 through 59-1-1309; 59-2-1201 through 59-2-1220; 59-6-102; 59-7-3; 59-10; 59-10-103; 59-10-108 through 59-10-122; 59-10-108.5; 59-10-114; 59-10-124; 59-10-127; 59-10-128; 59-10-129; 59-10-130; 59-10-207; 59-10-210; 59-10-303; 59-10-401 through 59-10-403; 59-10-405.5; 59-10-406 through 59-10-408; 59-10-501; 59-10-503; 59-10-504; 59-10-507; 59-10-512; 58-10-514; 59-10-516; 59-10-517; 59-10-522; 59-10-533; 59-10-536; 59-10-602; 59-10-603; 59-10-1003; 59-10-1006; 59-10-1014; 59-10-1017; 59-10-1021; 59-10-1023; 59-10-1106; 59-10-1403; 59-10-1403.2; 59-10-1405; 59-13-202; 59-13-301; 59-13-302; 63M-1; 63N-2-201 through 63N-2-215

Tax Commission, Auditing
R865-19S-32
Leases and Rentals Pursuant to Utah
Code Ann. Section 59-12-103

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 43198
 FILED: 09/13/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed amendment eliminates an unnecessary restatement of Utah Code.

SUMMARY OF THE RULE OR CHANGE: The proposed amendment eliminates language requiring all amounts received or charged in connection with the lease or rental of tangible personal property to be included in the computation of sales and use tax on the transactions. The statutory definition of "purchase price" or "sales price" in Section 59-12-102 provides definitive guidance.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-12-103

ANTICIPATED COST OR SAVINGS TO:
 ♦ THE STATE BUDGET: None--This amendment does not change current administration.

- ◆ LOCAL GOVERNMENTS: None--This amendment does not change current administration.
- ◆ SMALL BUSINESSES: None--This amendment does not change current administration.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None--This amendment does not change current administration.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The eliminated language was duplicative of language existing in Utah Code. This amendment does not change current administration or present any increased impact to affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendment does not present any increased fiscal impact to affected persons.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 TAX COMMISSION
 AUDITING
 210 N 1950 W
 SALT LAKE CITY, UT 84134
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Jennifer Franklin by phone at 801-297-3901, or by Internet E-mail at jenniferfranklin@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2018

AUTHORIZED BY: Rebecca Rockwell, Commissioner

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
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 rule change is not expected to have any fiscal impacts on non-small business revenues or expenditures, because it only deletes language that restates the statutory definition of "purchase price" and "sales price" already contained in Section 59-12-102.

Commissioner of the Utah State Tax Commission, Rebecca L. Rockwell, has reviewed and approved this fiscal analysis.

R865. Tax Commission, Auditing.

R865-19S. Sales and Use Tax.

R865-19S-32. Leases and Rentals Pursuant to Utah Code Ann. Section 59-12-103.

(1)~~(a)~~ Subject to Subsection (1)(b), a lessor shall compute sales or use tax on all amounts received or charged in connection with a lease or rental of tangible personal property.

(b) Fuel charges in a transaction for the lease or rental of a motor vehicle are not subject to sales tax pursuant to Subsection 59-12-104(1) if the fuel charges are:

- [(+)](a) optional; and
- [(+)](b) separately stated on the invoice.

(2) When a lessee has the right to possession, operation, or use of tangible personal property, the tax applies to the amount paid pursuant to the lease agreement, regardless of the duration of the agreement.

(3) Lessors of tangible personal property shall furnish an exemption certificate when purchasing tangible personal property subject to the sales or use tax on rental receipts. Costs of repairs and renovations to tangible personal property are exempt if paid for by the lessor since it is assumed that those costs are recovered by the lessor in his rental receipts.

(4) A person that furnishes tangible personal property along with an operator, as described in the definition of lease or rental in Section 59-12-102, provides a service and shall:

(a) pay sales and use tax at the time that person purchases the tangible personal property that is furnished under this Subsection (4); and

(b) collect sales and use tax at the time that person provides the service if the service is subject to sales and use tax.

KEY: charities, tax exemptions, religious activities, sales tax
Date of Enactment or Last Substantive Amendment:
~~December 8, 2016~~ 2018

Notice of Continuation: November 10, 2016

Authorizing, and Implemented or Interpreted Law: 9-2-1702; 9-2-1703; 10-1-303; 10-1-306; 10-1-307; 10-1-405; 19-6-808; 26-32a-101 through 26-32a-113; 59-1-210; 59-12; 59-12-102; 59-12-103; 59-12-104; 59-12-105; 59-12-106; 59-12-107; 59-12-108; 59-12-118; 59-12-301; 59-12-352; 59-12-353

Tax Commission, Property Tax
R884-24P-33
2018 Personal Property Valuation
Guides and Schedules Pursuant to
Utah Code Ann. Section 59-2-301

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43200

FILED: 09/13/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The valuation guides and schedules contained in this rule are reviewed and updated annually by the Property Tax Division. The personal property guides and schedules are used for local property tax valuation and assessment of business, personal property, and certain motor vehicles by county assessors.

SUMMARY OF THE RULE OR CHANGE: Section 59-2-107 authorizes the State Tax Commission to promulgate rules that define classes of items considered to be personal property and provide valuation percent good schedules to value locally assessed personal property. County assessors must use the percent good schedules as contained in this rule. Any deviation which affects an entire class or type of personal property requires a written report documenting the schedule change to be submitted to the Tax Commission for approval prior to use. Class 7, Medical and Dental Equipment, and Class 8, Machinery and Equipment, have identical depreciation schedules. In an effort to simplify the classifications and reduce confusion, these two classes are being combined for 2019. All items formerly classified as Class 7 are moved to Class 8, and Class 7 is stricken from the administrative rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-2-301

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The amount of savings or cost to state government is not affected by this rule. Tax revenue generated by taxing personal property is distributed to local governments to finance public services, programs, school districts and local districts. No tax revenues generated by taxation of personal property will be retained by state government.

♦ **LOCAL GOVERNMENTS:** The amount of saving or cost to local governments is undetermined. Local governmental entities receive tax revenue based on increased or decreased personal property values and the change in the annual property tax rate. Increases or decreases in 2019 property tax revenue cannot be determined, even if there were no changes in the percent good tables, because taxpayer acquisitions and deletions of personal property during 2019 are unknown. The proposed personal property schedules in this amendment are raised, lowered or remain the same for 2019 based upon the type and age of the personal property assessed. Schedules used to value business personal property increase or decrease based upon the calculation of economic trends from cost indexes published by the Marshall Valuation Service. It is anticipated that the change in the annual property tax rate will have a larger impact on revenue than will the proposed amendments to this rule.

♦ **SMALL BUSINESSES:** In the aggregate, the amount of savings or cost to small business is undetermined. Affected persons pay property taxes based on increased or decreased personal property values and the change in the annual property tax rate. The proposed personal property schedules in this rule are raised, lowered or remain the same for 2019 based upon the type and age of the property. Since some schedules are increased and some decreased, it is not possible to determine the change to affected persons without knowing the 2019 personal property mix compared to the previous year.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** In the aggregate, the amount of savings or cost to other persons is undetermined. Affected persons pay property taxes based on increased or decreased personal property values and the change in the annual property tax rate. The proposed personal property schedules in this rule are raised, lowered, or remain the same for 2019 based upon the type and age of the property. Since some schedules are increased and some decreased, it is not possible to determine the change to affected persons without knowing the 2019 personal property mix compared to the previous year.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Local business owners and property tax practitioners will once again be required to be aware of new percent good figures. This is an annual occurrence; therefore, the compliance cost in completing the assessment process will not change. The change in taxes charged for these businesses depends entirely on the owner's mix of personal property since some percent good schedules are increasing and others decreasing. For example, the owner of a business may discard some personal property items and add new

equipment or replace equipment which may increase or decrease personal property values. In addition, the personal property percent good schedule percentages often change from the previous year due to current economic conditions.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impact on businesses is undetermined. Some personal property schedules are raised, some are lowered, and some remain the same. Without knowing the 2019 personal property mix compared to the previous year, it is not possible to determine the impact on affected businesses.

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

TAX COMMISSION
PROPERTY TAX
210 N 1950 W
SALT LAKE CITY, UT 84134
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Jennifer Franklin by phone at 801-297-3901, or by Internet E-mail at jenniferfranklin@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/31/2018

THIS RULE MAY BECOME EFFECTIVE ON: 11/07/2018

AUTHORIZED BY: Rebecca Rockwell, Commissioner

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$0	\$0	\$0
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Small Businesses	\$0	\$0	\$0

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:			
	\$0	\$0	\$0

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

Appendix 2: Regulatory Impact to Non-Small Businesses

The impacts of this rule change on non-small businesses are inestimable. In the aggregate, the amount of savings or cost to non-small business is undetermined. Affected persons pay property taxes based on increased or decreased personal property values and the change in the annual property tax rate. The proposed personal property schedules in this rule are raised, lowered, or remain the same for 2019 based upon the type and age of the property. Since some schedules are increased and some decreased, it is not possible to determine the change to affected persons without knowing the 2019 personal property mix compared to the previous year.

Commissioner of the Utah State Tax Commission, Rebecca L. Rockwell, has reviewed and approved this fiscal analysis.

R884. Tax Commission, Property Tax.

R884-24P. Property Tax.

R884-24P-33. [2018]2019 Personal Property Valuation Guides and Schedules Pursuant to Utah Code Ann. Section 59-2-301.

- (1) Definitions.
 - (a)(i) "Acquisition cost" does not include indirect costs such as debugging, licensing fees and permits, insurance, or security.
 - (ii) Acquisition cost may correspond to the cost new for new property, or cost used for used property.
 - (b)(i) "Actual cost" includes the value of components necessary to complete the vehicle, such as tanks, mixers, special containers, passenger compartments, special axles, installation, engineering, erection, or assembly costs.
 - (ii) Actual cost does not include sales or excise taxes, maintenance contracts, registration and license fees, dealer charges, tire tax, freight, or shipping costs.
 - (c) "Cost new" means the actual cost of the property when purchased new.
 - (i) Except as otherwise provided in this rule, the Tax Commission and assessors shall rely on the following sources to determine cost new:
 - (A) documented actual cost of the new or used vehicle; or
 - (B) recognized publications that provide a method for approximating cost new for new or used vehicles.
 - (ii) For the following property purchased used, the taxing authority may determine cost new by dividing the property's actual cost by the percent good factor for that class:
 - (A) class 6 heavy and medium duty trucks;
 - (B) class 13 heavy equipment;

(C) class 14 motor homes;
 (D) class 17 vessels equal to or greater than 31 feet in length; and

(E) class 21 commercial trailers.

(d) For purposes of Sections 59-2-108 and 59-2-1115, "item of taxable tangible personal property" means a piece of equipment, machinery, furniture, or other piece of tangible personal property that is functioning at its highest and best use for the purpose it was designed and constructed and is generally capable of performing that function without being combined with other items of personal property. An item of taxable tangible personal property is not an individual component part of a piece of machinery or equipment, but the piece of machinery or equipment. For example, a fully functioning computer is an item of taxable tangible personal property, but the motherboard, hard drive, tower, or sound card are not.

(e) "Percent good" means an estimate of value, expressed as a percentage, based on a property's acquisition cost or cost new, adjusted for depreciation and appreciation of all kinds.

(i) The percent good factor is applied against the acquisition cost or the cost new to derive taxable value for the property.

(ii) Percent good schedules are derived from an analysis of the Internal Revenue Service Class Life, the Marshall and Swift Cost index, other data sources or research, and vehicle valuation guides such as Penton Price Digests.

(2) Each year the Property Tax Division shall update and publish percent good schedules for use in computing personal property valuation.

(a) Proposed schedules shall be transmitted to county assessors and interested parties for comment before adoption.

(b) A public comment period will be scheduled each year and a public hearing will be scheduled if requested by ten or more interested parties or at the discretion of the Commission.

(c) County assessors may deviate from the schedules when warranted by specific conditions affecting an item of personal property. When a deviation will affect an entire class or type of personal property, a written report, substantiating the changes with verifiable data, must be presented to the Commission. Alternative schedules may not be used without prior written approval of the Commission.

(d) A party may request a deviation from the value established by the schedule for a specific item of property if the use of the schedule does not result in the fair market value for the property at the retail level of trade on the lien date, including any relevant installation and assemblage value.

(3) The provisions of this rule do not apply to:

(a) a vehicle subject to the age-based uniform fee under Section 59-2-405.1;

(b) the following personal property subject to the age-based uniform fee under Section 59-2-405.2:

- (i) an all-terrain vehicle;
- (ii) a camper;
- (iii) an other motorcycle;
- (iv) an other trailer;
- (v) a personal watercraft;
- (vi) a small motor vehicle;
- (vii) a snowmobile;
- (viii) a street motorcycle;
- (ix) a tent trailer;
- (x) a travel trailer; and

(xi) a vessel, including an outboard motor of the vessel, that is less than 31 feet in length~~[-and];~~

(c) a motorhome subject to the uniform statewide fee under Section 59-2-405.3; and

(d) an aircraft subject to the uniform statewide fee under Section [59-2-404]72-10-110.5.

(4) Other taxable personal property that is not included in the listed classes includes:

(a) Supplies on hand as of January 1 at 12:00 noon, including office supplies, shipping supplies, maintenance supplies, replacement parts, lubricating oils, fuel and consumable items not held for sale in the ordinary course of business. Supplies are assessed at total cost, including freight-in.

(b) Equipment leased or rented from inventory is subject to ad valorem tax. Refer to the appropriate property class schedule to determine taxable value.

(c) Property held for rent or lease is taxable, and is not exempt as inventory. For entities primarily engaged in rent-to-own, inventory on hand at January 1 is exempt and property out on rent-to-own contracts is taxable.

(5) Personal property valuation schedules may not be appealed to, or amended by, county boards of equalization.

(6) All taxable personal property, other than personal property subject to an age-based uniform fee under Section 59-2-405.1 or 59-2-405.2, or a uniform statewide fee under Section 59-2-404, is classified by expected economic life as follows:

(a) Class 1 - Short Life Property. Property in this class has a typical life of more than one year and less than four years. It is fungible in that it is difficult to determine the age of an item retired from service.

(i) Examples of property in the class include:

- (A) barricades/warning signs;
- (B) library materials;
- (C) patterns, jigs and dies;
- (D) pots, pans, and utensils;
- (E) canned computer software;
- (F) hotel linen;
- (G) wood and pallets;
- (H) video tapes, compact discs, and DVDs; and
- (I) uniforms.

(ii) With the exception of video tapes, compact discs, and DVDs, taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

(iii) A licensee of canned computer software shall use one of the following substitutes for acquisition cost of canned computer software if no acquisition cost for the canned computer software is stated:

- (A) retail price of the canned computer software;
- (B) if a retail price is unavailable, and the license is a nonrenewable single year license agreement, the total sum of expected payments during that 12-month period; or

(C) if the licensing agreement is a renewable agreement or is a multiple year agreement, the present value of all expected licensing fees paid pursuant to the agreement.

(iv) Video tapes, compact discs, and DVDs are valued at \$15.00 per tape or disc for the first year and \$3.00 per tape or disc thereafter.

TABLE 1

Year of Acquisition	Percent Good of Acquisition Cost
[17]18	[70]72%
[16]17	[41]42%
[15]16 and prior	[10]11%

(b) Class 2 - Computer Integrated Machinery.

(i) Machinery shall be classified as computer integrated machinery if all of the following conditions are met:

(A) The equipment is sold as a single unit. If the invoice breaks out the computer separately from the machine, the computer must be valued as Class 12 property and the machine as Class 8 property.

(B) The machine cannot operate without the computer and the computer cannot perform functions outside the machine.

(C) The machine can perform multiple functions and is controlled by a programmable central processing unit.

(D) The total cost of the machine and computer combined is depreciated as a unit for income tax purposes.

(E) The capabilities of the machine cannot be expanded by substituting a more complex computer for the original.

(ii) Examples of property in this class include:

(A) CNC mills;

(B) CNC lathes;

(C) high-tech medical and dental equipment such as MRI equipment, CAT scanners, and mammography units.

(iii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 2

Year of Acquisition	Percent Good of Acquisition Cost
[17]18	[89]91%
[16]17	[80]81%
[15]16	[69]70%
[14]15	[58]59%
[13]14	[47]48%
[12]13	[37]38%
[11]12	[24]25%
[10]11 and prior	[12]13%

(c) Class 3 - Short Life Trade Fixtures. Property in this class generally consists of electronic types of equipment and includes property subject to rapid functional and economic obsolescence or severe wear and tear.

(i) Examples of property in this class include:

(A) office machines;

(B) alarm systems;

(C) shopping carts;

(D) ATM machines;

(E) small equipment rentals;

(F) rent-to-own merchandise;

(G) telephone equipment and systems;

(H) music systems;

(I) vending machines;

(J) video game machines; and

(K) cash registers.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 3

Year of Acquisition	Percent Good of Acquisition Cost
[17]18	[84]86%
[16]17	[68]70%
[15]16	[51]53%
[14]15	35%
[13]14 and prior	18%

(d) Class 5 - Long Life Trade Fixtures. Class 5 property is subject to functional obsolescence in the form of style changes.

(i) Examples of property in this class include:

(A) furniture;

(B) bars and sinks;

(C) booths, tables and chairs;

(D) beauty and barber shop fixtures;

(E) cabinets and shelves;

(F) displays, cases and racks;

(G) office furniture;

(H) theater seats;

(I) water slides;

(J) signs, mechanical and electrical; and

(K) LED component of a billboard.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 5

Year of Acquisition	Percent Good of Acquisition Cost
[17]18	[90]92%
[16]17	[82]84%
[15]16	[72]74%
[14]15	[62]64%
[13]14	[53]55%
[12]13	[44]45%
[11]12	[33]34%
[10]11	[22]23%
[09]10 and prior	12%

(e) Class 6 - Heavy and Medium Duty Trucks.

(i) Examples of property in this class include:

(A) heavy duty trucks;

(B) medium duty trucks;

(C) crane trucks;

(D) concrete pump trucks; and

(E) trucks with well-boring rigs.

(ii) Taxable value is calculated by applying the percent good factor against the cost new.

(iii) Cost new of vehicles in this class is defined as follows:

(A) the documented actual cost of the vehicle for new vehicles; or

(B) 75 percent of the manufacturer's suggested retail price.

(iv) For state assessed vehicles, cost new shall include the value of attached equipment.

(v) The ~~[2018]~~2019 percent good applies to ~~[2018]~~2019 models purchased in ~~[2017]~~2018.

(vi) Trucks weighing two tons or more have a residual taxable value of \$1,750.

TABLE 6

Model Year	Percent Good of Cost New
[18] 19	90%
[17] 18	[73] 71%
[16] 17	[67] 66%
[15] 16	[62] 61%
[14] 15	56%
[13] 14	51%
[12] 13	45%
[11] 12	40%
[10] 11	35%
[09] 10	[29] 30%
[08] 09	20%
[07] 08	15%
[06] 07	10%
[05] 06 and prior	4%

(f) Class 7 - Medical and Dental Equipment. Class 7 has been merged into Class 8. ~~[property is subject to a high degree of technological development by the health industry.~~

~~(i) Examples of property in this class include:~~

~~(A) medical and dental equipment and instruments;~~

~~(B) exam tables and chairs;~~

~~(C) microscopes; and~~

~~(D) optical equipment.~~

~~(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.~~

TABLE 7

Year of Acquisition	Percent Good of Acquisition Cost
17	92%
16	85%
15	77%
14	69%
13	62%
12	55%
11	46%
10	37%
09	29%
08	21%
07 and prior	11%

(g) Class 8 - Machinery and Equipment and Medical and Dental Equipment.

(i) ~~[Property in this class]~~Machinery and equipment is subject to considerable functional and economic obsolescence created by competition as technologically advanced and more efficient equipment becomes available.

~~(+)~~ Examples of ~~[property in this class]~~machinery and equipment include:

(A) manufacturing machinery;

(B) amusement rides;

(C) bakery equipment;

(D) distillery equipment;

(E) refrigeration equipment;

(F) laundry and dry cleaning equipment;

(G) machine shop equipment;

(H) processing equipment;

(I) auto service and repair equipment;

(J) mining equipment;

(K) ski lift machinery;

(L) printing equipment;

(M) bottling or cannery equipment;

(N) packaging equipment; and

(O) pollution control equipment.

(ii) Medical and dental equipment is subject to a high degree of technological development by the health industry. Examples of medical and dental equipment include:

(A) medical and dental equipment and instruments;

(B) exam tables and chairs;

(C) microscopes; and

(D) optical equipment.

~~(iii)~~ Except as provided in Subsection (6)(g)~~(+)(iv)~~, taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

~~(+)(iv)(A)~~ Notwithstanding Subsection (6)(g)~~(+)(iii)~~, the taxable value of the following oil refinery pollution control equipment required by the federal Clean Air Act shall be calculated pursuant to Subsection (6)(g)~~(+)(iv)~~(B):

(I) VGO (Vacuum Gas Oil) reactor;

(II) HDS (Diesel Hydrotreater) reactor;

(III) VGO compressor;

(IV) VGO furnace;

(V) VGO and HDS high pressure exchangers;

(VI) VGO, SRU (Sulfur Recovery Unit), SWS (Sour Water Stripper), and TGU; (Tail Gas Unit) low pressure exchangers;

~~(+)(VII)~~ VGO, amine, SWS, and HDS separators and drums;

(VIII) VGO and tank pumps;

(IX) TGU modules; and

(X) VGO tank and VGO tank air coolers.

(B) The taxable value of the oil refinery pollution control equipment described in Subsection (6)(g)~~(+)(iv)~~(A) shall be calculated by:

(I) applying the percent good factor in Table 8 against the acquisition cost of the property; and

(II) multiplying the product described in Subsection (6)(g)~~(+)(iv)~~(B)(I) by 50%.

TABLE 8

Year of Acquisition	Percent Good of Acquisition Cost
[17] 18	[92] 94%
[16] 17	[85] 87%
[15] 16	[77] 79%
[14] 15	[69] 71%
[13] 14	[62] 64%
[12] 13	[55] 56%
[11] 12	[46] 47%
[10] 11	[37] 38%
[09] 10	[29] 30%
[08] 09	21%
[07] 08 and prior	11%

(h) Class 9 - Off-Highway Vehicles.

(i) Because Section 59-2-405.2 subjects off-highway vehicles to an age-based uniform fee, a percent good schedule is not necessary.

(i) Class 10 - Railroad Cars. The Class 10 schedule was developed to value the property of railroad car companies. Functional and economic obsolescence is recognized in the developing technology of the shipping industry. Heavy wear and tear is also a factor in valuing this class of property.

(i) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 10

Year of Acquisition	Percent Good of Acquisition Cost
[17] 18	[94] 96%
[16] 17	[89] 91%
[15] 16	[82] 84%
[14] 15	[76] 78%
[13] 14	[74] 73%
[12] 13	[66] 68%
[11] 12	[58] 60%
[10] 11	[52] 54%
[09] 10	[47] 48%
[08] 09	[41] 42%
[07] 08	[34] 35%
[06] 07	28%
[05] 06	[19] 20%
[04] 05 and prior	9%

(j) Class 11 - Street Motorcycles.

(i) Because Section 59-2-405.2 subjects street motorcycles to an age-based uniform fee, a percent good schedule is not necessary.

(k) Class 12 - Computer Hardware.

(i) Examples of property in this class include:

- (A) data processing equipment;
- (B) personal computers;
- (C) main frame computers;
- (D) computer equipment peripherals;
- (E) cad/cam systems; and
- (F) copiers.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 12

Year of Acquisition	Percent Good of Acquisition Cost
[17] 18	62%
[16] 17	46%
[15] 16	21%
[14] 15	9%
[13] 14 and prior	7%

(l) Class 13 - Heavy Equipment.

(i) Examples of property in this class include:

- (A) construction equipment;
- (B) excavation equipment;
- (C) loaders;
- (D) batch plants;

(E) snow cats; and

(F) pavement sweepers.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

(iii) [2018]2019 model equipment purchased in [2017]2018 is valued at 100 percent of acquisition cost.

TABLE 13

Year of Acquisition	Percent Good of Acquisition Cost
[17] 18	[48] 49%
[16] 17	[45] 47%
[15] 16	[42] 44%
[14] 15	[40] 42%
[13] 14	[37] 39%
[12] 13	[34] 37%
[11] 12	[32] 35%
[10] 11	[29] 32%
[09] 10	[26] 30%
[08] 09	[23] 28%
[07] 08	[21] 25%
[06] 07	[18] 23%
[05] 06	[15] 20%
[04] 05 and prior	13%

(m) Class 14 - Motor Homes.

(i) Because Section 59-2-405.3 subjects motor homes to an age-based uniform fee, a percent good schedule is not necessary. [Taxable value is calculated by applying the percent good against the cost new.

(ii) ~~The 2018 percent good applies to 2018 models purchased in 2017.~~

~~(iii) Motor homes have a residual taxable value of \$1,000.~~

TABLE 14

Model Year	Percent Good of Cost New
18	90%
17	69%
16	65%
15	61%
14	58%
13	54%
12	50%
11	47%
10	43%
09	39%
08	35%
07	32%
06	28%
05	24%
04	21%
03	17%
02 and prior	15%

(n) Class 15 - Semiconductor Manufacturing Equipment. Class 15 applies only to equipment used in the production of semiconductor products. Equipment used in the semiconductor manufacturing industry is subject to significant economic and functional obsolescence due to rapidly changing technology and economic conditions.

- (i) Examples of property in this class include:
 - (A) crystal growing equipment;
 - (B) die assembly equipment;
 - (C) wire bonding equipment;
 - (D) encapsulation equipment;
 - (E) semiconductor test equipment;
 - (F) clean room equipment;
 - (G) chemical and gas systems related to semiconductor manufacturing;
 - (H) deionized water systems;
 - (I) electrical systems; and
 - (J) photo mask and wafer manufacturing dedicated to semiconductor production.
- (ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 15

Year of Acquisition	Percent Good of Acquisition Cost
[17]18	47%
[16]17	34%
[15]16	24%
[14]15	15%
[13]14 and prior	6%

- (o) Class 16 - Long-Life Property. Class 16 property has a long physical life with little obsolescence.
 - (i) Examples of property in this class include:
 - (A) billboard (excluding LED component);
 - (B) sign towers;
 - (C) radio towers;
 - (D) ski lift and tram towers;
 - (E) non-farm grain elevators;
 - (F) bulk storage tanks;
 - (G) underground fiber optic cable;
 - (H) solar panels and supporting equipment; and
 - (I) pipe laid in or affixed to land.
 - (ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 16

Year of Acquisition	Percent Good of Acquisition Cost
[17]18	[95]96%
[16]17	[92]94%
[15]16	[87]89%
[14]15	[83]85%
[13]14	[80]82%
[12]13	[77]79%
[11]12	[74]73%
[10]11	[67]69%
[09]10	64%
[08]09	[62]63%
[07]08	59%
[06]07	[55]57%
[05]06	[50]51%
[04]05	[44]45%
[03]04	[37]38%
[02]03	30%
[01]02	23%
[00]01	15%
[99]00 and prior	8%

- (p) Class 17 - Vessels Equal to or Greater Than 31 Feet in Length.
 - (i) Examples of property in this class include:
 - (A) houseboats equal to or greater than 31 feet in length;
 - (B) sailboats equal to or greater than 31 feet in length; and
 - (C) yachts equal to or greater than 31 feet in length.
 - (ii) A vessel, including an outboard motor of the vessel, under 31 feet in length:
 - (A) is not included in Class 17;
 - (B) may not be valued using Table 17; and
 - (C) is subject to an age-based uniform fee under Section 59-2-405.2.
 - (iii) Taxable value is calculated by applying the percent good factor against the cost new of the property.
 - (iv) The Tax Commission and assessors shall rely on the following sources to determine cost new for property in this class:
 - (A) the following publications or valuation methods:
 - (I) the manufacturer's suggested retail price listed in the ABOS Marine Blue Book;
 - (II) for property not listed in the ABOS Marine Blue Book but listed in the NADA Marine Appraisal Guide, the NADA average value for the property divided by the percent good factor; or
 - (III) for property not listed in the ABOS Marine Blue Book or the NADA Appraisal Guide:
 - (aa) the manufacturer's suggested retail price for comparable property; or
 - (bb) the cost new established for that property by a documented valuation source; or
 - (B) the documented actual cost of new or used property in this class.
 - (v) The [2018]2019 percent good applies to [2018]2019 models purchased in [2017]2018.
 - (vi) Property in this class has a residual taxable value of \$1,000.

TABLE 17

Model Year	Percent Good of Cost New
[18]19	90%
[17]18	[65]67%
[16]17	[63]64%
[15]16	[61]62%
[14]15	[58]60%
[13]14	[56]57%
[12]13	[54]55%
[11]12	[52]53%
[10]11	[49]50%
[09]10	[47]48%
[08]09	[45]46%
[07]08	43%
[06]07	41%
[05]06	[38]39%
[04]05	36%
[03]04	34%
[02]03	32%
[01]02	[30]29%
[00]01	27%
[99]00	25%
[98]99	21%
[97]98 and prior	17%

- (q) Class 17a - Vessels Less Than 31 Feet in Length
 - (i) Because Section 59-2-405.2 subjects vessels less than 31 feet in length to an age-based uniform fee, a percent good schedule is not necessary.

(r) Class 18 - Travel Trailers and Class 18a - Tent Trailers/Truck Campers.

(i) Because Section 59-2-405.2 subjects travel trailers and tent trailers/truck campers to an age-based uniform fee, a percent good schedule is not necessary.

(s) Class 20 - Petroleum and Natural Gas Exploration and Production Equipment. Class 20 property is subject to significant functional and economic obsolescence due to the volatile nature of the petroleum industry.

(i) Examples of property in this class include:

- (A) oil and gas exploration equipment;
- (B) distillation equipment;
- (C) wellhead assemblies;
- (D) holding and storage facilities;
- (E) drill rigs;
- (F) reinjection equipment;
- (G) metering devices;
- (H) cracking equipment;
- (I) well-site generators, transformers, and power lines;
- (J) equipment sheds;
- (K) pumps;
- (L) radio telemetry units; and
- (M) support and control equipment.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 20

Year of Acquisition	Percent Good of Acquisition Cost
[17]18	[93]95%
[16]17	[85]87%
[15]16	[80]81%
[14]15	[73]74%
[13]14	[66]67%
[12]13	[60]61%
[11]12	[54]55%
[10]11	46%
[09]10	40%
[08]09	[33]34%
[07]08	[26]27%
[06]07	19%
[05]06 and prior	10%

(t) Class 21 - Commercial Trailers.

(i) Examples of property in this class include:

- (A) dry freight van trailers;
- (B) refrigerated van trailers;
- (C) flat bed trailers;
- (D) dump trailers;
- (E) livestock trailers; and
- (F) tank trailers.

(ii) Taxable value is calculated by applying the percent good factor against the cost new of the property. For state assessed vehicles, cost new shall include the value of attached equipment.

(iii) The [2018]2019 percent good applies to [2018]2019 models purchased in [2017]2018.

(iv) Commercial trailers have a residual taxable value of \$1,000.

TABLE 21

Model Year	Percent Good of Cost New
[18]19	95%
[17]18	[86]85%
[16]17	82%
[15]16	78%
[14]15	74%
[13]14	[70]69%
[12]13	[66]65%
[11]12	[62]61%
[10]11	[58]57%
[09]10	[54]53%
[08]09	[51]50%
[07]08	[47]46%
[06]07	41%
[05]06	36%
[04]05	30%
[03]04	25%
[02]03 and prior	17%

(u) Class 21a - Other Trailers (Non-Commercial).

(i) Because Section 59-2-405.2 subjects this class of trailers to an age-based uniform fee, a percent good schedule is not necessary.

(v) Class 22 - Passenger Cars, Light Trucks/Utility Vehicles, and Vans.

(i) Class 22 vehicles fall within four subcategories: domestic passenger cars, foreign passenger cars, light trucks, including utility vehicles, and vans.

(ii) Because Section 59-2-405.1 subjects Class 22 property to an age-based uniform fee, a percent good schedule is not necessary.

(w) Class 22a - Small Motor Vehicles.

(i) Because Section 59-2-405.2 subjects small motor vehicles to an age-based uniform fee, a percent good schedule is not necessary.

(x) Class 23 - Aircraft Required to be Registered With the State.

(i) Because Section 59-2-404 subjects aircraft required to be registered with the state to a statewide uniform fee, a percent good schedule is not necessary.

(y) Class 24 - Leasehold Improvements on Exempt Real Property.

(i) The Class 24 schedule is to be used only for those leasehold improvements where the underlying real property is owned by an entity exempt from property tax under Section 59-2-1101. See Tax Commission rule R884-24P-32. Leasehold improvements include:

- (A) walls and partitions;
- (B) plumbing and roughed-in fixtures;
- (C) floor coverings other than carpet;
- (D) store fronts;
- (E) decoration;
- (F) wiring;
- (G) suspended or acoustical ceilings;
- (H) heating and cooling systems; and
- (I) iron or millwork trim.

(ii) Taxable value is calculated by applying the percent good factor against the cost of acquisition, including installation.

(iii) The Class 3 schedule is used to value short life leasehold improvements.

TABLE 24

Year of Installation	Percent of Installation Cost
[17] 18	94%
[16] 17	88%
[15] 16	82%
[14] 15	77%
[13] 14	71%
[12] 13	65%
[11] 12	59%
[10] 11	54%
[09] 10	48%
[08] 09	42%
[07] 08	36%
[06] 07 and prior	30%

(z) Class 25 - Aircraft Parts Manufacturing Tools and Dies. Property in this class is generally subject to rapid physical, functional, and economic obsolescence due to rapid technological and economic shifts in the airline parts manufacturing industry. Heavy wear and tear is also a factor in valuing this class of property.

(i) Examples of property in this class include:

- (A) aircraft parts manufacturing jigs and dies;
- (B) aircraft parts manufacturing molds;
- (C) aircraft parts manufacturing patterns;
- (D) aircraft parts manufacturing taps and gauges; and
- (E) aircraft parts manufacturing test equipment.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 25

Year of Acquisition	Percent Good of Acquisition Cost
[17] 18	[84] 86%
[16] 17	[69] 70%
[15] 16	[52] 53%
[14] 15	36%
[13] 14	19%
[12] 13 and prior	4%

(aa) Class 26 - Personal Watercraft.

(i) Because Section 59-2-405.2 subjects personal watercraft to an age-based uniform fee, a percent good schedule is not necessary.

(bb) Class 27 - Electrical Power Generating Equipment and

Fixtures

(i) Examples of property in this class include:

- (A) electrical power generators; and
- (B) control equipment.

(ii) Taxable value is calculated by applying the percent good factor against the acquisition cost of the property.

TABLE 27

Year of Acquisition	Percent Good of Acquisition Cost
[17] 18	97%
[16] 17	95%
[15] 16	92%
[14] 15	90%
[13] 14	87%
[12] 13	84%
[11] 12	82%
[10] 11	79%

[09] 10	77%
[08] 09	74%
[07] 08	71%
[06] 07	69%
[05] 06	66%
[04] 05	64%
[03] 04	61%
[02] 03	58%
[01] 02	56%
[00] 01	53%
[99] 00	51%
[98] 99	48%
[97] 98	45%
[96] 97	43%
[95] 96	40%
[94] 95	38%
[93] 94	35%
[92] 93	32%
[91] 92	30%
[90] 91	27%
[89] 90	25%
[88] 89	22%
[87] 88	19%
[86] 87	17%
[85] 86	14%
[84] 85	12%
[83] 84 and prior	9%

(cc) Class 28 - Noncapitalized Personal Property. Property shall be classified as noncapitalized personal property if the following conditions are met:

(i) the property is an item of taxable tangible personal property with an acquisition cost of \$1,000 or less; and

(ii) the property is eligible as a deductible expense under Section 162 or Section 179, Internal Revenue Code, in the year of acquisition, regardless of whether the deduction is actually claimed.

TABLE 28

Year of Acquisition	Percent Good of Acquisition Cost
[17] 18	75%
[16] 17	50%
[15] 16	25%
[14] 15 and prior	0%

The provisions of this rule shall be implemented and become binding on taxpayers beginning January 1, [2018]2019.

KEY: taxation, personal property, property tax, appraisals
Date of Enactment or Last Substantive Amendment:
[November 30, 2017]2018

Notice of Continuation: November 10, 2016
Authorizing, and Implemented or Interpreted Law: Art. XIII, Sec 2; 9-2-201; 11-13-302; 41-1a-202; 41-1a-301; 59-1-210; 59-2-102; 59-2-103; 59-2-103.5; 59-2-104; 59-2-201; 59-2-210; 59-2-211; 59-2-301; 59-2-301.3; 59-2-302; 59-2-303; 59-2-303.1; 59-2-305; 59-2-306; 59-2-401; 59-2-402; 59-2-404; 59-2-405; 59-2-405.1; 59-2-406; 59-2-508; 59-2-514; 59-2-515; 59-2-701; 59-2-702; 59-2-703; 59-2-704; 59-2-704.5; 59-2-705; 59-2-801; 59-2-918 through 59-2-924; 59-2-1002; 59-2-1004; 59-2-1005; 59-2-1006; 59-2-1101; 59-2-1102; 59-2-1104; 59-2-1106; 59-2-1107 through 59-2-1109; 59-2-1113; 59-2-1115; 59-2-1202; 59-2-1202(5); 59-2-1302; 59-2-1303; 59-2-1308.5; 59-2-1317; 59-2-1328; 59-2-1330; 59-2-1347; 59-2-1351; 59-2-1365; 59-2-1703

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.

Commerce, Corporations and Commercial Code **R154-100** Utah Administrative Procedures Act Rules

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 43184
FILED: 09/11/2018

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 13-1-8.5 directs the Department of Commerce to comply with Section 63G-4-202 which permits the agency to designate adjudicative proceedings as informal.

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 from either those supporting or opposing this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: As long as it is required or authorized by statute, the Division of Corporations and Commercial Code will continue to renew this rule enabling adjudicative proceedings to be conducted on an informal basis.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jason Sterzer by phone at 801-530-6403, or by Internet E-mail at jsterzer@utah.gov

AUTHORIZED BY: Jason Sterzer, Director

EFFECTIVE: 09/11/2018

Corrections, Administration **R251-103** Undercover Roles of Offenders

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 43186
FILED: 09/12/2018

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 63G-3-201, Subsection 64-13-6(1)(h), and Sections 64-13-10 and 64-13-14 require the Department of Corrections (Department) policies and requirements govern the use of offenders in undercover roles.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The purpose of this rule is to define Department policies and requirements outlining the use of offenders in undercover roles. 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: Michael Haddon, Executive Director

EFFECTIVE: 09/12/2018

Education, Administration
R277-412
State Capitol Visit Program

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE NO.: 43194
 FILED: 09/13/2018

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: This rule is authorized by Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board of Education (Board), by Subsection 53F-2-509(3), which requires the Board to make rules establishing procedures for applying for and awarding grants and specifying how grant money shall be allocated among school districts and charter schools, and Subsection 53E-3-401(4), which allows the Board to make rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: In the 2018 General Session, the Legislature took the appropriation given to the Board for Capitol field trips and moved the line item of funding over to the Capitol Preservation Board. However, the statute governing the field trip program, Section 53F-2-509, was inadvertently left in the Utah Code without amendments reassigning the program to the Capitol Preservation Board. Rule R277-412 is the rule created by the Board to govern the funding for the field trips and is required by Section 53F-2-509. This rule is also up for its five-year review continuation. Although, Utah State Board of Education (USBE) no longer has the funding for the field trips within its budget, the Utah Code still requires a rule as if it did. So, to be compliant with the statute, USBE staff proposes the Board continue this rule in its current form with the intent to repeal or amend the rule as soon as the statute governing the field trips can be moved to the Capitol Preservation Board.

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 801-538-7550, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

EFFECTIVE: 09/13/2018

Education, Administration
R277-527
International Guest Teachers

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE NO.: 43195
 FILED: 09/13/2018

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: This rule is authorized by Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board of Education (Board), Subsection 53A-1-401(3), which permits the Board to adopt rules in accordance with its responsibilities, and Subsection 53A-1-402(1)(a) which directs the Board to establish rules and minimum standards for the qualification and licensing of educators and ancillary personnel who provide direct student services.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R277-527 is due for its five-year review and continuation by no later than 10/08/2018. This rule is necessary. Therefore, this rule should be continued. Rule R277-527 is also amended to provide technical, conforming, and stylistic changes in accordance with the Rule writing Manual for Utah and Board policies. (EDITOR'S NOTE: The proposed amendment to Rule R277-527 is under Filing No. 43201 in this issue, October 1, 2018, of the Bulletin.)

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 801-538-7550, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

EFFECTIVE: 09/13/2018

Health, Family Health and Preparedness, Children With Special Health Care Needs

R398-3

Children's Hearing Aid Program

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 43205
FILED: 09/14/2018

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 26-10-11 implemented the hearing aid pilot program in 2013 and then in 2015 the program was converted to a program.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received since 2015 when the pilot program became a program and to date.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section 26-10-11 implemented the hearing aid pilot program in 2013 and then in 2015 the pilot program was converted to a program. The statute for the program is still in effect. Therefore, this rule should be continued.

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

HEALTH
FAMILY HEALTH AND PREPAREDNESS,
CHILDREN WITH SPECIAL HEALTH CARE NEEDS
44 N MARIO CAPECCHI DR
SALT LAKE CITY, UT 84113
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Joyce McStotts by phone at 801-584-8239, by FAX at 801-584-8488, or by Internet E-mail at jmcstotts@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 09/14/2018

Health, Health Care Financing,
 Coverage and Reimbursement Policy
R414-511
 Medicaid Accountable Care
 Organization Incentives to
 Appropriately Use Emergency Room
 Services

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 43204
 FILED: 09/14/2018

**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 26-18-3 requires the Department of Health (Department) to implement the Medicaid program through administrative rules. In addition, Section 26-1-5 grants the Department the authority to adopt, amend, or rescind these rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR

OPPOSING THE RULE: The Department did not receive any written or oral comments that support or oppose this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department will continue this rule because it provides definitions and incentives, which set forth performance measures for Medicaid accountable care organizations to appropriately use emergency room services.

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:
 ♦ Carrie Stoker by phone at 801-538-6357, or by Internet E-mail at clstoker@utah.gov
 ♦ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 09/14/2018

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the 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

Attorney General

Administration
No. 43075 (AMD): R105-2. Records Access and Management
Published: 08/01/2018
Effective: 09/07/2018

Commerce

Occupational and Professional Licensing
No. 43092 (AMD): R156-9. Funeral Service Licensing Act Rule
Published: 08/01/2018
Effective: 09/10/2018

Real Estate

No. 43011 (AMD): R162-2g. Real Estate Appraiser Licensing and Certification Administrative Rules
Published: 07/15/2018
Effective: 09/04/2018

Environmental Quality

Waste Management and Radiation Control, Waste Management
No. 43081 (AMD): R315-15-16. Grants
Published: 08/01/2018
Effective: 09/14/2018

No. 43079 (AMD): R315-260. Hazardous Waste Management System
Published: 08/01/2018
Effective: 09/14/2018

No. 43080 (AMD): R315-261. General Requirements -- Identification and Listing of Hazardous Waste
Published: 08/01/2018
Effective: 09/14/2018

Health

Disease Control and Prevention, Environmental Services
No. 43076 (R&R): R392-301. Recreational Vehicle Park Sanitation
Published: 08/01/2018
Effective: 09/10/2018

No. 43014 (R&R): R392-501. Labor Camp Sanitation
Published: 07/15/2018
Effective: 09/10/2018

Health Care Financing, Coverage and Reimbursement Policy
No. 43036 (REP): R414-55. Medicaid Policy for Hospital Emergency Department Copayment Procedures
Published: 07/15/2018
Effective: 09/04/2018

Tax Commission

Administration
No. 42823 (AMD): R861-1A-31. Declaratory Orders Pursuant to Utah Code Ann. Section 63G-4-503
Published: 05/15/2018
Effective: 09/10/2018

UTech Board of Trustees

Administration
No. 43093 (NEW): R945-1. UTech Scholarship
Published: 08/01/2018
Effective: 09/07/2018

Workforce Services

Employment Development

No. 43086 (AMD): R986-700-779. Educational Improvement

Opportunities Outside of the Regular School Day Grant

Program

Published: 08/01/2018

Effective: 09/07/2018

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 September 14, 2018. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules Index of Changes. Nonsubstantive changes, while not published in the Bulletin, do become part of the Utah Administrative Code (Code) and are included in this Index, as well as 120-Day (Emergency) rules that do not become part of the Code. The rules are indexed by Agency (Code Number) and Keyword (Subject).

Questions regarding the index and the information it contains should be addressed to the Office of Administrative Rules (801-538-3003).

A copy of the **RULES INDEX** is available for public inspection at the Office of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Office's web site (<https://rules.utah.gov/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
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<u>Administration</u>					
R13-1	Public Petitions for Declaratory Orders	43059	5YR	07/05/2018	2018-15/99
R13-3	Americans with Disabilities Act Grievance Procedures	42634	AMD	04/23/2018	2018-6/4
<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
R23-23	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	42846	AMD	06/26/2018	2018-10/6
R23-30	State Facility Energy Efficiency Fund	43069	5YR	07/11/2018	2018-15/99
<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
R25-7	Travel-Related Reimbursements for State Employees	42854	AMD	06/21/2018	2018-10/9
R25-7-6	Reimbursement for Meals	43008	NSC	07/03/2018	Not Printed
R25-8	Overtime Meal Allowance	42573	5YR	02/08/2018	2018-5/142
<u>Inspector General of Medicaid Services (Office of)</u>					
R30-1	Office of Inspector General of Medicaid Services	42658	REP	06/01/2018	2018-7/6
R30-1	Office Procedures	42694	NEW	06/01/2018	2018-7/10
R30-2	Adjudicative Procedures	42695	NEW	06/01/2018	2018-7/14
R30-3	Declaratory Orders	42696	NEW	06/01/2018	2018-7/17
<u>Purchasing and General Services</u>					
R33-7	Request for Proposals	42932	AMD	07/26/2018	2018-12/6
<u>Risk Management</u>					
R37-4	Adjusted Utah Governmental Immunity Act Limitations on Judgments	42934	EMR	07/01/2018	2018-12/39
AGRICULTURE AND FOOD					
<u>Administration</u>					
R51-5	Rural Rehabilitation Loans	42559	NEW	05/02/2018	2018-5/4
R51-6	Agricultural Advisory Board Electronic Meeting	42472	NEW	03/23/2018	2018-3/4

Conservation Commission

R64-2 Conservation Commission Electronic Meetings 42944 5YR 06/01/2018 2018-12/43

Plant Industry

R68-5 Grain Inspection 42530 5YR 01/30/2018 2018-4/95
 R68-5 Grain Inspection 42531 NSC 02/27/2018 Not Printed
 R68-9 Utah Noxious Weed Act 42943 5YR 06/01/2018 2018-12/43
 R68-14 Quarantine Pertaining to Gypsy Moth -
 Lymantria Dispar 42721 5YR 03/26/2018 2018-8/145
 R68-16 Quarantine Pertaining to Pine Shoot Beetle,
 Tomiucus piniperda 42930 5YR 05/23/2018 2018-12/44
 R68-20 Utah Organic Standards 42872 AMD 07/09/2018 2018-11/6

Regulatory Services

R70-940 Standards and Testing of Motor Fuel 42422 R&R 02/22/2018 2018-2/6

ALCOHOLIC BEVERAGE CONTROL

Administration

R81-4C Limited Restaurant Licenses 43057 5YR 07/03/2018 2018-15/100
 R81-4D On-Premise Banquet License 43058 5YR 07/03/2018 2018-15/101
 R81-10 Off-Premise Beer Retailers 42931 5YR 05/23/2018 2018-12/44

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Administration

R105-2 Records Access and Management 42367 AMD 02/07/2018 2018-1/2
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Administration

R137-2 Government Records Access and Management Act 42779 5YR 04/09/2018 2018-9/69

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 R152-1a Internet Content Provider Ratings Methods 42828 NSC 04/26/2018 Not Printed
 R152-6 Utah Administrative Procedures Act Rules 42830 NSC 04/26/2018 Not Printed
 R152-11 Utah Consumer Sales Practices Act 42831 NSC 04/26/2018 Not Printed
 R152-15 Business Opportunity Disclosure Act Rules 42832 NSC 04/26/2018 Not Printed
 R152-20 New Motor Vehicle Warranties 42833 NSC 04/26/2018 Not Printed
 R152-21 Credit Services Organizations Act Rules 42834 NSC 04/26/2018 Not Printed
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 R152-23 Utah Health Spa Services 42836 NSC 04/26/2018 Not Printed
 R152-26 Telephone Fraud Prevention Act 42837 NSC 04/26/2018 Not Printed
 R152-32a Pawnshop and Secondhand Merchandise Transaction Information Act Rules 42838 NSC 04/26/2018 Not Printed
 R152-32a Pawnshop and Secondhand Merchandise Transaction Information Act Rule 42929 5YR 05/17/2018 2018-12/45
 R152-34 Postsecondary Proprietary School Act Rules 42839 NSC 04/26/2018 Not Printed
 R152-34a Utah Postsecondary School State Authorization Act Rules 42840 NSC 04/26/2018 Not Printed
 R152-39 Child Protection Registry Rules 42841 NSC 04/26/2018 Not Printed
 R152-42 Uniform Debt-Management Services Act Rules 42842 NSC 04/26/2018 Not Printed
 R152-49 Immigration Consultants Registration Act Rules 42843 NSC 04/26/2018 Not Printed

Corporations and Commercial Code

R154-100 Utah Administrative Procedures Act Rules 43184 5YR 09/11/2018 Not Printed

Occupational and Professional Licensing

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 R156-5a Podiatric Physician Licensing Act Rule 42869 5YR 05/01/2018 2018-10/155

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R156-31b	Nurse Practice Act Rule	42448	5YR	01/08/2018	2018-3/69
R156-37c	Utah Controlled Substance Precursor Act Rule	42848	5YR	04/24/2018	2018-10/155
R156-38a	Residence Lien Restriction and Lien Recovery Fund Rule	43015	AMD	08/21/2018	2018-14/6
R156-42a	Occupational Therapy Practice Act Rule	43017	AMD	08/23/2018	2018-14/9
R156-44a	Nurse Midwife Practice Act Rule	43171	5YR	08/28/2018	2018-18/33
R156-46b-401	In General	42428	NSC	01/18/2018	Not Printed
R156-55b-102	Definitions	42429	NSC	01/18/2018	Not Printed
R156-63a	Security Personnel Licensing Act Contract Security Rule	42925	5YR	05/15/2018	2018-11/55
R156-63b	Security Personnel Licensing Act Armored Car Rule	42924	5YR	05/15/2018	2018-11/56
R156-68	Utah Osteopathic Medical Practice Act Rule	42447	5YR	01/08/2018	2018-3/70
R156-70a	Physician Assistant Practice Act Rule	42807	AMD	06/21/2018	2018-10/24
R156-71	Naturopathic Physician Practice Act Rule	42785	AMD	06/07/2018	2018-9/8
R156-72	Acupuncture Licensing Act Rule	42338	AMD	01/23/2018	2017-24/11
R156-74	Certified Court Reporters Licensing Act Rule	42847	5YR	04/24/2018	2018-10/156
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R251-114	Offender Long-Term Health Care - Notice	42637	5YR	03/07/2018	2018-7/161

EDUCATION

Administration

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R277-102	Adjudicative Proceedings	42751	NSC	04/12/2018	Not Printed
R277-104	ADA Complaint Procedure	42909	5YR	05/11/2018	2018-11/56
R277-104	ADA Complaint Procedure	42914	AMD	07/09/2018	2018-11/9
R277-105	Recognizing Constitutional Freedoms in the Schools	42752	NSC	04/12/2018	Not Printed
R277-106	Utah Professional Practices Advisory Commission Appointment Process	42753	NSC	04/12/2018	Not Printed
R277-107	Educational Services Outside of Educator's Regular Employment	42910	5YR	05/11/2018	2018-11/57
R277-107	Educational Services Outside of Educator's Regular Employment	42915	AMD	07/09/2018	2018-11/12
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R277-109	Legislative Reporting and Accountability	42755	NSC	04/12/2018	Not Printed
R277-110	Educator Salary Adjustment	42756	NSC	04/12/2018	Not Printed
R277-113	LEA Fiscal and Auditing Policies	42849	EXD	04/24/2018	2018-10/159
R277-113	LEA Fiscal and Auditing Policies	42857	NEW	06/22/2018	2018-10/28
R277-114	Corrective Action and Withdrawal or Reduction of Program Funds	42757	NSC	04/12/2018	Not Printed
R277-116	Audit Procedure	42609	AMD	04/09/2018	2018-5/14
R277-117	Utah State Board of Education Protected Documents	42758	NSC	04/12/2018	Not Printed
R277-119	Discretionary Funds	42759	NSC	04/12/2018	Not Printed

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R277-121	Board Waiver of Administrative Rules	42761	NSC	04/12/2018	Not Printed
R277-122	Board of Education Procurement	42608	AMD	04/09/2018	2018-5/19
R277-122	Board of Education Procurement	42780	NSC	04/13/2018	Not Printed
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R277-211	Utah Professional Practices Advisory Commission (UPPAC), Rules of Procedure: Notification to Educators, Complaints and Final Disciplinary Actions	42772	NSC	04/13/2018	Not Printed
R277-212	UPPAC Hearing Procedures and Reports	42773	NSC	04/13/2018	Not Printed
R277-213	Request for Licensure Reinstatement and Reinstatement Procedures	42774	NSC	04/13/2018	Not Printed
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R277-215	Utah Professional Practices Advisory Commission (UPPAC), Disciplinary Rebuttable Presumptions	42776	NSC	04/13/2018	Not Printed
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R277-401	Child Abuse-Neglect Reporting by Education Personnel	42879	NSC	05/17/2018	Not Printed
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R277-403	Student Reading Proficiency and Notice to Parents	42963	REP	08/07/2018	2018-13/3
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R277-406	K-3 Reading Improvement Program and the State Reading Goal	42956	5YR	06/07/2018	2018-13/139
R277-406	K-3 Reading Improvement Program and the State Reading Goal	42997	AMD	08/07/2018	2018-13/5
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R277-409	Public School Membership in Associations	42884	NSC	05/17/2018	Not Printed
R277-410	Accreditation of Schools	42885	NSC	05/17/2018	Not Printed
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R277-420	Aiding Financially Distressed School Districts	42890	NSC	05/17/2018	Not Printed
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R277-422	State Supported Voted Local Levy, Board Local Levy and Reading Improvement Program	42892	NSC	05/17/2018	Not Printed
R277-424	Indirect Costs for State Programs	42893	NSC	05/17/2018	Not Printed
R277-426	Definition of Private and Non-Profit Schools for Federal Program Services	42894	NSC	05/17/2018	Not Printed
R277-433	Disposal of Textbooks in the Public Schools	42895	NSC	05/17/2018	Not Printed
R277-436	Gang Prevention and Intervention Programs in the Schools	42907	5YR	05/11/2018	2018-11/57
R277-436	Gang Prevention and Intervention Programs in the Schools	42916	AMD	07/09/2018	2018-11/21
R277-437	Student Enrollment Options	42896	NSC	05/17/2018	Not Printed
R277-438	Dual Enrollment	42897	NSC	05/17/2018	Not Printed
R277-444	Distribution of Money to Arts and Science Organizations	42898	NSC	05/17/2018	Not Printed

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R277-460	Distribution of Substance Abuse Prevention Account	42902	NSC	05/17/2018	Not Printed
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R277-469	Instructional Materials Commission Operating Procedures	43018	NSC	07/06/2018	Not Printed
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R277-470	Charter Schools - General Provisions	42991	AMD	08/07/2018	2018-13/13
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R277-472	Charter School Student Enrollment and Transfers and School District Capacity Information	43020	NSC	07/06/2018	Not Printed
R277-474	School Instruction and Human Sexuality	43021	NSC	07/06/2018	Not Printed
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R277-477	Distributions of Funds from the Interest and Dividends Account and Administration of the School LAND Trust Program	42800	AMD	06/07/2018	2018-9/13
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R277-481	Charter School Oversight, Monitoring and Appeals	42992	AMD	08/07/2018	2018-13/16
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R277-485	Loss of Enrollment	43026	NSC	07/06/2018	Not Printed
R277-486	Professional Staff Cost Program	43027	NSC	07/06/2018	Not Printed
R277-488	Critical Languages and Dual Language Immersion Program	43028	NSC	07/06/2018	Not Printed
R277-489	Kindergarten Entry and Exit Assessment - Early Intervention Program	43029	NSC	07/06/2018	Not Printed
R277-490	Beverley Taylor Sorenson Elementary Arts Learning Program (BTSALP)	42471	5YR	01/12/2018	2018-3/70
R277-490	Beverley Taylor Sorenson Elementary Arts Learning Program (BTSALP)	42481	AMD	03/14/2018	2018-3/13
R277-490	Beverley Taylor Sorenson Elementary Arts Learning Program (BTSALP)	43030	NSC	07/06/2018	Not Printed
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R277-495	Required Policies for Electronic Devices in Public Schools	43032	NSC	07/06/2018	Not Printed
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R277-497	School Grading System	42999	AMD	08/07/2018	2018-13/24
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R277-515	Utah Educator Professional Standards	42324	AMD	01/09/2018	2017-23/11
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R277-532	Local Board Policies for Evaluation of Non-Licensed Public Education Employees (Classified Employees)	42700	AMD	05/08/2018	2018-7/29
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R277-601	Standards for Utah School Buses and Operations	43061	NSC	07/26/2018	Not Printed
R277-602	Special Needs Scholarships - Funding and Procedures	43062	NSC	07/26/2018	Not Printed
R277-603	Autism Awareness Restricted Account Distribution	43063	NSC	07/26/2018	Not Printed
R277-605	Coaching Standards and Athletic Clinics	43064	NSC	07/26/2018	Not Printed
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R657-62	Drawing Application Procedures	42493	AMD	03/26/2018	2018-4/57
R657-62	Drawing Application Procedures	42973	AMD	08/09/2018	2018-13/101
R657-64	Predator Control Incentives	42974	AMD	08/09/2018	2018-13/107
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R657-67	Utah Hunter Mentoring Program	42372	AMD	02/07/2018	2018-1/44
R657-69	Turkey Depredation	42975	AMD	08/09/2018	2018-13/112
R657-70	Taking Utah Prairie Dogs	42378	REP	02/07/2018	2018-1/46
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R671-203	Victim Input and Notification	42297	AMD	01/08/2018	2017-22/78
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R671-312B	Commutation Procedures Applicable to Persons Sentenced to Death After April 26, 1992	42906	5YR	05/11/2018	2018-11/62
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R671-517	Evidentiary Hearings and Proceedings	42584	5YR	02/13/2018	2018-5/154
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R722-310	Regulation of Bail Bond Recovery and Enforcement Agents	42808	AMD	07/11/2018	2018-10/113
R722-350	Certificate of Eligibility	42259	AMD	01/10/2018	2017-22/94
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R722-380	Firearm Background Check Information	42260	AMD	01/10/2018	2017-22/96

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R746-8	Utah Universal Public Telecommunications Service Support Fund (UUSF)	42850	AMD	06/21/2018	2018-10/118
R746-8-403	Lifeline Support	42632	AMD	04/24/2018	2018-6/26
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R746-240	Telecommunication Service Rules	42769	5YR	04/05/2018	2018-9/76
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R765-605	Higher Education Success Stipend Program	42722	NSC	04/12/2018	Not Printed
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R850-8	Adjudicative Proceedings	43102	NSC	08/01/2018	Not Printed
R850-40	Easements	42678	AMD	05/08/2018	2018-7/137
R850-50	Range Management	42677	AMD	05/08/2018	2018-7/139

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R907-65	Compensation Schedule for Longitudinal Access to Interstate Highway Rights-of-Way for Installation of Telecommunications Facilities	43168	5YR	08/27/2018	2018-18/37
R907-67	Debarment of Contractors from Work on Department Projects -- Reasons	43169	5YR	08/27/2018	2018-18/37
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R986-600	Workforce Innovation and Opportunity Act	42693	AMD	05/08/2018	2018-7/154
R986-700	Child Care Assistance	42855	AMD	07/01/2018	2018-10/130

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R994-202	Employing Units	42736	5YR	03/29/2018	2018-8/157
R994-208	Wages	42737	5YR	03/29/2018	2018-8/158
R994-306	Charging Benefit Costs to Employers	42738	5YR	03/29/2018	2018-8/158
R994-307	Social Costs -- Relief of Charges	42739	5YR	03/29/2018	2018-8/159
R994-315	Centralized New Hire Registry Reporting	42740	5YR	03/29/2018	2018-8/159
R994-403	Claim for Benefits	42741	5YR	03/29/2018	2018-8/160
R994-405	Ineligibility for Benefits	42742	5YR	03/29/2018	2018-8/161
R994-405	Ineligibility for Benefits	42861	AMD	06/21/2018	2018-10/144
R994-508	Appeal Procedures	42743	5YR	03/29/2018	2018-8/161

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ABBREVIATIONS

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>401 Certification</u> Environmental Quality, Water Quality	43130	R317-15	5YR	08/02/2018	2018-17/71
<u>abusive conduct</u> Education, Administration Human Resource Management, Administration	42921 42821	R277-613 R477-16	R&R AMD	07/09/2018 07/01/2018	2018-11/27 2018-10/94
<u>accountability</u> Education, Administration	42755	R277-109	NSC	04/12/2018	Not Printed
<u>accreditation</u> Education, Administration	42885 43050	R277-410 R277-505	NSC NSC	05/17/2018 07/06/2018	Not Printed Not Printed
<u>acquit</u> Pardons (Board of), Administration	42586	R671-519	5YR	02/13/2018	2018-5/155
<u>activities</u> Education, Administration	43031	R277-494	NSC	07/06/2018	Not Printed
<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

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<u>adjudicative proceedings</u>						
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Public Safety, Driver License	42865	R708-14-9	LNR	05/01/2018	2018-10/161	
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Commerce, Corporations and Commercial Code	43184	R154-100	5YR	09/11/2018	Not Printed	
<u>administrative procedures</u>						
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Commerce, Occupational and Professional Licensing	42428	R156-46b-401	NSC	01/18/2018	Not Printed	
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Human Resource Management, Administration	42820	R477-12	AMD	07/01/2018	2018-10/92	
	42821	R477-16	AMD	07/01/2018	2018-10/94	
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	43126	R602-5	5YR	08/01/2018	2018-16/35	
	43125	R602-6	5YR	08/01/2018	2018-16/35	
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	42786	R612-100-4	AMD	06/07/2018	2018-9/66	
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	43102	R850-8	NSC	08/01/2018	Not Printed	
	42678	R850-40	AMD	05/08/2018	2018-7/137	
	42677	R850-50	AMD	05/08/2018	2018-7/139	
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Public Service Commission, Administration	42670	R746-1-201	AMD	05/10/2018	2018-7/136	
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	42394	R277-705	AMD	02/28/2018	2018-1/5	
	43155	R277-705	NSC	08/31/2018	Not Printed	
<u>advertising</u>						
Commerce, Consumer Protection	42841	R152-39	NSC	04/26/2018	Not Printed	
Public Service Commission, Administration	43089	R746-406	5YR	07/16/2018	2018-15/107	
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	42546	R307-102	EXT	01/31/2018	2018-4/111	
	42639	R307-102	5YR	03/08/2018	2018-7/161	
	42640	R307-107	5YR	03/08/2018	2018-7/162	
	42673	R307-110-12	AMD	06/07/2018	2018-7/49	
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	42641	R307-115	5YR	03/08/2018	2018-7/163	
	42642	R307-123	5YR	03/08/2018	2018-7/163	
	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	
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	42435	R307-214	AMD	05/23/2018	2018-3/30	
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	42533	R307-223	EXT	01/31/2018	2018-4/112	
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	42534	R307-224	EXT	01/31/2018	2018-4/112	
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	42650	R307-250	5YR	03/08/2018	2018-7/168	
	42536	R307-312	EXT	01/31/2018	2018-4/113	
	42652	R307-312	5YR	03/08/2018	2018-7/169	
	42653	R307-342	5YR	03/08/2018	2018-7/170	
	42938	R307-343-4	NSC	06/12/2018	Not Printed	
	42538	R307-345	EXT	01/31/2018	2018-4/113	
	42655	R307-345	5YR	03/08/2018	2018-7/171	
	42539	R307-346	EXT	01/31/2018	2018-4/114	
	42656	R307-346	5YR	03/08/2018	2018-7/171	
	42541	R307-347	EXT	01/31/2018	2018-4/114	
	42657	R307-347	5YR	03/08/2018	2018-7/172	
	42543	R307-348	EXT	01/31/2018	2018-4/114	
	42659	R307-348	5YR	03/08/2018	2018-7/172	
	42540	R307-349	EXT	01/31/2018	2018-4/114	
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	42542	R307-350	EXT	01/31/2018	2018-4/114	
	42661	R307-350	5YR	03/08/2018	2018-7/174	
	42544	R307-351	EXT	01/31/2018	2018-4/115	
	42662	R307-351	5YR	03/08/2018	2018-7/174	
	42545	R307-352	EXT	01/31/2018	2018-4/115	
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	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
	42858	R307-510	NSC	05/14/2018	Not Printed
	42551	R307-801	EXT	01/31/2018	2018-4/115
	42669	R307-801	5YR	03/08/2018	2018-7/179
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	43008	R25-7-6	NSC	07/03/2018	Not Printed
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	42931	R81-10	5YR	05/23/2018	2018-12/44
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	42671	R434-150	NSC	04/14/2018	Not Printed	
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	42628	R414-308-3	AMD	05/08/2018	2018-6/17	
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	43026	R277-485	NSC	07/06/2018	Not Printed	
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42441 R414-302 5YR 01/08/2018 2018-3/84
42487 R414-302-6 EMR 01/19/2018 2018-4/85
42627 R414-302-6 AMD 05/08/2018 2018-6/15
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
42628 R414-308-3 AMD 05/08/2018 2018-6/17
42489 R414-311 EMR 01/19/2018 2018-4/90
42629 R414-311 NEW 05/08/2018 2018-6/20
42851 R414-401-3 AMD 07/01/2018 2018-10/47
42935 R414-508 5YR 05/25/2018 2018-12/46
42490 R414-509 REP 04/11/2018 2018-4/41
42941 R414-510 R&R 07/27/2018 2018-12/16
43204 R414-511 5YR 09/14/2018 Not Printed
42353 R414-517 AMD 01/29/2018 2017-24/16
42635 R414-519 NEW 05/25/2018 2018-7/112
Human Services, Recovery Services 43166 R527-201 NSC 09/07/2018 Not Printed

Medicaid abuse

Administrative Services, Inspector General of Medicaid Services (Office of) 42658 R30-1 REP 06/01/2018 2018-7/6

	42694	R30-1	NEW	06/01/2018	2018-7/10
<u>Medicaid fraud</u>					
Administrative Services, Inspector General of Medicaid Services (Office of)	42658	R30-1	REP	06/01/2018	2018-7/6
	42694	R30-1	NEW	06/01/2018	2018-7/10
<u>Medicaid waste</u>					
Administrative Services, Inspector General of Medicaid Services (Office of)	42658	R30-1	REP	06/01/2018	2018-7/6
	42694	R30-1	NEW	06/01/2018	2018-7/10
<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	2018-7/166
<u>medical practitioners</u>					
Labor Commission, Industrial Accidents	42563	R612-300	5YR	02/08/2018	2018-5/149
	42567	R612-300-4	AMD	04/09/2018	2018-5/46
<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
	43128	R525-3	NSC	08/09/2018	Not Printed
<u>memberships</u>					
Education, Administration	42884	R277-409	NSC	05/17/2018	Not Printed
<u>mental health</u>					
Education, Administration	42923	R277-461	NEW	07/09/2018	2018-11/25
<u>mercury</u>					
Environmental Quality, Air Quality	42534	R307-224	EXT	01/31/2018	2018-4/112
	42649	R307-224	5YR	03/08/2018	2018-7/167
<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	2018-7/175
<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	2018-7/171
<u>methamphetamine decontamination</u>					
Health, Disease Control and Prevention, Environmental Services	43037	R392-600	AMD	08/24/2018	2018-14/34
<u>midwifery</u>					
Commerce, Occupational and Professional Licensing	43171	R156-44a	5YR	08/28/2018	2018-18/33
<u>migrant camp</u>					
Health, Disease Control and Prevention, Environmental Services	43014	R392-501	R&R	09/10/2018	2018-14/25
<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

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	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>minors</u>					
Commerce, Consumer Protection	42841	R152-39	NSC	04/26/2018	Not Printed
<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	2018-7/174
<u>misleading names</u>					
Insurance, Administration	42687	R590-154	5YR	03/14/2018	2018-7/180
<u>mitigation</u>					
Natural Resources, Administration	42309	R634-3	NEW	03/26/2018	2017-23/67
	42309	R634-3	CPR	03/26/2018	2018-4/71
<u>mobile foods</u>					
Health, Disease Control and Prevention, Environmental Services	42685	R392-102	NEW	05/18/2018	2018-7/97
<u>mobile homes</u>					
Health, Disease Control and Prevention, Environmental Services	42731	R392-402	R&R	05/24/2018	2018-8/89
<u>monitoring</u>					
Education, Administration	43083	R277-481	5YR	07/13/2018	2018-15/102
	42992	R277-481	AMD	08/07/2018	2018-13/16
Environmental Quality, Air Quality	42550	R307-170	EXT	01/31/2018	2018-4/111
	42643	R307-170	5YR	03/08/2018	2018-7/164
<u>motels</u>					
Health, Disease Control and Prevention, Environmental Services	42515	R392-502	R&R	03/26/2018	2018-4/31
<u>mothers</u>					
Health, Center for Health Data, Vital Records and Statistics	42707	R436-3	5YR	03/20/2018	2018-8/150
<u>motion picture</u>					
Governor, Economic Development	42922	R357-5	AMD	07/09/2018	2018-11/37
<u>motor fuel</u>					
Agriculture and Food, Regulatory Services	42422	R70-940	R&R	02/22/2018	2018-2/6
<u>motor vehicles</u>					
Commerce, Consumer Protection	42833	R152-20	NSC	04/26/2018	Not Printed
Environmental Quality, Administration	42979	R305-4	5YR	06/13/2018	2018-13/140
Environmental Quality, Air Quality	42642	R307-123	5YR	03/08/2018	2018-7/163
<u>motorcycle rider training schools</u>					
Public Safety, Driver License	42825	R708-30	5YR	04/19/2018	2018-10/157
<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	2018-7/166
<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	2018-7/167
<u>nail technicians</u>					
Commerce, Occupational and Professional Licensing	42778	R156-11a	AMD	06/07/2018	2018-9/4

<u>naloxone</u>						
Health, Disease Control and Prevention, Health Promotion	42283	R384-210	NEW	06/07/2018	2017-22/30	
	42283	R384-210	CPR	06/07/2018	2018-4/70	
<u>National Board certification</u>						
Education, Administration	42699	R277-521	AMD	05/08/2018	2018-7/26	
<u>Native Americans</u>						
Education, Administration	43115	R277-923	NSC	08/01/2018	Not Printed	
<u>natural resources</u>						
School and Institutional Trust Lands, Administration	42678	R850-40	AMD	05/08/2018	2018-7/137	
<u>naturopathic physician</u>						
Commerce, Occupational and Professional Licensing	42785	R156-71	AMD	06/07/2018	2018-9/8	
<u>naturopaths</u>						
Commerce, Occupational and Professional Licensing	42785	R156-71	AMD	06/07/2018	2018-9/8	
<u>negotiated exchanges</u>						
Transportation, Administration	42688	R907-80	AMD	05/09/2018	2018-7/142	
<u>negotiated sales</u>						
Transportation, Administration	42688	R907-80	AMD	05/09/2018	2018-7/142	
<u>NESHAP</u>						
Environmental Quality, Air Quality	42435	R307-214	AMD	05/23/2018	2018-3/30	
<u>new hire registry</u>						
Workforce Services, Unemployment Insurance	42740	R994-315	5YR	03/29/2018	2018-8/159	
<u>new source review</u>						
Environmental Quality, Air Quality	42434	R307-210	AMD	05/23/2018	2018-3/29	
<u>new state revenue</u>						
Governor, Economic Development	42922	R357-5	AMD	07/09/2018	2018-11/37	
<u>newborn hearing screening</u>						
Health, Family Health and Preparedness, Children with Special Health Care Needs	43013	R398-2	5YR	06/19/2018	2018-14/51	
<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>non-licensed public education employees</u>						
Education, Administration	42763	R277-532	5YR	04/02/2018	2018-8/146	
	42700	R277-532	AMD	05/08/2018	2018-7/29	
<u>non-profit organizations</u>						
Education, Administration	43116	R277-924	NSC	08/01/2018	Not Printed	
<u>nonattainment</u>						
Environmental Quality, Air Quality	42675	R307-403	AMD	08/02/2018	2018-7/50	
	42675	R307-403	CPR	08/02/2018	2018-13/126	
<u>noncompliance</u>						
Education, Administration	42757	R277-114	NSC	04/12/2018	Not Printed	
<u>nonpublic schools</u>						
Education, Administration	42885	R277-410	NSC	05/17/2018	Not Printed	
<u>nontraditional learning programs</u>						
Education, Administration	42888	R277-418	NSC	05/17/2018	Not Printed	

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<u>notification requirements</u>					
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<u>noxious weeds</u>					
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<u>nuclear medicine</u>					
Environmental Quality, Waste Management and Radiation Control, Radiation	43158	R313-32-2	NSC	08/31/2018	Not Printed
<u>nurse practitioners</u>					
Labor Commission, Industrial Accidents	42563	R612-300	5YR	02/08/2018	2018-5/149
	42567	R612-300-4	AMD	04/09/2018	2018-5/46
<u>nurses</u>					
Commerce, Occupational and Professional Licensing	42448	R156-31b	5YR	01/08/2018	2018-3/69
<u>nursing facility</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	42851	R414-401-3	AMD	07/01/2018	2018-10/47
<u>nutrition</u>					
Education, Administration	42620	R277-719	5YR	02/26/2018	2018-6/48
	42614	R277-719	AMD	04/09/2018	2018-5/39
<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>occupational therapy</u>					
Commerce, Occupational and Professional Licensing	43017	R156-42a	AMD	08/23/2018	2018-14/9
<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	2018-7/181
	42989	R651-601	5YR	06/13/2018	2018-13/143
	42961	R651-615	5YR	06/07/2018	2018-13/148
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Administrative Services, Inspector General of Medicaid Services (Office of)	42658	R30-1	REP	06/01/2018	2018-7/6
<u>Office of the Inspector General of Medicaid Services</u>					
Administrative Services, Inspector General of Medicaid Services (Office of)	42694	R30-1	NEW	06/01/2018	2018-7/10
	42695	R30-2	NEW	06/01/2018	2018-7/14
	42696	R30-3	NEW	06/01/2018	2018-7/17
<u>offset</u>					
Environmental Quality, Air Quality	42675	R307-403	AMD	08/02/2018	2018-7/50
	42675	R307-403	CPR	08/02/2018	2018-13/126
<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

	42858	R307-510	NSC	05/14/2018	Not Printed
<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>oil-gas-and mining camp</u>					
Health, Disease Control and Prevention, Environmental Services	43014	R392-501	R&R	09/10/2018	2018-14/25
<u>ombudsman</u>					
Human Services, Aging and Adult Services	42636	R510-200	R&R	05/30/2018	2018-7/114
<u>open government</u>					
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<u>operational requirements</u>					
Commerce, Real Estate	43012	R162-2f	AMD	08/21/2018	2018-14/12
<u>operator certification</u>					
Environmental Quality, Water Quality	42274	R317-10-10	AMD	01/24/2018	2017-22/29
<u>opioid antagonist</u>					
Health, Disease Control and Prevention, Health Promotion	42283	R384-210	NEW	06/07/2018	2017-22/30
	42283	R384-210	CPR	06/07/2018	2018-4/70
<u>optometry</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	42782	R414-52	5YR	04/10/2018	2018-9/71
<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 school time child care programs</u>					
Health, Child Care Center Licensing Committee	42726	R381-70	AMD	08/10/2018	2018-8/19
<u>out-of-home care</u>					
Human Services, Child and Family Services	42603	R512-305	5YR	02/15/2018	2018-5/146
<u>out-of-state</u>					
Education, Administration	42891	R277-421	NSC	05/17/2018	Not Printed
<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	2018-7/164
<u>oversight</u>					
Education, Administration	43083	R277-481	5YR	07/13/2018	2018-15/102
	42992	R277-481	AMD	08/07/2018	2018-13/16
<u>overtime</u>					
Human Resource Management, Administration	42816	R477-8	AMD	07/01/2018	2018-10/79
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	42654	R307-344	5YR	03/08/2018	2018-7/170

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	42513	R810-8	NEW	04/05/2018	2018-4/62

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Natural Resources, Parks and Recreation	42989	R651-601	5YR	06/13/2018	2018-13/143
	42990	R651-602	5YR	06/13/2018	2018-13/143
	42946	R651-603	5YR	06/07/2018	2018-13/144
	42948	R651-604	5YR	06/07/2018	2018-13/144
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	42983	R651-618	5YR	06/13/2018	2018-13/150
	42985	R651-619	5YR	06/13/2018	2018-13/150
	42986	R651-620	5YR	06/13/2018	2018-13/151
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	43048	R651-622	5YR	06/28/2018	2018-14/52
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	43045	R651-625	5YR	06/28/2018	2018-14/54
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	43043	R651-627	5YR	06/28/2018	2018-14/55
	43042	R651-628	5YR	06/28/2018	2018-14/55
	43041	R651-629	5YR	06/28/2018	2018-14/56
	42988	R651-630	5YR	06/13/2018	2018-13/152
	43040	R651-631	5YR	06/28/2018	2018-14/56
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	43038	R651-633	5YR	06/28/2018	2018-14/57

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	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
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	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

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partnerships for student success

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<u>patient rights</u>					
Human Services, Substance Abuse and Mental Health, State Hospital	42473	R525-2	5YR	01/16/2018	2018-3/87
<u>patient safety</u>					
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	42671	R434-150	NSC	04/14/2018	Not Printed
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Education, Administration	43022	R277-475	NSC	07/06/2018	Not Printed
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Commerce, Consumer Protection	42838	R152-32a	NSC	04/26/2018	Not Printed
	42929	R152-32a	5YR	05/17/2018	2018-12/45
<u>penalties</u>					
Health, Center for Health Data, Vital Records and Statistics	42718	R436-16	5YR	03/21/2018	2018-8/155
<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
	42854	R25-7	AMD	06/21/2018	2018-10/9
	43008	R25-7-6	NSC	07/03/2018	Not Printed
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Health, Administration	42863	R380-40	AMD	07/03/2018	2018-10/34
<u>permit</u>					
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<u>permits</u>					
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	42108	R307-401	CPR	03/05/2018	2018-3/49
	42574	R307-401	NSC	03/05/2018	Not Printed
Health, Center for Health Data, Vital Records and Statistics	42709	R436-8	5YR	03/20/2018	2018-8/151
Health, Disease Control and Prevention, Health Promotion	42870	R384-324	NEW	07/09/2018	2018-10/42
Natural Resources, Forestry, Fire and State Lands	42978	R652-110	5YR	06/11/2018	2018-13/153
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	42967	R657-50	AMD	08/09/2018	2018-13/82
	43100	R657-57	5YR	07/19/2018	2018-16/36
	42374	R657-62	AMD	02/07/2018	2018-1/41
	42493	R657-62	AMD	03/26/2018	2018-4/57
	42973	R657-62	AMD	08/09/2018	2018-13/101
	42974	R657-64	AMD	08/09/2018	2018-13/107
<u>personnel management</u>					
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	42813	R477-5	AMD	07/01/2018	2018-10/63
	42814	R477-6	AMD	07/01/2018	2018-10/65
	42817	R477-9	AMD	07/01/2018	2018-10/84
<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
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	42700	R277-532	AMD	05/08/2018	2018-7/29	
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Education, Administration	43032	R277-495	NSC	07/06/2018	Not Printed	
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Health, Disease Control and Prevention, Environmental Services	42744	R392-302	AMD	05/24/2018	2018-8/66	
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<u>postsecondary schools</u>						
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	43051	R277-506	NSC	07/06/2018	Not Printed	
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	42698	R277-508	AMD	05/08/2018	2018-7/24	
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	42896	R277-437	NSC	05/17/2018	Not Printed	
	42897	R277-438	NSC	05/17/2018	Not Printed	
	42903	R277-462	NSC	05/17/2018	Not Printed	
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	42471	R277-490	5YR	01/12/2018	2018-3/70
	42481	R277-490	AMD	03/14/2018	2018-3/13
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	42882	R277-406	NSC	05/17/2018	Not Printed
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	42839	R152-34	NSC	04/26/2018	Not Printed	
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	42566	R616-3-3	AMD	04/09/2018	2018-5/51
Public Service Commission, Administration	42331	R746-409-1	AMD	01/09/2018	2017-23/75
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Education, Administration	42878	R277-400	NSC	05/17/2018	Not Printed
<u>safety regulations</u>					
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Natural Resources, Administration	42309	R634-3	CPR	03/26/2018	2018-4/71
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Education, Administration	42804	R277-523	NEW	06/07/2018	2018-9/21
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	42685	R392-102	NEW	05/18/2018	2018-7/97
	42491	R392-700	5YR	01/19/2018	2018-4/97
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	42899	R277-445	NSC	05/17/2018	Not Printed	
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	42915	R277-107	AMD	07/09/2018	2018-11/12	
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