

UTAH STATE BULLETIN

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

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

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

Office of Administrative Rules, Salt Lake City 84114

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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 October 02, 2018, 12:00 a.m., and October 15, 2018, 11:59 p.m. are included in this, the November 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 Rules being repealed are completely struck out.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 December 3, 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 March 1, 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

**Administrative Services, Risk
Management
R37-4
Adjusted Utah Governmental Immunity
Act Limitations on Judgments**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43235

FILED: 10/04/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These amendments are mandated by Section 63G-7-605, which requires the state risk manager to conduct rulemaking in even-numbered years to address limitation on judgments calculations received from the legislative fiscal analyst. An emergency rule that was effective 07/01/2018 and published in the June 15, 2018, Bulletin under Filing No. 42934, was filed to implement the subject calculations, and these amendments are required to make the emergency rule's changes permanent. (EDITOR'S NOTE: The emergency rule under Filing No. 42934 will expire on 10/29/2018. A new corresponding 120-day (emergency) rule is needed to retain the limitation of judgment revisions until these permanent rule amendments can be rendered effective so a new emergency rule has been filed under No. 43236 and is effective as of 10/29/2018 in this issue, November 1, 2018, of the Bulletin.)

SUMMARY OF THE RULE OR CHANGE: These amendments will increase the limitations of judgments against governmental entities or employees as follows: a) the per person limit for personal injury will increase from \$717,100 to \$745,200; b) the aggregate per occurrence limit will increase from \$2,455,900 to \$2,552,000; and c) the per occurrence property damage limit will increase from \$286,900 to \$295,000.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63G-7-604 and Section 63G-7-605

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This amended rule will increase financial exposure to the State Risk Fund which insures all state agencies, public institutions of higher education, school districts, and many of the charter schools. That increased exposure will be reflected in the form of higher payments to plaintiffs for significant liability claims and will likely have the effect of increased liability premiums to be appropriated from the general fund; however, because the impact will be based upon the nature and severity of future claims, it is impossible

to project the anticipated costs of these revisions to the state budget.

◆ **LOCAL GOVERNMENTS:** This revised rule will increase financial exposure to all political subdivisions of the state. That increased exposure will be reflected in the form of higher payments to plaintiffs for significant liability claims and will likely have the effect of increased liability premiums; however, because the impact will be based upon the nature and severity of future claims, it is impossible to project the anticipated costs of these revisions to local governments.

◆ **SMALL BUSINESSES:** This amended rule will impact small business owners that experience personal injuries or property damage from government entities in that they may receive increased damage awards and settlements; however, this impact is impossible to project with any certainty because it is based upon the nature and severity of future claims.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amended rule will impact persons that experience personal injuries or property damage from government entities in that they may receive increased damage awards and settlements; however, this impact is impossible to project with any certainty because it is based upon the nature and severity of future claims. As indicated in the state budget and local government responses above, all governmental entities within the state of Utah are subject to these judgment limit increases, irrespective of their size.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs will only be experienced by governmental entities in the state of Utah and will only be experienced if they or their employees cause injury or damage to third parties. It is impossible to project compliance costs for all affected governmental entities because they will be based upon the nature and severity of future claims.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Tani Downing has reviewed and approved the above fiscal impact analysis on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ADMINISTRATIVE SERVICES
RISK MANAGEMENT
ROOM 5120 STATE OFFICE BLDG
450 N STATE ST
SALT LAKE CITY, UT 84114-1201
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Brian Nelson by phone at 801-538-9576, by FAX at 801-538-9597, or by Internet E-mail at benelson@utah.gov
◆ Darin Dennis by phone at 801-538-9572, or by Internet E-mail at darindennis@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/03/2018

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2018

AUTHORIZED BY: Brian Nelson, Director

impact is impossible to project with any certainty, because it is based upon the nature and severity of future claims.

Tani Downing, Executive Director of the Department of Administrative Services, 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
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 revised rule will positively impact non-small businesses that experience personal injuries or property damage from government entities in that they may receive increased damage awards and settlements; however, this

R37. Administrative Services, Risk Management.
R37-4. Adjusted Utah Governmental Immunity Act Limitations on Judgments.

R37-4-1. Authority and Calculation Process.

Pursuant to UCA 63G-7-60[4]5(4) the Risk Manager hereby establishes [a—]new limitations of judgments, based upon the adjustments communicated by the Legislative Fiscal Analyst.

[—] Accordingly, the Risk Manager has calculated the consumer price index (CPI) for calendar years 2013 and 2015 using the standards provided in Sections 1(f)(4) and 1 (f)(5) of the Internal Revenue Code. Section 1(f)(4) has defined the CPI for any calendar year to mean the average of the consumer price index as of the close of the 12-month period ending on August 31 of such calendar year. Section 1(f)(5) has defined "consumer price index" to mean the index used for all urban consumers published by the Department of Labor. By applying these standards, the consumer price index for the calendar year 2013 is calculated to be 232.02 and the index for 2015 is 236.75. The percentage difference between the 2013 index and the 2015 index was then computed to be 2.0%.]

R37-4-2. New Limitation of Judgment Amounts.

[As a result of the above required calculations, t]The new limitation of judgment amounts currently required by UCA 63G-7-604(3)[(+)] [has been]are increased as follows, pursuant to UCA 63G-7-605, and [is]are effective July 1, 2018[6] for claims occurring on or after that date:

- 1) The limit for damages for personal injury against a governmental entity, or an employee who a governmental entity has a duty to indemnify, is [\$717,100]\$745,200 for one person in any one occurrence, and [\$2,455,900]\$2,552,000 aggregate amount of individual awards that be may awarded in relation to a single occurrence; and
- 2) The limit for property damages (excluding damages awarded as compensation when a governmental entity has taken or damaged private property for public use without just compensation) against a governmental entity, or an employee whom a governmental entity has a duty to indemnify is [\$286,900]\$295,000 in any one occurrence.

R37-4-3. Limitations of Judgments by Calendar Date.

The limitations on judgments are established by the date of the occurrence. The dates and dollar amounts are as follows:

- 1) Incident(s) occurring before July 1, 2001 - \$250,000 for one person in an occurrence, \$500,000 aggregate for two or more persons in an occurrence; and \$100,000 for property damage for any one occurrence[—as explained in R37-4-2(2)].
- 2) Incident(s) occurring on or after July 1, 2001 - \$500,000 for one person in an occurrence, \$1,000,000 aggregate for two or more persons in an occurrence; and \$200,000 for property damage for any one occurrence[—as explained in R37-4-2(2)].
- 3) Incident(s) occurring on or after July 1, 2002 - \$532,500 for one person in an occurrence, \$1,065,000 aggregate for two or more

persons in an occurrence; and \$213,000 for property damage for any one occurrence[~~as explained in R37-4-2(2)~~].

4) Incident(s) occurring on or after July 1, 2004 - \$553,500 for one person in an occurrence, \$1,107,000 aggregate for two or more persons in an occurrence, and \$221,400 for property damage for any one occurrence[~~as explained in R37-4-2(2)~~].

5) Incident(s) occurring on or after July 1, 2006 - \$583,900 for one person in an occurrence, \$1,167,900 aggregate for two or more persons in an occurrence, and \$233,600 for property damage for any one occurrence[~~as explained in R37-4-2(2)~~].

6) Incident(s) occurring on or after July 1, 2007 - \$583,900 for one person in an occurrence, \$2,000,000 aggregate for two or more persons in an occurrence, and \$233,600 for property damage for any one occurrence[~~as explained in R37-4-2(2)~~].

7) Incident(s) occurring on or after July 1, 2008 - \$620,700 for one person in an occurrence, \$2,126,000 aggregate for two or more persons in an occurrence, and \$248,300 for property damage for any one occurrence[~~as explained in R37-4-2(2)~~].

8) Incident(s) occurring on or after July 1, 2010 - \$648,700 for one person in an occurrence, \$2,221,700 aggregate for two or more persons in an occurrence, and \$259,500 for property damage for any one occurrence[~~as explained in R37-4-2(2)~~].

9) Incident(s) occurring on or after July 1, 2012 - \$674,000 for one person in an occurrence, \$2,308,400 aggregate for two or more persons in an occurrence, and \$269,700 for property damage for any one occurrence[~~as explained in R37-4-2(2)~~].

10) Incident(s) occurring on or after July 1, 2014 - \$703,000 for one person in an occurrence, \$2,407,700 aggregate for two or more persons in an occurrence, and \$281,300 for property damage for any one occurrence[~~as explained in R37-4-2(2)~~].

11) Incident(s) occurring on or after July 1, 2016 - \$717,100 for one person in an occurrence, \$2,455,900 aggregate for two or more persons in an occurrence, and \$286,900 for property damage for any one occurrence[~~as explained in R37-4-2(2)~~].

12) Incident(s) occurring on or after July 1, 2018 - \$745,200 for one person in an occurrence, \$2,552,000 aggregate for two or more persons in an occurrence, and \$295,000 for property damage for any one occurrence as explained in R37-4-2(2).

KEY: limitation on judgments, risk management, Governmental Immunity Act caps

Date of Enactment or Last Substantive Amendment: [~~June 1, 2016~~2018]

Notice of Continuation: May 5, 2017

Authorizing, and Implemented or Interpreted Law: 63G-7-604(4)

**Commerce, Occupational and
Professional Licensing
R156-15
Health Facility Administrator Act Rule**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 43249

FILED: 10/11/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Health Facility Administrators Licensing Board (Board) proposes these amendments to: 1) update terms and provisions to conform to current industry practices and procedures; 2) allow applicants to meet certain education or experience requirements as optional pathways to licensure in lieu of completing an administrator-in-training (AIT) preceptorship; 3) provide easier practice re-entry through a reinstatement option for certain former Utah licensees; and 4) allow additional types of continuing professional education credit.

SUMMARY OF THE RULE OR CHANGE: In Sections R156-15-102 and R156-15-302d, these proposed amendments: 1) make minor formatting changes for clarity; and 2) update the rule regarding examination requirements to conform to changes made by the National Association of Long Term Care Administrator Boards to its National Nursing Home Administrator Line of Service Examination Program (NHA) exam, which included separating that exam into a two-part component exam. In Section R156-15-302a, these proposed amendments give applicants for licensure as a health facility administrator an additional option for meeting application requirements, by accepting the "Health Services Executive" (HSE) credential now offered by the National Association of Long Term Care Administrator Boards in lieu of completion of an approved AIT preceptorship. In Section R156-15-303, as allowed by Subsection 58-1-308(5)(a)(ii)(B), these proposed amendments will allow former Utah licensees whose licenses expired while active and in good standing, easier re-entry into practice by extending their reinstatement period from two years to five years. If these former licensees meet continuing education and certain other requirements, they may apply for reinstatement instead of being required to submit a new application for licensure complete with all supporting documents, as is required of an individual making an initial application for license and demonstrating they meet all current qualifications for licensure. In Section R156-15-308, these proposed amendments give applicants for licensure by endorsement additional options for meeting application requirements, by allowing them to meet one of the following additional experiences or education requirements: 1) have three years of experience; 2) have two consecutive years of employment at the same facility; or 3) hold the "Health Services Executive" (HSE) credential now offered by the National Association of Long Term Care Administrator Boards. In Section R156-15-309, these proposed amendments make nonsubstantive formatting changes for clarity, and also: 1) increase the 10-hour maximum continuing professional education (CPE) credit allowed for distance learning courses to a 20-hour maximum; and 2) allow licensees CPE credit for volunteer service on committees or in leadership roles in organizations for the development and improvement of the profession, up to a maximum of 10 CPE hours.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a) and Subsection 58-15-3(3)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** In Section R156-15-102 and Section R156-15-302d, these proposed amendments are not expected to impact state government revenue or expenditures because they only clarify existing licensure requirements in accordance with current industry standards and practices. In Sections R156-15-302a, R156-15-303, and R156-15-308, none of these proposed amendments are expected to impact state government revenues or expenditures because they simply allow various applicants for licensure additional options for meeting application requirements, and these options will not affect the Division of Occupational and Professional Licensing's (Division) existing licensing procedures or processes. Additionally, any additional increase in staff workload that may be caused by additional applications and additional individuals becoming licensed will be balanced by the additional revenue generated by those applications, and absorbed within the Division's existing budget. In Section R156-15-309, these proposed amendments are not expected to impact state government revenues or expenditures because they only increase the accepted types of CPE credit for health facility administrator licensees, and will not affect the Division's licensing or CPE audit procedures. 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 the proposed amendments are made effective.

◆ **LOCAL GOVERNMENTS:** None of these proposed amendments are expected to have any impact on local governments' revenues or expenditures because they only clarify and add options to licensing and CPE requirements for individuals licensed as health facility administrators, and there are no known local governmental entities acting as businesses in this industry who might be impacted through employment of these licensees.

◆ **SMALL BUSINESSES:** In Sections R156-15-102, R156-15-302d, and R156-15-309, these proposed amendments are not expected to have any impact on small businesses revenues or expenditures because they merely clarify existing licensure requirements in accordance with current industry standards and practices, and apply only to individuals licensed as health facility administrators, or who are applying for licensure as health facility administrators. In Sections R156-15-302a, R156-15-303, and R156-15-308, these proposed amendments are expected to indirectly benefit small businesses that employ licensed health facility administrators, due to an increase in licensure of qualified applicants and a corresponding increase in both new and experienced licensees available for employment. In addition to being able to more easily hire new employees, these businesses also may be able to transfer existing employees from another state to a Utah location. The Division currently processes on average approximately 40 new applications for licensure each year, and there are an estimated 80 small business facilities offering skilled nursing or similar services in

Utah who employ licensed health facility administrators, such as nursing care facilities (including skilled nursing facilities, retirement homes or rest homes with nursing care, and group homes for the disabled or aged with nursing care) (NAICS 623110), and general or specialty hospitals and centers (NAICS 622110, 622310). However, the full fiscal and non-fiscal benefits to these small businesses cannot be estimated because the benefits obtained from being able to more easily hire qualified licensed health facility administrators, especially administrators with years of experience in their profession, will vary substantially depending on the requirements of each small business and on the individual characteristics and unique choices of each individual licensee.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** In Section R156-15-102 and Section R156-15-302d, these proposed amendments only clarify existing licensure requirements, so none of these proposed changes are expected to impact other persons. In Sections R156-15-302a and R156-15-308, because these proposed amendments allow qualified applicants for licensure as a health facility administrator additional options for meeting the application requirements, they are expected to benefit these applicants by increasing their ability to become licensed and enter into practice. However, the full fiscal impact to such applicants cannot be estimated because the data regarding the qualifications of applicants is unavailable. Additionally, it cannot be determined how many of these applicants will choose to take advantage of these new options -- such as, for example, how many might decide to pursue an HSE credential from NAB instead of completing an AIT preceptorship. In Section R156-15-303, these proposed amendments will allow easier re-entry into practice for Utah health facility administrators whose license expired while active and in good standing. There are currently 41 licensees whose licenses have expired in this manner. These amendments will benefit these and future experienced health facility administrators who choose to re-enter into practice. However, the full fiscal and non-fiscal benefits to these persons cannot be estimated because any resulting employment will vary substantially depending on the choices and characteristics of each individual person. In Section R156-15-309, because these proposed amendments increase the types of CPE credit available to licensees, the Division estimates that they will cause a fiscal benefit to these persons. First, allowing an additional 10 hours of real-time, interactive distance learning to fulfill CPE requirements will save some licensees the cost of traveling to a central location to obtain their required CPE hours. This will be especially beneficial to licensees in remote, rural locations. However, the full impact of the savings is inestimable because it cannot be determined how many of these licensees will take advantage of distance learning, and because any benefits actually received will vary substantially from licensee to licensee depending on their location and individual choices. Similarly, although the Division estimates a resulting fiscal benefit to licensees who donate hours of their time in service on committees or in leadership roles and receive a corresponding savings on the cost of CPE courses they

would have otherwise been required to purchase to obtain those credit hours, the full impact to these other persons is inestimable because the credit hours and corresponding savings will vary widely depending on the number of hours each licensee chooses to serve, if any, and the types of CPE courses that they choose.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These proposed amendments are not expected to impose any additional compliance cost on any affected person because these amendments only clarify existing requirements for licensure, or are expected to result in positive fiscal impacts.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In Sections R156-15-102 and R156-15-302d, these proposed amendments: 1) make minor formatting changes for clarity; and 2) update the rule regarding examination requirements to conform to changes made by the National Association of Long Term Care Administrator Boards to its NHA exam, which included separating that exam into a two-part component exam. In Section R156-15-302a, these proposed amendments give applicants for licensure as a health facility administrator an additional option for meeting application requirements, by accepting the HSE credential now offered by the National Association of Long Term Care Administrator Boards in lieu of completion of an approved AIT preceptorship. In Section R156-15-303, as allowed by Subsection 58-1-308(5)(a)(ii)(B), these proposed amendments will allow former Utah licensees, whose licenses expired while active and in good standing, easier re-entry into practice by extending their reinstatement period from two years to five years. In Section R156-15-308, these proposed amendments give applicants for licensure by endorsement additional options for meeting application requirements by allowing them to meet one of the following additional experiences or education requirements: 1) have three years of experience; 2) have two consecutive years of employment at the same facility; or 3) hold the HSE credential now offered by the National Association of Long Term Care Administrator Boards. In Section R156-15-309, these proposed amendments make nonsubstantive formatting changes for clarity, and also: 1) increase the 10-hour maximum CPE credit allowed for distance learning courses to a 20-hour maximum; and 2) allow licensees CPE credit for volunteer service on committees or in leadership roles in organizations for the development and improvement of the profession, up to a maximum of 10 CPE hours. In Sections R156-15-102, R156-15-302d, and R156-15-309, these proposed amendments are not expected to have any impact on small businesses or non-small businesses revenues or expenditures because they merely clarify existing licensure requirements in accordance with current industry standards and practices, and apply only to individuals licensed as health facility administrators or who are applying for licensure as health facility administrators. In Sections R156-15-302a, R156-15-303, and R156-15-308, these proposed amendments are expected to indirectly benefit small businesses and non-small businesses that employ licensed

health facility administrators, due to an increase in licensure of qualified applicants and a corresponding increase in both new and experienced licensees available for employment. In addition to being able to more easily hire new employees, these businesses also may be able to transfer existing employees from another state to a Utah location. The Division currently processes on average approximately 40 new applications for licensure each year, and there are an estimated 80 small business facilities and an estimated 144 non-small business facilities offering skilled nursing or similar services in Utah who employ licensed health facility administrators, such as nursing care facilities (including skilled nursing facilities, retirement homes or rest homes with nursing care, and group homes for the disabled or aged with nursing care) (NAICS 623110), and general or specialty hospitals and centers (NAICS 622110, 622310). However, the full fiscal and non-fiscal benefits to these businesses cannot be estimated because the benefits obtained from being able to more easily hire qualified licensed health facility administrators, especially administrators with years of experience in their profession, will vary substantially depending on the requirements of each business and on the individual characteristics and unique choices of each individual licensee.

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:

◆ Allyson Pettley by phone at 801-530-6179, by FAX at 801-530-6511, or by Internet E-mail at apettley@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/03/2018

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 11/07/2018 10:00 AM, Heber Wells Bldg, 160 E 300 S, Hearing Room 250 (second floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2018

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)

Sections R156-15-102, R156-15-302d, and R156-15-309: These proposed amendments are not expected to have any impact on non-small business revenues or expenditures because they merely clarify existing licensure requirements in accordance with current industry standards and practices, and apply only to individuals licensed as health facility administrators or who are applying for licensure as health facility administrators.

Sections R156-15-302a, R156-15-303, and R156-15-308: These proposed amendments are expected to indirectly benefit non-small businesses that employ licensed health facility administrators, due to an increase in licensure of qualified applicants and a corresponding increase in both new and experienced licensees available for employment. In addition to being able to more easily hire new employees, these businesses also may be able to transfer existing employees from another state to a Utah location. The Division currently processes on average approximately 40 new applications for licensure each year, and there are an estimated 144 non-small business facilities offering skilled nursing or similar services in Utah who might hire licensed health facility administrators, such as Nursing Care Facilities (including skilled nursing facilities, retirement homes or rest homes with nursing care, and group homes for the disabled or aged with nursing care)

(NAICS 623110), and general or specialty hospitals and centers (NAICS 622110, 622310. However, the full fiscal and non-fiscal benefits to these non-small businesses cannot be estimated because the benefits obtained from being able to more easily hire qualified licensed health facility administrators, especially administrators with

years of experience in their profession, will vary substantially depending on the requirements of each non-small business and on the individual characteristics and unique choices of each individual licensee.

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

**R156. Commerce, Occupational and Professional Licensing.
R156-15. Health Facility Administrator Act Rule.
R156-15-101. Title.**

This rule is known as the "Health Facility Administrator Act Rule".

R156-15-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 15, as used in this rule:

(1) "Administrator in training (AIT)" means an individual who is participating in a preceptorship with a licensed health facility administrator.

(2) "Board" means the Health Care Administrators Board.

(3) "Distance learning" means acquiring ~~qualified~~ continuing professional education (CPE) as referenced in ~~S[ubs]ection R156-15-309[(4)]~~ using technologies and other forms of learning, including internet, audio/visual recordings, mail, or other correspondence.

(4) "General administration" as used in the definition of "administrator", Subsection 58-15-2(1), means that the administrator is responsible for operation of the health facility in accordance with all applicable laws regardless of whether the administrator is present full or part time in the facility or whether the administrator maintains an office inside or outside of the facility, but may not exceed responsibility for more than the number of licensed facilities in accordance with Utah Administrative Code R432-150 or R432-200.

(5) "General supervision" means general supervision as defined in Subsection R156-1-102a(4)(c).

(6) "NAB" means the National Association of Long Term Care Administrators Boards.

~~[(6)7]~~ "Nursing home administrator" means a health facility administrator.

~~[(7)8]~~ "Preceptor" means a licensed health facility administrator meeting the qualifications of Subsection R156-15-307(2), who is responsible for the supervision and training of an AIT.

~~[(8)9]~~ "Preceptorship" means a formal training program for an administrator in training (AIT), that is:

- ~~(a) conducted in a licensed health facility;~~
- ~~(b) under the supervision of an approved licensed health facility administrator; and~~

~~(c) approved by the Division in collaboration with the Board [for an administrator in training (AIT), under the supervision of an approved licensed health facility administrator. The program is conducted in a licensed health facility].~~

~~[(9)10]~~ "Qualifying experience" means at least 8,000 hours of employment in a licensed health facility including hours in a supervisory role as referenced in Section R156-15-302c.

R156-15-302a. Qualifications for Licensure - Application Requirements.

In accordance with Subsections 58-1-203(1)(b) and 58-1-301(3), the application requirements for licensure in Section 58-15-4 are defined, clarified, or established as follows:

(1)(a) ~~[C]complete an approved AIT preceptorship consisting of a minimum of 1,000 hours[-]; or~~

~~(b) hold a NAB Health Services Executive (HSE) credential; and~~

~~(2) [M]meet;~~

~~(a) [either]the education requirement in Section R156-15-302b; or~~

~~(b) the experience requirement in Section R156-15-302c.~~

R156-15-302d. Qualifications for Licensure - Examination Requirements.

In accordance with Subsections 58-1-203(1)(b) and 58-1-301(3), the examination requirement for licensure in Subsection 58-15-4(4) is defined, clarified, or established as follows:

(1) ~~[The National Association of Boards of Examiners for Nursing Home Administrators (NAB) examination is the qualifying examination required]~~An applicant for licensure as a health facility administrator[-] shall pass NAB's two-part component examination for nursing home administrators:

(a) the National Core of Knowledge Examination for Long Term Care Administrators (CORE); and

(b) the National Nursing Home Administrator Line of Service Examination Program (NHA).

(2) The passing score [on the]for each NAB exam[ination]component shall be a minimum scaled score of 113.

(3) An applicant may take both NAB exam components at once, or take each component individually.

(4) An applicant who fails a NAB exam component shall retake that component in accordance with NAB policies and procedures.

(5) An applicant who took the NAB exam prior to July 5, 2017, shall have passed the NAB National Nursing Home Administrator Licensing Examination (NHA) with a minimum scaled score of 113.

R156-15-303. Expiration, Renewal, and Reinstatement of License[-] Cycle - Procedures.

~~[(+)]In accordance with S[ub]section 58-1-308[(+)];~~

~~(1) The [the]-renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 15 is established by rule in Section R156-1-308a(1).~~

~~(2) Renewal and reinstatement procedures shall be in accordance with Sections R156-1-308[e]a through R156-1-308l, except as provided in Subsection (3).~~

~~(3) If an application for reinstatement of licensure is received by the Division between two years and five years after the date the license expired, and the license was active and in good standing at the time of expiration, the applicant shall:~~

~~(a) submit a completed renewal form as furnished by the Division demonstrating compliance with all requirements and conditions of license renewal;~~

~~(b) pay the established license renewal fee and reinstatement fee for the current renewal period;~~

~~(c) submit evidence of completion of continuing professional education (CPE) for each preceding renewal period in which the license was expired; and~~

~~(d) provide information requested by the Division and Board to clearly demonstrate the applicant is currently competent to engage in the profession.~~

R156-15-308. License By Endorsement.

~~[A license may be granted to an applicant in]~~In accordance with Section 58-1-302 and Subsection 58-15-4(6), the Division may grant a license by endorsement to an applicant who[-is]:

(1) is currently a licensed health facility administrator in good standing in another state; and

(2) meets the examination requirement [as stated-]in Section R156-15-302d[-]; and

(3) meets one or more of the following equivalent education or experience requirements:

(a) has been employed as a health facility administrator in another state for three years;

(b) has been employed as a health facility administrator at the same facility in another state for two consecutive years; or

(c) holds a Health Services Executive (HSE) credential from the National Association of Long Term Care Administrator Boards (NAB).

R156-15-309. Continuing Education.

~~[(+)]In accordance with Subsections 58-1-203(1)(g) and 58-1-308(3)(b), [there is created - a]the following continuing professional education requirements ("CPE") are established as a condition for renewal or reinstatement of licenses under Title 58, Chapter 15[-];~~

~~[(2)]1) During each two-[-]year period commencing on June 1 of each odd-[-]numbered year, a licensee shall [be required to]complete [not less than]at least 40 hours of [qualified professional education]CPE directly related to the licensee's professional practice[-, of which no more than 10 hours shall be distance learning].~~

~~[(3)]2) [The required number of hours of qualified professional education for an individual who]If a licensee first becomes licensed during the two-[-]year renewal period, the licensee's required number of CPE hours shall be decreased [in a pro-rata amount equal to any part of that two year period preceding the date on which that individual first became licensed]proportionately according to the date of licensure.~~

~~[(4)]3) [Qualified professional education under this section]All CPE shall:~~

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

~~(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.

~~(5)4~~ The following may qualify as CPE:

~~(a) e~~[E]ducation obtained from an accredited university or college in pursuit of an advanced degree~~may qualify as continuing education.~~

~~(b) lecturing or instructing a CPE course or teaching in a college or university in the licensee's profession.~~

~~(6)c~~ [Continuing professional]education under the sponsorship of or approved by [the]a licensing agency of Utah or another state;~~may qualify as continuing education.~~

~~(7)d~~ real-time, interactive distance learning courses that are clearly documented as real-time and interactive.

~~(e) distance learning courses that are not real-time and interactive, up to a maximum of 20 CPE hours;~~

~~(f) volunteer service on boards, committees, or in leadership roles in any state, national, or international organization for the development and improvement of the licensee's profession, up to a maximum of 10 CPE hours.~~

~~(5) A licensee shall [be responsible for maintaining competent records of completed qualified 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 professional education to demonstrate it meets the requirements under this section]maintain adequate documentation as proof of the licensee's compliance with this section, for a period of four years after the end of the renewal cycle for which the CPE is due.~~

~~(8)6~~ [Waiver from or an extension of time to complete continuing education shall be]The Division may defer or waive CPE requirements in accordance with Section R156-1-308d.~~[A licensee who receives a waiver or extension may be excused from the requirement]for a period of up to three years.~~

KEY: licensing, health facility administrators

Date of Enactment or Last Substantive Amendment: [May 8, 2014]2018

Notice of Continuation: August 25, 2016

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-15-3(3)

Commerce, Occupational and Professional Licensing **R156-20a-302a**

Qualifications for Licensure - Education Requirements

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 43250

FILED: 10/11/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Environmental Health Scientist Licensing

Board (Board) proposes these amendments to: 1) make minor formatting changes for clarity; 2) allow applicants for licensure under Rule R156-20a to meet certain education requirements through greater consideration of additional coursework; and 3) in accordance with changes made by S.B. 15 (2018), update the rule regarding education requirements by identifying options for foreign credential evaluation.

SUMMARY OF THE RULE OR CHANGE: These proposed substantive amendments are as follows: in former Subsection R156-20a-302a(2) (now new Subsection R156-20a-302a(1)(b) and new Subsection R156-20a-302a(3)), these proposed amendments will allow applicants seeking licensure as an environmental health scientist or environmental health scientist-in-training to satisfy certain education requirements through greater consideration of additional coursework by the Division Of Occupational and Professional Licensing in collaboration with the Board. New Subsection R156-20a-302a(2), to comply with S.B. 15 (2018), these proposed amendments identify additional options for foreign credential evaluations for an applicant seeking licensure as an environmental health scientist or environmental health scientist-in-training.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-20a-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The Division currently processes, on average, approximately 15 new applications for licensure under this rule each year, and the Division estimates that these proposed amendments will lead to an increase in licensure of qualified applicants. This estimated increase cannot be quantified as the data is not available, but any increase will indirectly affect those who employ licensed environmental health scientists or environmental health scientists-in-training. This will include certain government entities because the majority of these licensees are employed by state agencies or various counties in the state of Utah. These state employers will benefit due to a corresponding increase in both new and experienced licensees available for employment. Also, in addition to being able to more easily hire new employees, these employers may be able to transfer existing employees from another state to a Utah location. However, the full fiscal and non-fiscal benefits to the state budget cannot be estimated because the benefits obtained from being able to more easily hire qualified employees will vary substantially depending on the requirements of each employer, and on the individual characteristics and unique choices of each individual applicant and licensee. Further, because the proposed amendments regarding foreign credentialing only conform this rule to practices already required by S.B. 15 (2018), there will no impact on state agencies from those changes over and above that included in the fiscal note for S.B. 15 (2018), available online at <https://le.utah.gov/~2018/bills/static/SB0015.html>. Lastly, none of these proposed amendments will otherwise impact

state government revenues or expenditures because they merely allow applicants additional options for meeting requirements, and will not affect the Division's existing licensing procedures or processes. Also, any increase in staff workload that may be caused by additional applications and individuals becoming licensed will be balanced by additional revenue and absorbed within the Division's existing budget. 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:** The Division estimates that these proposed amendments will lead to an increase in licensure of qualified applicants. This estimated increase cannot be quantified as the data is not available, but any increase will indirectly affect those who employ licensed environmental health scientists or environmental health scientists-in-training. This will include certain local government entities because the majority of these licensees are employed by Utah agencies or various counties in the state of Utah. Local government employers will benefit due to a corresponding increase in both new and experienced licensees available for employment. Also, in addition to being able to more easily hire new employees, these employers may be able to transfer existing employees from another state to a Utah location. However, the full fiscal and non-fiscal benefits to local governments cannot be estimated because the benefits obtained from being able to more easily hire qualified licensed employees will vary substantially depending on the requirements of each employer and on the individual characteristics and unique choices of each individual applicant and licensee. Further, because these proposed amendments regarding foreign credentialing only conform this rule to practices already required by S.B. 15 (2018), there will be no impact on local government from those changes over and above that included in the fiscal note for S.B. 15 (2018), available online at <https://le.utah.gov/~2018/bills/static/SB0015.html>.

◆ **SMALL BUSINESSES:** The Division estimates that these proposed amendments will lead to an increase in licensure of qualified applicants. This estimated increase cannot be quantified as the data is not available, but any increase will indirectly affect the estimated 16 small businesses (NAICS 923120, 926140) who employ licensed environmental health scientists or environmental health scientists-in-training. Small business employers will benefit due to a corresponding increase in both new and experienced licensees available for employment. Also, in addition to being able to more easily hire new employees, employers may be able to transfer existing employees from another state to a Utah location. The full fiscal and non-fiscal benefits cannot be estimated because the benefits obtained from being able to more easily hire qualified licensed employees will vary substantially depending on the requirements of each employer, and on the individual characteristics and unique choices of each individual applicant and licensee. Further, because these proposed amendments regarding foreign credentialing only conform this rule to practices already required by S.B. 15 (2018), there will be no impact on small businesses from

those changes over and above that included in the fiscal note for S.B. 15 (2018), available online at <https://le.utah.gov/~2018/bills/static/SB0015.html>.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Division currently processes, on average, approximately 15 new applications for licensure under this rule each year, and the Division estimates that these proposed amendments will lead to an increase in licensure of qualified applicants. This estimated increase cannot be quantified as the data is not available, but any increase will benefit those applicants who are able to become licensed and become employed in their field. The full fiscal and non-fiscal benefits to these persons cannot be estimated because the benefits obtained will vary substantially depending on the requirements of each employer, and on the individual characteristics and unique choices of each individual licensee. Further, because these proposed amendments regarding foreign credentialing only conform this rule to practices already required by S.B. 15 (2018), there will be no impact on other persons from those changes over and above that included in the fiscal note for S.B. 15 (2018), available online at <https://le.utah.gov/~2018/bills/static/SB0015.html>.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Division estimates that there will be no compliance costs for any affected persons from these proposed amendments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The proposed substantive amendments are as follows: in the former Subsection R156-20a-302a(2) (now new Subsection R156-20a-302a(1)(b) and new Subsection R156-20a-302a(3)), these proposed amendments will allow applicants seeking licensure as an environmental health scientist or environmental health scientist-in-training to satisfy certain education requirements through greater consideration of additional coursework by the Division in collaboration with the Board. New Subsection R156-20a-302a(2), to comply with S.B. 15 (2018), these proposed amendments identify additional options for foreign credential evaluations for an applicant seeking licensure as an environmental health scientist or environmental health scientist-in-training. The Division estimates that these proposed amendments will lead to an increase in licensure of qualified applicants. This estimated increase cannot be quantified as the data is not available, but any increase will indirectly affect the estimated 16 small businesses (NAICS 923120, 926140) who employ licensed environmental health scientists or environmental health scientists-in-training. Small business employers will benefit due to a corresponding increase in both new and experienced licensees available for employment. Also, in addition to being able to more easily hire new employees, employers may be able to transfer existing employees from another state to a Utah location. The full fiscal and non-fiscal benefits cannot be estimated because the benefits obtained from being able to more easily hire qualified licensed employees will vary substantially depending on the requirements of each employer and on the individual

characteristics and unique choices of each individual applicant and licensee. Further, because these proposed amendments regarding foreign credentialing only conform this rule to practices already required by S.B. 15 (2018), there will be no impact on small businesses from those changes over and above that included in the fiscal note for S.B 15 (2018), available online at <https://le.utah.gov/~2018/bills/static/SB0015.html>. The Division estimates that these proposed amendments will lead to an increase in licensure of qualified applicants. This estimated increase cannot be quantified as the data are not available, but any increase will indirectly affect the single non-small business (NAICS 923120, 926140) who employs licensed environmental health scientists or environmental health scientists-in-training. Because these proposed amendments regarding foreign credentialing only conform this rule to practices already required by S.B. 15 (2018), there will be no impact on non-small business from those changes over and above that included in the fiscal note for S.B 15 (2018), available online at <https://le.utah.gov/~2018/bills/static/SB0015.html>.

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

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INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/03/2018

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 11/07/2018 09:00 AM, Heber Wells Bldg, 160 E 300 S, Hearing Room 250 (second floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2018

AUTHORIZED BY: Mark Steinagel, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$0	\$0	\$0
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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 (50 or more employees)

The Division estimates that these proposed amendments will lead to an increase in licensure of qualified applicants. This estimated increase cannot be quantified as the data are not available, but any increase will indirectly affect the estimated 1 non-small businesses (NAICS 923120, 926140) who employ licensed environmental health scientists or environmental health scientists-in-training. Non-small business employers will benefit due to a corresponding increase in both new and experienced licensees available for employment. Also, in addition to being able to more easily hire new employees, employers may be able to transfer existing employees from another state to a Utah location. The full fiscal and non-fiscal benefits cannot be estimated because the benefits obtained from being able to more easily hire qualified licensed employees will vary substantially depending on the requirements of each employer and on the individual characteristics and unique choices of each individual applicant and licensee. Further, because the proposed amendments regarding foreign credentialing only conform the rule to practices already required by S.B. 15 (2018), there will be no impact on non-small business from those changes over and above that included in the Fiscal Note for S.B 15 (2018), available online at <https://le.utah.gov/~2018/bills/static/SB0015.html>.

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

**R156. Commerce, Occupational and Professional Licensing.
 R156-20a. Environmental Health Scientist Act Rule.
 R156-20a-302a. Qualifications for Licensure - Education Requirements.**

In accordance with Subsections 58-20a-102(1)(b) and 58-20a-302(1)(d)[;] and (2)(d)[-and (3)(d)], an applicant for licensure shall satisfy the education requirement as follows:

(1) ~~The applicant shall~~ submit evidence of a bachelor's ~~or master's~~ degree ~~or higher~~ from:

~~(a) an environmental health program accredited by the National Environmental Health Science and Protection Accreditation Council (EHAC);~~~~or~~

~~(2)b [submit evidence of a bachelor's or master's degree from] an accredited program [in a college or university] with major study in one of the following:~~

~~(a)i~~ agronomy;

~~(b)ii~~ biology;

~~(e)iii~~ botany;

~~(d)iv~~ chemistry;

~~(e)v~~ civil engineering;

~~(f)vi~~ environmental health;

~~(g)vii~~ environmental science;

~~(h)viii~~ environmental studies;

~~(i)x~~ geology;

~~(j)x~~ microbiology;

~~(k)xi~~ physics;

~~(l)xii~~ physiology;

~~(m)xiii~~ sanitary engineering;

~~(n) science-based public health;~~

~~(o)xiv~~ sustainability studies;~~or~~

~~(p)xv~~ zoology; or

~~(xvi) coursework approved by the Division in collaboration with the Board; or~~

~~(3)c [submit evidence of a bachelor's or master's degree from] an accredited program [in a college or university including] that includes:~~

~~(a)i~~ a college or university level algebra or math course; and

~~(b)ii~~ 30 semester hours or 45 quarter hours from at least three of the areas of study listed in Subsection ~~(2)(1)(b)~~.

~~(2) If the applicant's degree was earned at an institution, college, or university not accredited by the Department of Education or the Council for Higher Education Accreditation (such as in a foreign country), the applicant shall submit evidence of the education's equivalency to Department of Education-accredited programs, as determined by:~~

~~(a) Academic Evaluation Services, Inc;~~

~~(b) Josef Silny & Associates, Inc.; or~~

~~(c) a credentialing agency approved by the Division in collaboration with the Board.~~

~~(3) An applicant may satisfy deficiencies in coursework by completion of additional hours of approved coursework at an institution, college, or university accredited by the Department of Education or the Council for Higher Education Accreditation, as approved by the Division in collaboration with the Board.~~

KEY: licensing, environmental health scientist, sanitarian, environmental health scientist-in-training

Date of Enactment or Last Substantive Amendment: ~~July 9, 2015~~2018

Notice of Continuation: April 27, 2015

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-20a-101

Professional Licensing R156-78B Prelitigation Panel Review Rule

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 43251

FILED: 10/11/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: S.B. 223 (2018) amended the Utah Health Care Malpractice Act (Title 78B, Chapter 3, Part 4) to require the Division of Occupational and Professional Licensing (Division) to compile certain information related to medical liability prelitigation proceedings, and authorized the Division to gather that information from various persons involved in the proceedings. These proposed amendments will allow the Division to carry out this mandate. Additionally, these proposed amendments update the rule for clarity and to encompass current requirements.

SUMMARY OF THE RULE OR CHANGE: In Section R156-78B-6, these proposed amendments make nonsubstantive formatting changes for clarity. In Section R156-78B-16a, these proposed amendments clarify that an affidavit of merit must identify by name each respondent included in the affidavit. In Section R156-78B-16b, these proposed amendments require a claimant (or claimant's attorney) who signs an affidavit of merit to: 1) identify by name each respondent included in the affidavit; and 2) certify that if the affiant files an action in court against a respondent, the affiant will notify the Division of that action within 60 days of the filing as required by Section R156-78B-17. In Section R156-78B-16c, these proposed amendments: 1) require a health care provider who signs an affidavit of merit to describe the affiant's license class and professional specialty; and 2) clarify that the affidavit of merit must identify by name each respondent included in the affidavit and describe the health care provider's opinion for the named respondent. In Section R156-78B-16d, these proposed amendments remove certain references to Title 58 licensing, to conform this rule to Subsection 78B-4-423(4) as amended by S.B. 223 (2018). In Section R156-78B-16e, these proposed amendments make nonsubstantive formatting changes for clarity. Section R156-78B-17 is a new section that requires a claimant who files an action in court against a respondent to give the Division written notice of that action within 60 days of filing. The notice must identify the date of filing, the court, and the name of the respondent.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 78B-3-416(1)(b)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** No impact to the state is expected from these proposed changes, beyond a minimal cost to the

Commerce, Occupational and

Division of approximately \$75 to print and distribute this rule once the changes are made effective. The proposed new Section R156-78B-17 requiring a claimant to notify the Division of the filing of a court action, and the amendment to Section R156-78B-16c requiring an affiant health care provider to state license class and professional specialty, are based on the mandates of S.B. 223 (2018) and therefore, the Division estimates that there should be no impact from these changes over and above that already included in the fiscal note for S.B. 223 (2018), available online at <https://le.utah.gov/~2018/bills/static/SB0223.html>.

The remainder of these proposed changes only update this rule and clarify current requirements, and so are not expected to impact state government revenues or expenditures.

◆ **LOCAL GOVERNMENTS:** No impact to local governments is expected from these proposed changes. The proposed new Section R156-78B-17 requiring a claimant to notify the Division of the filing of a court action, and the amendment to Section R156-78B-16c requiring an affiant health care provider to state license class and professional specialty, are based on the mandates of S.B. 223 (2018) and therefore, the Division estimates that there should be no impact from these changes over and above that already included in the fiscal note for S.B. 223 (2018), available online at <https://le.utah.gov/~2018/bills/static/SB0223.html>.

The remainder of these proposed changes only update this rule and clarify current requirements, and so are not expected to impact local government revenues or expenditures.

◆ **SMALL BUSINESSES:** No direct or indirect impact to small businesses is expected from these proposed changes. There are approximately 9,421 small businesses in Utah's health care industry that could be affected if they or their owners are hired to provide an affidavit of merit in prelitigation proceedings. (Broadly, this 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, these changes will not affect the price or quantity of any exchanges involving these small businesses, as they only clarify existing requirements or carry out the mandates of S.B. 223 (2018) and will have no impact over and above that already included in the fiscal note for S.B. 223 (2018), available online at <https://le.utah.gov/~2018/bills/static/SB0223.html>.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No impact on other persons is expected from these proposed changes. These changes may affect claimants and health care providers who prepare affidavits of merit for prelitigation proceedings, as the changes clarify that claimants and health care providers must identify respondents by name, and require providers to state their license class and professional specialty. The proposed new Section R156-78B-17 requiring claimants to notify the Division of a court action will affect claimants who file an action against a respondent after completing prelitigation proceedings. However, because these proposed changes only clarify existing requirements or carry out the mandates of S.B. 223 (2018), the Division estimates that these changes will have no impact on other persons over and above that already included in the fiscal

note for S.B. 223 (2018), available online at <https://le.utah.gov/~2018/bills/static/SB0223.html>.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No compliance costs for affected persons is expected from these proposed changes. These changes may affect a claimant or a health care provider who prepares an affidavit of merit for prelitigation proceedings, as these changes clarify that claimants and health care providers must identify respondents by name, and require providers to state their license class and professional specialty. The proposed new Section R156-78B-17 requiring claimants to notify the Division of a court action will affect a claimant who files an action against a respondent after completing prelitigation proceedings. However, because these proposed changes only clarify existing requirements or carry out the mandates of S.B. 223 (2018), the Division estimates that these changes will have no compliance costs for any of these affected persons over and above that already included in the fiscal note for S.B. 223 (2018), available online at <https://le.utah.gov/~2018/bills/static/SB0223.html>.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In Section R156-78B-6 and Section R156-78B-16e, these proposed amendments make nonsubstantive formatting changes for clarity. In Section R156-78B-16a, these proposed amendments clarify that an affidavit of merit must identify by name each respondent included in the affidavit. In Section R156-78B-16b, these proposed amendments require a claimant (or claimant's attorney) who signs an affidavit of merit to: 1) identify by name each respondent included in the affidavit; and 2) certify that if the affiant files an action in court against a respondent, the affiant will notify the Division of that action within 60 days of the filing as required by Section R156-78B-17. In Section R156-78B-16c, these proposed amendments: 1) require a health care provider who signs an affidavit of merit to describe the affiant's license class and professional specialty; and 2) clarify that the affidavit of merit must identify by name each respondent included in the affidavit and describe the health care provider's opinion for the named respondent. In Section R156-78B-16d, these proposed amendments remove certain references to Title 58 licensing, to conform this rule to Subsection 78B-4-423(4) as amended by S.B. 223 (2018). The new Section R156-78B-17 requires a claimant who files an action in court against a respondent to give the Division written notice of that action within 60 days of filing. The notice must identify the date of filing, the court, and the name of the respondent. No direct or indirect impact to small businesses is expected from these proposed changes. There are approximately 9,421 small businesses in Utah's health care industry that could be affected if they or their owners are hired to provide an affidavit of merit in prelitigation proceedings. Broadly, this could include most small businesses categorized under NAICS 62. However, these changes will not affect the price or quantity of any exchanges involving small businesses, as they only clarify existing requirements or carry out the mandates of S.B. 223 (2018) and will have no impact over and above that already included in the fiscal note for S.B. 223 (2018),

available online at <https://le.utah.gov/~2018/bills/static/SB0223.html>. No direct or indirect impact to non-small businesses is expected from these proposed changes. There are approximately 488 non-small businesses in Utah's health care industry that could be affected if they or their owners are hired to provide an affidavit of merit in prelitigation proceedings. However, these changes will not affect the price or quantity of any exchanges involving these non-small businesses, as they only clarify existing requirements or carry out the mandates of S.B. 223 (2018) and will have no impact over and above that already included in the fiscal note for S.B. 223 (2018), available online at <https://le.utah.gov/~2018/bills/static/SB0223.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:

◆ Adele Bancroft-Eklund by phone at 801-530-6990, by FAX at 801-530-6511, or by Internet E-mail at abancroft@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/03/2018

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 11/07/2018 09:30 AM, Heber Wells Bldg, 160 E 300 S, Hearing Room 250 (second floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2018

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)

No direct or indirect impact to non-small businesses is expected from these proposed changes. There are approximately 488 non-small businesses in Utah's health care industry that could be affected if they or their owners are hired to provide an affidavit of merit in prelitigation proceedings. Broadly, this 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, these changes will not affect the price or quantity of any exchanges involving these non-small businesses, as they only clarify existing requirements or carry out the mandates of S.B. 223 (2018) and will have no impact over and above that already included in the fiscal note for S.B. 223 (2018), available online at <https://le.utah.gov/~2018/bills/static/SB0223.html>.

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

R156. Commerce, Occupational and Professional Licensing. R156-78B. Prelitigation Panel Review Rule. R156-78B-6. Pleadings.

(1) Docket Number and Title.

Upon receipt of a timely Request for Prelitigation Review, the Division shall assign a two letter code identifying the matter as involving this type of request (PR), a two digit code indicating the year the request was filed, a two digit code indicating the month the request was filed, and another number indicating chronological position among requests filed during the month. The Division shall give the matter a title in substantially the following form:

TABLE I

BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
 OF THE DEPARTMENT OF COMMERCE
 OF THE STATE OF UTAH

John Doe,
 Petitioner

Request for
 Prelitigation Review

-vs-

Richard Roe,
Respondent

No. PR-XX-XX-XXX

(2) Form and Content of Pleadings.

(a) Pleadings ~~must~~ shall

~~(i) be double-spaced and typewritten and presented on standard 8 1/2" x 11" white paper;~~ ~~They must~~

~~(ii) identify the proceeding by title and docket number, if known;~~ and

~~(iii) shall~~ contain a clear and concise statement of the matter relied upon as a basis for the pleading, together with an appropriate prayer for relief when relief is sought.

(b) A request shall:

(i) by affirmation, set forth the date that the required notice was served; ~~shall~~

(ii) include a copy of the notice; and ~~shall~~

(iii) reflect service of the request upon all parties named in the notice and request.

(c) ~~When~~ If a petitioner fails to attach a copy of the notice to petitioner's request, the Division shall return the request to the petitioner with a written notice of incomplete request and conditional denial thereof. The notice shall advise the petitioner that ~~his~~ the request is incomplete and that the request is denied unless the petitioner corrects the deficiency within the time period specified in the notice and otherwise meets all qualifications to have the request granted.

(3) Signing of Pleadings.

Pleadings shall be signed by the party or their counsel of record and shall indicate the addresses of the party and, if applicable, their counsel of record. The signature shall be deemed to be a certification that the signer has read the pleading and that, to the best of ~~his~~ the signer's knowledge and belief, there is good ground to support it.

(4) Answers.

A respondent named in a request may file an answer relative to the merits set forth in the petitioner's notice. Affirmative defenses shall be separately stated and numbered in an answer or raised at the time of the hearing. Any answer must be filed no later than 15 days following the filing of the request.

(5) Motions.

(a) Motions to be Filed in Writing.

Motions shall be in writing unless the motion could not have been anticipated prior to the prelitigation panel hearing.

(b) Time Periods for Filing Motions and Responding Thereto.

(i) Motions to Withdraw a Request.

Any motion to withdraw a request shall be filed no later than five days before the prelitigation panel hearing.

(ii) Motions Directed Toward a Request.

Any motion directed toward a request shall be filed no later than 15 days after service of the request.

(iii) Motions Directed Toward the Composition of a Panel.

Any motion directed toward the composition of a panel shall be filed no later than five days after discovering a basis therefore.

(iv) Motions to Dismiss.

Any motion to dismiss shall be filed no later than five

days after discovering a basis therefore.

(v) Extraordinary Motions for Discovery or Perpetuation of Evidence.

Any motion seeking discovery or perpetuation of evidence for good cause shown demonstrating extraordinary circumstances shall be filed no later than 15 days before the prelitigation panel hearing.

(vi) Response to a Motion.

A response to a motion shall be filed no later than five days after service of the motion and any final reply shall be filed no later than five days after service of the response to the motion.

(c) Affidavits and Memoranda.

The Division or panel shall permit and may require affidavits and memoranda, or both, in support or contravention of a motion.

(d) The Division or panel may permit or require oral argument on a motion.

R156-78B-16a. Affidavits of Merit - In General.

(1) The required affidavit of merit under Subsection 78B-3-423(1) shall consist of two or more affidavits:

(a) one executed by ~~counsel~~ the claimant's attorney or by a pro se claimant as required by Subsection 78B-3-423(2)(a); and

(b) one or more signed by an appropriate health care provider or providers as required by Subsections 78B-3-423(2)(b) and (3).

(2) The required affidavits shall:

(a) comply with Section R156-78B-6 governing pleadings and Section R156-78B-7 governing filings and service; and

(b) identify by name each respondent included in the affidavit.

R156-78B-16b. Affidavits of Merit - Affidavit of Counsel.

Each affidavit of merit executed by ~~counsel~~ the claimant's attorney or by a pro se claimant as required by Subsections 78B-3-423(1) and (2)(a) shall include the following text immediately prior to the affiant's signature:

TABLE V

[—] I hereby certify: ~~that the affiant has~~
1. that I have consulted with and [
] reviewed the facts of the case with a ~~n appropriate~~ health care [
] provider (or providers) who meet(s) the requirements of Utah Code Su
bsection 78B-3-416(4); ~~and~~
 2. that the provider (or providers) has [
] (have) determined after a review of the medical record and other [
] relevant material involved in the particular action that there [
] is a reasonable and meritorious cause for the filing of a [
] medical liability action with respect to (identify by name each resp
ondent included in the affidavit(s) of merit); and
 3. that if I file an action in court against a respondent, I will noti
fy the Division within 60 days of the filing in accordance with Utah A
ministrative Code R156-78B-17.
 [—] The affidavit(s) of merit are [
] attached.

R156-78B-16c. Affidavits of Merit - Affidavit of Health Care Provider or Providers.

(1) Each affidavit of merit signed by a health care provider as required by Subsections 78B-3-423(1) and (2)(b) shall

include the following text immediately prior to the affiant's signature:

TABLE VI

I hereby certify that I am an appropriate health care[]_provider qualified to render an affidavit of merit in this[]_medical malpractice case as specified by Utah Code Subsection []_78B-3-423([3]4). My license class and professional specialty are: (describe).

I further certify that I have reviewed the medical records[]_and other relevant material involved in this medical malpractice[]_case and have determined that[~~-in my opinion~~]:

(1) In my opinion, there[There] are reasonable grounds to believe that the[]_applicable standard of care was breached by the following respondent (s): (identify by name each respondent included in the affidavit).

(2) In my opinion, the[The] breach was a proximate cause of the i njury claimed[]_in the notice of intent to commence action.

(3) The specific reasons for my opinion are [as follows](explanation for each respondent named in the affidavit).

(2) As provided by Subsection 78B-3-423(~~(2)(c)~~)(3), the statement that there are reasonable grounds to believe that the applicable standard of care was breached shall be waived if the claimant received an opinion that there was a breach of the applicable standard of care under Subsection 78B-3-418(2)(a)(i).

R156-78B-16d. Affidavits of Merit - ~~Appropriate~~ Health Care Provider Affiant or Affiants.

The ~~appropriate~~ health care provider who ~~is required to issue~~ signs an affidavit of merit under Subsection 78B-3-423([3]4) and R156-78B-16c is clarified as follows. The health care provider shall:

(1) if none of the respondents is a physician ~~[under Title 58, Chapter 67, Utah Medical Practice Act,] or an osteopathic physician[under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act],~~ be one or more health care providers who hold an active and in good standing license in Utah or another state in the same specialty or the same class of license as the respondents; or

(2) if at least one of the respondents is a physician ~~[under Title 58, Chapter 67, Utah Medical Practice Act,] or an osteopathic physician[under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act],~~ be exclusively a physician who is licensed and in good standing in Utah or another state to practice medicine in all of its branches.

R156-78B-16e. Affidavits of Merit - Request for 60-day Extension to File.

(1) In accordance with Subsection 78B-3-423([4]5), a ~~petitioner's~~ request for a 60-day extension to file an affidavit of merit shall be supported by an affidavit signed by the ~~petitioner's or petitioner's~~ claimant or the claimant's attorney that includes the following text immediately prior to the affiant's signature:

TABLE VII

I hereby certify that the claimant is unable to timely[]_submit an affidavit of merit as required by Subsection 78B-3-[]_423(1) because:

(1) a statute of limitations would impair the action; and
(2) the affidavit of merit could not be obtained before the[]_expiration of the statute of limitations for the following[]_reason or reasons (describe).

I further certify that this affidavit has been served on[]_each named respondent in accordance with Section R156-78B-7 on the e arlier of:

(a) the required time frame specified in Subsection 78B-3-[]_423(1)(b)(i); or
(b) the date this affidavit was filed with the Division.

(2) Any respondent may submit a response to a request for extension to file an affidavit of merit within five days after the service of the affidavit. Any response shall be in the form of a counter affidavit.

(3) The Division shall review an ~~petitioner's~~ affidavit in support of ~~petitioner's~~ a claimant's request for a 60-day extension, ~~to file an affidavit of merit~~ and respondent's counter affidavit, if any, and render a determination within 15 days after the filing of the request.

R156-78B-17. Notice to Division of Court Action.

(1) If a claimant files an action in court against a respondent, the claimant shall give the Division written notice of that action within 60 days of the filing.

(2) The notice shall identify:

- (a) the filing date;
- (b) the court; and
- (c) the name of the respondent.

KEY: medical malpractice, prelitigation, certificate of compliance, affidavit of merit

Date of Enactment or Last Substantive Amendment: ~~November 8, 2014~~ 2018

Notice of Continuation: January 10, 2017

Authorizing, and Implemented or Interpreted Law: 78B-3-416(1)(b)

**Education, Administration
R277-301
Educator Licensing**

**NOTICE OF PROPOSED RULE
(New Rule)**

**DAR FILE NO.: 43273
FILED: 10/15/2018**

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule specifies the types of licenses and license areas of concentration available, and the requirements and procedures for obtaining a license, required

for employment as a licensed educator in the public schools of Utah.

SUMMARY OF THE RULE OR CHANGE: R277-301 provides the foundation for implementation of the three-tier licensing structure required by H.B. 46, Educator Licensing Modifications, passed in the 2018 General Session. This rule has a delayed implementation of January 1, 2020 and will not go into full effect until the 2020-2021 school year. This rule creates the Professional, Associate, and LEA-Specific educator licenses.

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

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This rule is not expected to have any fiscal impact on state government revenues or expenditures because it provides a new licensing structure for educators. Current educators are also required to be licensed. This rule creates the foundation for implementation of the three-tier licensing structure adopted by the Utah State Board of Education (Board) and passed by the Utah legislature in 2018. This rule has a delayed implementation of January 1, 2020 and would not go into full effect until the 2020-2021 school year. Funding for this was provided to the Board in the 2018 session.

◆ **LOCAL GOVERNMENTS:** This rule is not expected to have any fiscal impact on local government revenues or expenditures because it provides a new licensing structure for educators. Current educators are also required to be licensed. This rule creates the foundation for implementation of the three-tier licensing structure adopted by the Utah State Board of Education (Board) and passed by the Utah legislature in 2018. This rule has a delayed implementation of January 1, 2020 and would not go into full effect until the 2020-2021 school year. Funding for this was provided to the Board in the 2018 session.

◆ **SMALL BUSINESSES:** This rule is not expected to have any fiscal impact on small business revenues or expenditures because it provides a new licensing structure for educators. Current educators are also required to be licensed. This rule creates the foundation for implementation of the three-tier licensing structure adopted by the Utah State Board of Education (Board) and passed by the Utah legislature in 2018. This rule has a delayed implementation of January 1, 2020 and would not go into full effect until the 2020-2021 school year. Funding for this was provided to the Board in the 2018 session.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule 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 a new licensing structure for educators. Current educators are also required to be licensed. This rule creates the foundation for implementation of the three-tier licensing structure adopted by the Board and passed by the Utah legislature in 2018. This

rule has a delayed implementation of January 1, 2020 and would not go into full effect until the 2020-2021 school year. Funding for this was provided to the Board in the 2018 session, this funding paid for teacher licensure background checks, thus saving individual teachers around \$150 each time they renew their license.

COMPLIANCE COSTS FOR AFFECTED PERSONS: In 2017, the Legislature appropriated money to the Board to cover the licensing fees for educators.

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 large businesses with a NAICS code 611110). This rule has no fiscal impact on local education agencies and will not have a fiscal impact on large 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 12/03/2018

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2018

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 large businesses with a NAICS code 611110). This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on large 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.

R277-301. Educator Licensing.

R277-301-1. 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) Section 53E-6-201, which gives the Board power to issue licenses.

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

R277-301-2. Definitions.

(1) "Accredited school" means a public or private school that:

(a) meets standards essential for the operation of a quality school program; and

(b) has received formal approval through a regional accrediting association.

(2) "Comprehensive Administration of Credentials for Teachers in Utah Schools" or "CACTUS" means the electronic file maintained on all licensed Utah educators including information such as:

- (a) personal directory information;
- (b) educational background;
- (c) endorsements;
- (d) employment history; and
- (e) a record of disciplinary action taken against the educator.

(3) "Educator preparation program" means the same as that term is defined in R277-303-2.

(4) "Endorsement" means a designation on a license area of concentration earned through demonstrating required competencies established by the Superintendent that qualifies the individual to:

- (a) provide instruction in a specific content area; or
- (b) apply a specific set of skills in an education setting.

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

(6)(a) "License areas of concentration" or "license area" means a designation on a license of the specific educational setting or role for which the individual is qualified, to include the following:

- (i) Early Childhood;
- (ii) Elementary;
- (iv) Secondary;
- (v) Educational Leadership
- (vi) Career and Technical Education or "CTE";
- (vii) School Counselor;
- (viii) School Psychologist;
- (ix) Special Education;
- (x) Preschool Special Education;
- (xi) Deaf Education;
- (xii) Speech-Language Pathologist;
- (xiii) Speech-Language Technician;
- (xiv) School Social Worker; and
- (xv) Communication Disorders.

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

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

R277-301-3. License Structure.

- (1) Utah educator licenses include the following licenses:
- (a) Associate educator license;
 - (b) Professional educator license; and
 - (c) LEA-specific educator license.
- (2) All new Utah educator licenses shall include general, content knowledge, and pedagogical requirements.
- (3) The Superintendent may only issue a single active Utah educator license to an individual.
- (4) An educator license shall include at least one area of concentration.
- (5) License areas of concentration and endorsements shall have a designation of:
- (a) associate;
 - (b) professional; or
 - (c) LEA-specific.
- (6) An associate educator license may only include associate or LEA-specific license areas of concentration and endorsements.
- (7) An LEA-specific educator license may only include LEA-specific license areas of concentration and endorsements.
- (8) The Superintendent may establish deadlines and uniform forms and procedures for all aspects of licensing.
- (9) The Superintendent shall review, adopt, and establish passing standards for all assessments required for educator licensing.
- (10)(a) All licenses expire on June 30 of the year of expiration and may be renewed any time after January 1 of the same year.
- (b) Responsibility for license renewal rests solely with the licensee.

R277-301-4. Associate Educator License Requirements.

- (1) The Superintendent shall issue an associate educator license to an individual that applies for the license and that meets all requirements in this Section R277-301-4.
- (2) An associate educator license, license area, or endorsement is valid for two years.
- (3) The Superintendent may only renew an associate educator license if:
- (a) the individual has less than two years of experience in a Utah public or accredited private school; or
 - (b) the individual is employed by a Utah public or accredited private school and the employer has requested a one year extension of the license.
- (4) The general requirements for an associate educator license shall include:
- (a) completion of a criminal background check including review of any criminal offenses and clearance in accordance with Rule R277-214;
 - (b) completion of the educator ethics review described in R277-500 within one calendar year prior to the application; and
 - (c) one of the following:
 - (i) a bachelor's degree or higher from a regionally accredited institution;
 - (ii) current enrollment in a university-based Board-approved educator preparation program that will result in a bachelor's degree or higher from a regionally accredited institution; or

- (iii) skill certification in a specific CTE area as established by the Superintendent.
- (5) The content knowledge requirements for an associate educator license shall include:
- (a) for an elementary license area, passage of an elementary content knowledge test, approved by the Superintendent, that distinctly measures content in:
 - (i) mathematics;
 - (ii) reading/language arts;
 - (iii) social studies; and
 - (iv) science;
 - (b) for a secondary or CTE license area with a content endorsement, one of the following:
 - (i) passage of a content knowledge test approved by the Superintendent, where available;
 - (ii) a bachelor's degree or higher with a major in the content area from a regionally accredited university; or
 - (iii) enrollment in a program that will result in a degree described in Subsection (5)(b)(ii); and
 - (c) for all other license areas, enrollment in a university-based Board-approved educator preparation program.
- (6) Additional requirements for an associate educator license shall include:
- (a) successful completion of professional learning modules created or approved by the Superintendent in:
 - (i) educator ethics;
 - (ii) classroom management and instruction;
 - (iii) basic special education law and instruction;
 - (iv) the Utah Effective Teaching Standards described in R277-530; or
 - (b) enrollment in a university-based Board-approved educator preparation program.
- (7) An individual holding a professional educator license may receive an associate license area or endorsement in additional areas if all the requirements of this section are met.
- (8) A license applicant who has received or completed license preparation activities inconsistent with this rule may present compelling information and documentation for review and approval by the Superintendent to satisfy the associate educator license requirements.
- (9) The Superintendent shall designate a panel of at least three Board staff members to review an appeal made under subsection (8).
- (10) An LEA that employs an individual that holds an associate educator license shall develop a personalized professional learning plan designed to support the educator in meeting the requirements for a professional educator license no later than 60 days after beginning work in the classroom, which shall:
- (a) be provided to the Superintendent upon request;
 - (b) include a formal discussion and observation process no later than 30 days after beginning work in the classroom; and
 - (c) consider:
 - (i) previous education related experience; and
 - (ii) previous educational preparation activities.
- (11) An educator with an associate educator license may upgrade to a professional educator license at any time prior to expiration of the associate educator license if the educator meets all requirements of Section R277-301-5.

R277-301-5. Professional Educator License Requirements.

(1) The Superintendent shall issue a professional educator license to an individual that applies for the license and meets all requirements in this Section R277-301-6.

(2) A professional educator license, license area, or endorsement is valid for five years.

(3) The general requirements for a professional educator license shall include:

(a) all general requirements for an associate educator license under Subsection R277-301-5(4);

(b) completion of:

(i) a bachelor's degree or higher from a regionally accredited institution; or

(ii) skill certification in a specific CTE area as established by the Superintendent; and

(c) one of the following:

(i) a recommendation from a Board-approved educator preparation program; or

(ii) a standard educator license in the area issued by a licensing jurisdiction outside of Utah that is currently valid or is renewable consistent with Section 53E-6-307.

(4) The content knowledge requirements for a professional educator license shall include:

(a) all content knowledge requirements for an associate educator license under Subsection R277-301-4(5); and

(b) demonstration of all content knowledge competencies as established by the Superintendent.

(5) The pedagogical requirements for professional educator license shall include:

(a) demonstration of all pedagogical competencies as established by the Superintendent; and

(b) passage of a pedagogical performance assessment meeting standards established by the Superintendent, where available.

(6) An individual holding a Utah level 1, level 2, or level 3 educator license on January 1, 2020 is considered to have met the pedagogical requirements described in Subsection (5).

(7) An individual holding a Utah level - APT educator license that is employed by a Utah LEA and an individual enrolled in ARL or a university-based Board-approved educator preparation program on January 1, 2020 may meet the content knowledge and pedagogical requirements described in this Section R277-301-6 by completing all requirements of the applicable program.

(8) An individual holding a Utah professional educator license and license area in early childhood education, elementary, secondary, CTE, special education, or deaf education is considered to have met the pedagogical performance assessment requirement of Subsection (5)(b) if applying to add any of the license areas in the subsection.

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

(10) The Superintendent shall designate a panel of at least three individuals, including at least two Board licensed educators not employed by the Board, to review an appeal and make a recommendation to the Superintendent for the Superintendent's review and decision described in Subsection (9).

R277-301-6. Educator Licenses Issued by Licensing Jurisdictions Outside of Utah.

(1) The Superintendent shall review applications for a Utah educator license for individuals holding educator licenses issued by licensing jurisdictions outside of Utah to determine if the applicant has met the requirements for a Utah license under this rule.

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

(3) The Superintendent shall accept scores from an applicant on reasonably equivalent content knowledge or pedagogical performance assessments utilized by licensing jurisdictions outside of Utah that meet the passing standard of that jurisdiction as meeting the requirements of this rule.

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

(5) Individuals with 4 or more years of successful experience in a public or accredited private school under a standard license issued by another jurisdiction shall be considered to have met both the content knowledge and pedagogical assessment requirements in the areas and subjects taught.

R277-301-7. LEA-specific Educator License Requirements.

(1) The Superintendent may issue an LEA-specific educator license to a candidate if:

(a) the LEA requesting the LEA-specific educator license has an adopted policy, posted on the LEA's website, which includes:

(i) educator preparation and support;

(A) as established by the LEA; and

(B) aligned with the Utah Effective Teaching Standards described in R277-530;

(ii) criteria for employing educators with an LEA-specific license; and

(iii) compliance with all requirements of this Rule R277-301;

(b) an LEA governing board applies on behalf of the the candidate

(c) the candidate meets all the requirements in this Section R277-301-7; and

(d) within the first year of employment, the LEA trains the candidate on:

(i) educator ethics;

(ii) classroom management and instruction;

(iii) basic special education law and instruction; and

(iv) the Utah Effective Teaching Standards described in R277-530.

(2)(a) Except as provided in Subsection (2)(b), an LEA governing board may request an LEA-specific educator license for a license area described in Subsection R277-301-2(6).

(b) An LEA may not request an LEA-specific educator license for a license area in:

(i) Special Education; or

(ii) Preschool Special Education.

(3) An LEA-specific license, license area, or endorsement is valid only within the requesting LEA.

(4) An LEA-specific license, license area, or endorsement is valid for one, two, or three years in accordance with the LEA governing board's application.

(5) The first renewal of an LEA-specific educator license, license area, or endorsement shall be approved or denied by the Board.

(6) The Board may require that subsequent renewals be approved by the Board on a case by case basis.

(7) An LEA-specific license expires immediately if the educator's employment with the LEA that requested the license ends.

(8) The general requirements for an LEA-specific educator license shall include:

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

(b) completion of the educator ethics review described in Rule R277-500 within one calendar year prior to the application; and

(c) approval of the request by the LEA governing board in a public meeting no more than 60 days prior to the application, which includes the LEA's rationale for the request.

(9) The content knowledge and pedagogical requirements for an LEA-specific educator license shall be established by the LEA governing board.

R277-301-8. Requirements for LEAs.

(1) An LEA shall provide a mentoring program that provides a trained mentor educator and annual mentoring plan:

(a) for educators holding an associate educator license;

(b) for at least two years for LEA-specific educator license holders; and

(c) for educators holding a professional educator license with less than three years of experience.

(2) A trained mentor educator under Subsection (1) shall hold a professional educator license and shall, where possible:

(a) perform substantially the same duties as the educator with release time to work as a mentor; or

(b) be assigned as an instructional coach or equivalent position.

(3) A trained mentor educator under Subsection (1) shall assist the educator to meet the Utah Effective Educator Standards established in Rule R277-530, but may not serve as an evaluator of the educator.

(4) A mentoring program under Subsection (1) shall include:

(a) a formal professional learning plan and LEA support in meeting the requirements of a professional license area; and

(b) if the educator holds an LEA-specific educator license, on-going training on educator ethics and special education.

(5) An LEA school that requests LEA-specific licenses, license areas, or endorsements shall prominently post the following information on each school's website:

(a) disclosure of the fact that the school employs individuals holding LEA-specific educator licenses, license areas, or endorsements;

(b) the percentage of the types of licenses, license areas, and endorsements held by educators employed in the school based on the employees' FTE in CACTUS; and

(c) a link to the Utah Educator Look-up tool provided by the Superintendent in accordance with Subsection R277-515-7(6).

R277-301-9. Superintendent Annual Report to the Board.

The Superintendent shall annually report to the Board on licensing, including:

(1) educator licensing;

(2) educator preparation; and

(3) equitable distribution of teachers.

R277-301-10. Effective Date.

(1) This rule will be effective beginning January 1, 2020.

(2) This rule will supersede Rule R277-502 on January 1, 2020.

KEY: professional competency, educator licensing

Date of Enactment or Last Substantive Amendment: 2018

Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53A-6-104; 53A-1-401

Education, Administration
R277-303
Educator Preparation Programs

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43274

FILED: 10/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to establish criteria for educator preparation programs in the state of Utah.

SUMMARY OF THE RULE OR CHANGE: R277-303, Educator Preparation Programs, is intended to govern the general aspects of educator preparation programs under the three-tier licensing structure adopted by the Utah State Board of Education (Board) and passed by the Utah legislature in the 2018 General Session.

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

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This rule is not expected to have any fiscal impact on state government revenues or expenditures because it is an updated version of Rule R277-503. This rule governs the general aspects of educator preparation programs under the three-tier licensing structure adopted by the Board and passed by the Utah legislature in the 2018 General Session. The Board and Utah System of Higher Education (USHE) are working together on this venture.

◆ LOCAL GOVERNMENTS: This rule is not expected to have any fiscal impact on local governments revenues or expenditures because it is an updated version of Rule R277-503. This rule governs the general aspects of educator preparation programs under the three-tier licensing structure adopted by the Board and passed by the Utah legislature in the 2018 General Session. The Board and USHE are working together on this venture.

◆ SMALL BUSINESSES: This rule is not expected to have any fiscal impact on small businesses revenues or expenditures because it is an updated version of Rule R277-503. This rule governs the general aspects of educator preparation programs under the three-tier licensing structure adopted by the Board and passed by the Utah legislature in the 2018 General Session. The Board and USHE are working together on this venture.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This rule is not expected to have any fiscal impact on persons other than small businesses, businesses, or local government entities revenues or expenditures because it is an updated version of Rule R277-503. This rule governs the general aspects of educator preparation programs under the three-tier licensing structure adopted by the Board and passed by the Utah legislature in the 2018 General Session. The Board and USHE are working together on this venture.

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 large businesses with a NAICS code 611110). This rule has no fiscal impact on local education agencies and will not have a fiscal impact on large 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 12/03/2018

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2018

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 large businesses with a NAICS code 611110). This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on large 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.

R277-303. Educator Preparation Programs.

R277-303-1. 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-6-201(3)(a), which allows the Board to establish the criteria for obtaining licenses.

(2) The purpose of this rule is to establish criteria for educator preparation programs in the State of Utah.

R277-303-2. Definitions.

(1)(a) "Educator preparation program" means a comprehensive program administered by an entity that is intended to prepare individuals to meet the requirements for a Utah professional license or license area of concentration.

(b) "Educator preparation program" may include a program developed by or associated with an institution of higher education, individual LEA, or the Board.

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

(3) "License area" has the same meaning as set forth in Subsection R277-301-2(5)(a).

(4) "Professional license" means the educator license described in Section R277-301-6.

R277-303-3. Educator Preparation Program Review and Approval.

(1) The Superintendent shall establish uniform procedures for initial approval and review of educator preparation programs to ensure compliance with this R277-303.

(2) The Superintendent shall approve an educator preparation program that meets the requirements of this rule and the standards for program approval established in:

(a) Rule R277-304;

(b) Rule R277-305;

(c) Rule R277-306; and

(d) all other applicable Board rules.

(3) The Superintendent shall conduct an on-going review of approved educator preparation programs and shall renew or deny approval for a program at least every seven years.

(4) The Superintendent may grant preliminary approval to a new educator preparation program within a Utah public college or university pending approval by the Utah State Board of Regents.

(5) The Superintendent shall make a report to the Board when an educator preparation program's initial application for approval is granted or denied.

(6) The Superintendent may place an approved educator preparation program on probation for:

(a) failure to meet program requirements detailed in applicable Board rules; or

(b) failure to submit complete and accurate information in a report required under this rule.

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

(8) The Superintendent may require a program or subset of programs to submit reports to inform the annual report to the Board required in Section R277-301-10.

(9) The Superintendent shall accept an approved educator preparation program's recommendations for a professional license or license area if the prospective licensee has met all other requirements of Board rule.

R277-303-4. Educator Preparation Programs.

(1) An educator preparation program that applies for approval by the Superintendent shall demonstrate how it will ensure that participants:

(a) are prepared to meet the Utah Effective Educator Standards established in R277-530;

(b) successfully complete or are prepared to complete the pedagogical performance assessment required in R277-301;

(c) have met the competencies required in R277-301; and

(d) have sufficiently demonstrated the ability to work in the applicable license area and subject area.

(2) In addition to the requirements of Subsection (1), an educator preparation program that is not also a Utah LEA shall:

(a) have a physical location in the state of Utah where participants attend classes; or

(b) if the program provides only online instruction:

(i) have the program's primary headquarters located in Utah; and

(ii) be licensed to do business through the Utah Department of Commerce; and

(c) establish entry requirements that are designed to ensure that only high quality individuals enter the preparation program, which include measures of:

(i) previous academic success;

(ii) disposition for employment in an educational setting; and

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

(d) include a student teaching or intern experience that meets the requirements detailed in:

(i) Rule R277-304;

(ii) Rule R277-305; and

(iii) Rule R277-306; and

(e) include a pedagogical performance assessment meeting standards established by the Superintendent for all new students enrolled in the program after January 1, 2020 in all license areas for which such an assessment is available.

(3) An approved educator preparation program may recommend an individual that completed the program for a professional license or license area for up to five years after the individual completed the program, as long as all current license requirements have been met.

(4) If five years have passed since an individual completed an approved educator preparation program, the program may recommend the individual for a professional license or license area if the program:

(a) reviews the individual's program; and
(b) requires the individual to complete any additional necessary requirements to meet current programs standards prior to making a licensing recommendation.

(5) Notwithstanding Subsections (3) and (4), an approved educator preparation program may recommend an individual who began the program before January 1, 2020 for a professional license or license area without meeting the pedagogical performance assessment requirement in R277-301, but must present documentation showing that the individual met the appropriate license requirements in effect prior to that date.

R277-303-5. Superintendent Responsibilities.

(1) The Superintendent shall provide support to educator preparation programs and potential licensees to the extent that funding allows by:

(a) maintaining a website to:
(i) facilitate collaboration between educator preparation programs;
(ii) facilitate communication between potential educators and approved programs; and

(iii) provide access to up-to-date research on educator preparation and education practices;

(b) reviewing third-party preparation materials for alignment with the Utah Effective Educator Standards in R277-530; and

(c) working with potential licensed educators to help them become licensed educators.

(2) The Superintendent shall design and maintain a model educator preparation program that:

(a) meets all requirements of this rule;
(b) may be adopted by an LEA or an accredited private school; and

(c) is overseen by staff distinct from the staff responsible for ensuring educator preparation program compliance with this Rule R277-303.

R277-303-6. Effective Date.

This rule will be effective beginning January 1, 2020.

KEY: educator preparation program, programs

Date of Enactment or Last Substantive Amendment: 2018

Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-6-201(3)(a)

Education, Administration
R277-444
 Distribution of Money to Arts and
 Science Organizations

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43272

FILED: 10/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended to update existing language to match the current practices of the program.

SUMMARY OF THE RULE OR CHANGE: This rule is being amended to update existing language to match the current practices of the program and to allow for more time appropriate deadlines within the program. These amendments include clarifying "distance experiences" or "telecommuting typed experiences", as well as repealing language related to sections of the program that are no longer being utilized.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X, Section 3 and Subsection 53E-3-401(4) and Subsection 53E-3-501

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 this rule is being amended to reflect the request of staff to update existing language to match the current practices of the program, and to allow for more time appropriate deadlines within the program. These amendments include clarifying "distance experiences" or "telecommuting typed experiences", as well as repealing language related to sections of the program that are no longer being utilized.

◆ **LOCAL GOVERNMENTS:** These rule changes are not expected to have any fiscal impact on local government revenues or expenditures because this rule is being amended to reflect the request of staff to update existing language to match the current practices of the program, and to allow for more time appropriate deadlines within the program. These amendments include clarifying "distance experiences" or "telecommuting typed experiences", as well as repealing language related to sections of the program that are no longer being utilized.

◆ **SMALL BUSINESSES:** These rule changes are not expected to have any fiscal impact on small businesses revenues or expenditures because this rule is being amended to reflect the request of staff to update existing language to match the current practices of the program, and to allow for more time appropriate deadlines within the program. These amendments include clarifying "distance experiences" or "telecommuting typed experiences", as well as repealing language related to sections of the program that are no longer being utilized.

◆ **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 this rule is being amended to reflect the request of staff to update existing language to match the current practices of the program, and to allow for more time appropriate deadlines within the program. These amendments include clarifying "distance experiences" or "telecommuting typed experiences", as well as repealing language related to sections of the program that are no longer being utilized.

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 large businesses with a NAICS code 611110). These rule changes have no fiscal impact on local education agencies and will not have a fiscal impact on large 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 12/03/2018

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2018

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 large businesses with a NAICS code 611110). This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on large 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.

R277-444. Distribution of Money to Arts and Science Organizations.

R277-444-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of the public school system with the Board;

(b) Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities; and

(c) Section 53E-3-501, which directs the Board to establish rules and standards for the public schools, including curriculum and instruction requirements.

(2) The purpose of this rule is to provide for the distribution of money appropriated by the state to an arts or science organization that:

(a) provides an educational service to a student or teacher; and

(b) facilitates a student developing and using the knowledge, skills, and appreciation defined in an arts or science core standard.

R277-444-2. Definitions.

(1) "Arts organization" means a professional artistic organization that provides an educational service related to dance, music, drama, art, visual art, or media art in the state.

(2) "City" has the same meaning as that term is defined in Subsection 10-1-104(1).

(3) "Community" means the group of persons that have an interest or involvement in the education of a person in kindergarten through grade 12, including:

(a) a student, parent, teacher, and administrator; and

(b) an association or council that represents a person described in Subsection (2)(a).

(4) "Core standard" means a standard:

(a) established by the Board in Rule R277-700 as required by Section 53E-3-501; and

(b) that defines the knowledge and skills a student should have in kindergarten through grade 12 to enable a student to be prepared for college or workforce training.

(5) "Cost effectiveness" means:

(a) maximization of the educational potential of the resources available through the organization; and

(b) not using money received through a program for the necessary maintenance and operational costs of the organization.

(6)(a) "Educational service" means an in-depth instructional workshop, demonstration, presentation, performance, residency, tour, exhibit, teacher professional development, side-by-side mentoring, or hands-on activity that:

~~(a)(i)~~ relates to an arts or science core standard; ~~and~~

~~(b)(ii)~~ except as provided in Subsection (6)(b), takes place in a public school, charter school, professional venue, or a facility[-];

(b) "Educational service" may include a distance experience that is provided from a remote location if done in addition to the requirements of Subsection (6)(a) as a follow-up experience.

(7) "Educational soundness" means an educational service that:

(a) is designed for the community and grade level being served, including a suggested preparatory activity and a follow-up activity that are relevant to a core standard;

(b) features literal interaction of a student or teacher with an artist or scientist;

(c) focuses on a specific core standard; and

(d) shows continuous improvement guided by analysis of an evaluative tool.

(8) "Fiscal agent" means a city that:

(a) is designated by an organization as described in Subsection R277-444-4(5); and

(b) acts on behalf of an organization to perform financial or compliance duties.

(9) "Hands-on activity" means an activity that includes active involvement of a student with an artist or scientist, ideally with material provided by the organization.

(10) "Informal Science Education Enhancement program" or "iSEE program" means a program described in Section R277-444-7 for which a science organization may apply to receive money appropriated by the state.

(11) "Organization" means:

(a) a nonprofit corporation organized under:

(i) Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act; or

(ii) Section 501(c)(3), Internal Revenue Code; and

(b)(i) an arts organization; or

(ii) a science organization.

(12) "Procedural efficiency" means the organization delivers the educational service at the lowest cost possible.

(13) "Professional excellence" means the organization:

(a) has been juried or reviewed, based on criteria for artistic or scientific excellence, by a panel of recognized and qualified critics in the appropriate discipline;

(b) has received a recognition of excellence through an award, a prize, a grant, a commission, or an invitation to participate in a recognized series of presentations in a well-known venue;

(c) includes a recognized and qualified professional in the appropriate discipline who has created an artistic or scientific project or composition specifically for the organization to present; or

(d) any combination of criteria described in Subsections (13)(a) through (c).

(14) "Professional outreach programs in the schools program" or "POPS program" means a program described in Section R277-444-7 for which an arts organization may apply to receive money appropriated by the state.

(15)(a) "Program" means the system through which the Board grants money appropriated by the state to an organization to enable the organization to provide its expertise and resources through an educational service in the teaching of a core standard.

(b) "Program" includes:

(i) the Provisional program;

(ii) the POPS program;

(iii) the iSEE program;

(iv) the Science Enhancement program;

(v) the Integrated Student and New Facility Learning program; and

(vi) the Subsidy program.

(16) "Science organization" means a professional science organization that provides a science-related educational service in the state.

R277-444-3. Program Application.

(1) If the state appropriates money for a program, an organization may apply to receive money from a program:

(a) on an application form provided by the Superintendent; and

(b) ~~[by May 30 of]~~ during the fiscal year immediately prior to the fiscal year in which the organization is to receive the money.

- (2) The application shall include:
- (a) documentation that the organization is:
 - (i) a non-profit corporation that has existed at least three consecutive years prior to the date of the application;
 - (ii) an arts organization or a science organization that has attained professional excellence in the discipline; and
 - (iii) fiscally responsible;
 - (b) a description of the matching funds required by Subsection R277-444-4(3); and
 - (c) an educational service plan, which describes:
 - (i) the educational service that the organization will use the program money to provide; and
 - (ii) a plan to creatively and effectively provide the educational service.
- (3)(a) The Superintendent shall evaluate an application with community representatives and make a recommendation on the application to the Board. ~~[at the Board's August meeting.]~~
- (b) The Board shall approve or deny an application based on:
- (i) whether the organization meets the requirements of this rule; and
 - (ii) how well the organization's educational service plan meets the purpose of this rule.

R277-444-4. Grant General Provisions and Disbursement.

- (1)(a) The Superintendent shall make a recommendation to the Board ~~[at the Board's August meeting on]~~ regarding the grant amount for an organization based on:
- (i) the annual appropriation for a program;
 - (ii) the grant amount an organization received in a previous fiscal year, if any;
 - (iii) an organization's year-end report, if any; and
 - (iv) how well the organization's educational service plan meets the purpose of this rule relative to the other organizations participating in the program.
- (b) If the state reduces the amount of money appropriated for a program from the previous fiscal year, the Board may use its discretion to allocate the money among the organizations participating in the program.
- (2)(a) The Superintendent shall notify an organization of the grant amount ~~[by August 30]~~ within 30 days of the Board meeting in which it is approved, but no earlier than July 1.
- (b)(i) The Superintendent shall disburse the money to an organization after an organization submits a request for reimbursement ~~[on a form provided on the USOE website].~~
- (ii) An organization shall submit a reimbursement request [form on or before July 10] for [an] education service plan implementation expenses:
- (A) by the annual deadline specified by the Superintendent; and
 - (B) in a form prescribed by the Superintendent. [incurred by an organization through the implementation of an educational service plan].
- (3) An organization that receives money from a program shall have equal matching money from another source to support its delivery of an educational service.
- (4)(a) Except as provided by Subsection (4)(b), an organization may not charge the school, teacher, or student a fee for the

educational service for which the organization receives program money.

- (b) An organization that receives money from the Subsidy program may charge a fee for an educational service.
- (5)(a) An organization may designate a city as the organization's fiscal agent if:
- (i) the city's governing body oversees and monitors the organization and fiscal agent's compliance with program requirements;
 - (ii) the city complies with board rules;
 - (iii) the city and the organization use program money for required purposes described in this rule; and
 - (iv) the city and the organization have an agreement or contract in place regarding the designation of the city as the organization's fiscal agent.
- (b) A city fiscal agent may not use program money:
- (i) for the city's general administrative purposes; or
 - (ii) to fund administrative costs to act as the organization's fiscal agent.
- (6) A scientist, artist, or entity hired or sponsored by an organization to provide an educational service shall comply with the procedures and requirements of this rule.

R277-444-5. Year-end Report - Evaluation -- Accountability -- Variations.

- (1)(a) An organization that receives money from a program shall submit a year-end report to the Superintendent by the required annual deadline [July 10].
- (b) The year-end report shall include:
- (i) documentation of the organization's non-profit status;
 - (ii) a budget expenditure report and income source report using a form provided by the Superintendent, including a report and accounting of matching funds and a fee charged, if any, for an educational service;
 - (iii) a record of the dates and places of all educational services rendered, the number of hours of educational service per LEA, school, and classroom, as applicable, with the number of students and teachers served, including:
 - (A) documentation of the schools that have been offered an opportunity to receive an educational service over a three year period, to the extent possible and consistent with the organization's plan;
 - (B) documentation of collaboration with the Superintendent and the community in planning the educational service, including the content, a preparatory activity, and a follow-up activity that are relevant to a core standard;
 - (C) a brief description of the educational service provided through the program, and if requested, copies of any material developed; and
 - (D) a description of how the educational service contributed to a student developing and using the knowledge, skills, and appreciation defined in an arts or science core standard;
 - (iv) a summary of the organization's evaluation of:
 - (A) cost-effectiveness;
 - (B) procedural efficiency;
 - (C) collaborative practices;
 - (D) educational soundness; and
 - (E) professional excellence; and
 - (v) a description of the resultant goal or plan for continued evaluation and improvement.

(2) The Superintendent may visit an organization to evaluate the effectiveness and preparation of the organization:

- (a) before the Board approves an application;
- (b) before disbursing money; and
- (c) during an educational service.

(3)(a) In addition to the year-end report required by Subsection (1), the Superintendent may require an evaluation or an audit procedure from an organization demonstrating use of money consistent with state law and this rule.

(b) If the Board finds that an organization did not use money received from a program consistent with state law and this rule, the Board may:

- (i) reduce or eliminate the grant to the organization in the current fiscal year;
- (ii) deny an organization's participation in a program in a future fiscal year; or
- (iii) impose any other consequence the Board deems necessary to ensure the proper use of public funds.

(4)(a) An organization may not deviate from the approved educational service plan for which the organization receives money unless:

- (i) the organization submits a written request for variation to the Superintendent;
- (ii) the organization receives approval from the Superintendent for the variation; and
- (iii) the variation is consistent with state law and this rule.

(b) An organization shall describe the nature and justification for a variation approved under Subsection (4)(a) in a year-end report.

(5) The Superintendent shall ensure that participating LEAs receive educational services in a balanced and comprehensive manner over a three year period.

R277-444-6. Provisional Program Requirements.

(1) Through the Provisional program, ~~and pending legislative funding~~, the Board may grant an organization money to enable the organization to:

- (a) further develop an educational service that is sound;
- (b) increase the number of students or teachers who receive an educational service; or
- (c) expand the geographical location in which the educational service is delivered.

(2) The Board may grant money from the Provisional program to an organization for one year.

(3) An organization may apply for a grant each year for up to five years if the organization demonstrates an increase in the educational service between the year-end report and the proposed educational service plan described in the application.

R277-444-7. POPS and iSEE Program Requirements.

(1)(a) Through the POPS program, the Board may grant money to an arts organization to provide an educational service state-wide.

(b) Through the iSEE program, the Board may grant money to a science organization to provide an educational service state-wide.

(c) A grant from the POPS program or iSEE program is ongoing, subject to the review required by Subsection (4).

(2)(a) An arts organization may apply for the POPS program and a science organization may apply for the iSEE program if the organization:

- (i) has successfully participated in the Provisional program for three consecutive years in which the state appropriates money to the Provisional program;
- (ii) has educational staff and the capacity to deliver an educational service state-wide; and
- (iii) demonstrates during participation in the Provisional program:

(A) the quality and improvement of an educational service; and

(B) fiscal responsibility.

(b) An organization shall submit a letter of intent to transition from the Provisional program to the POPS program or the iSEE program to the Superintendent by October 1 of the calendar year immediately before the calendar year in which the organization submits the application for the POPS program or the iSEE program.

(3) An organization that receives money from the POPS program or iSEE program may not receive money from the Provisional program or the Subsidy program in the same fiscal year.

(4)(a) At least once every four years, the Superintendent shall review and evaluate all organizations' participation in the POPS program and the iSEE program, which may include:

(i) evaluation of an educational service plan, year-end report, reimbursement form, or audit; and

(ii) attendance at an educational service or a site visit.

(b) The Superintendent shall:

(i) report to the Board the results of the review and evaluation; and

(ii) make a recommendation to the Board regarding an organization's continued participation in the program based on how well the organization fulfills the purpose of this rule.

~~[R277-444-8. Science Enhancement Program Requirements.~~

~~(1)(a) Through the Science Enhancement program, the Board may grant money to a science organization to provide a teacher with resources materials or professional development related to a science core standard.~~

~~(b) A grant from the Science Enhancement program is ongoing, subject to the review required by Subsection (4).~~

~~(2) A science organization that participates in the iSEE program may apply for the Science Enhancement program.~~

~~(3) The Board may approve an application to participate in the Science Enhancement program if the science organization demonstrates a likely increase in:~~

~~(a) the number of teachers or students the organization serves; or~~

~~(b) the quality or quantity of the resource materials or professional development the organization delivers.~~

~~(4)(a) At least once every four years, the Superintendent shall review and evaluate all organizations' participation in the Science Enhancement program, which may include evaluation of the resource materials, professional development plan, year-end report, reimbursement form, or audit.~~

~~(b) The Superintendent shall:~~

~~(i) report to the Board the results of the review and evaluation; and~~

~~(ii) make a recommendation to the Board regarding an organization's continued participation in the Science Enhancement program based on how well the organization fulfills the purpose of this rule.~~

~~**R277-444-9. Integrated Student and New Facility Learning Program Requirements.**~~

~~(1) Through the Integrated Student and New Facility Learning program, the Board may grant money to a science organization to enable the science organization to provide an educational service integrated with the science organization's new or significantly re-designed capital facility.~~

~~(2) An science organization that participates in the iSEE program may apply for the Integrated Student and New Facility Learning program.~~

~~(3) The Board shall determine the length of the grant and how often the Superintendent shall review and evaluate an organization's continued participation in the program.~~

~~(4) The science organization may use the money to:~~

~~(a) develop an educational service integrated with the capital facility; and~~

~~(b) cover its costs associated with increasing the number of students who visit the capital facility.~~

~~(5) The Superintendent may not disburse money until the science organization completes the capital facility.]~~

R277-444-~~10~~8. Subsidy Program Requirements.

(1)(a) Through the Subsidy program, the Board may grant money to an organization that provides a valuable education service but does not qualify for participation in another program.

(b) A grant from the Subsidy program is on-going, subject to the review required by Subsection (5).

(2)(a) An organization may apply to receive money through the Subsidy program if the organization has successfully participated in the Provisional program for three consecutive years in which the state appropriated money to the Provisional program.

(b) An organization shall submit a letter of intent to transition from the Provisional program to the Subsidy program to the Superintendent; ~~[by October 1 of]~~

~~(A) within the calendar year immediately before the calendar year in which the organization will submit[s-the] an application for the Subsidy program; and~~

~~(B) by the deadline set by the Superintendent.~~

(3) The Board may approve an application to participate in the Subsidy program if the Board finds the organization:

(a) has successfully provided a valuable educational service during its participation in the Provisional program; and

(b) does not meet the requirements to participate in the POPS program or iSEE program because the organization:

(i) delivers an educational service regionally instead of state-wide; or

(ii) charges a fee for an educational service.

(4) An organization that receives money from the Subsidy program may not receive money from the another program in the same fiscal year.

(5)(a) At least once every four years, the Superintendent shall review and evaluate all organizations' participation in the Subsidy program, which may include:

(i) evaluation of an educational service plan, year-end report, reimbursement form, or audit; and

(ii) attendance at an educational service or a site visit.

(b) The Superintendent shall:

(i) report to the Board the results of the review and evaluation; and

(ii) make a recommendation to the Board regarding an organization's continued participation in the Subsidy program based on how well the organization fulfills the purpose of this rule.

KEY: arts, science, core standards

Date of Enactment or Last Substantive Amendment: December 1, 2015

Notice of Continuation: August 13, 2015

Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-3-501

**Education, Administration
R277-477**

Distributions of Funds from the Trust Earnings Account and Administration of the School LAND Trust Program

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43266

FILED: 10/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These rule changes are implemented as a result of H.B. 404, Land Trust Protection and Advocacy Act, that passed in the 2018 Legislative Session.

SUMMARY OF THE RULE OR CHANGE: These rule changes update code and rule references, and make language clarifications.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X, Section 3 and Subsection 53E-3-401(4) and Subsection 53F-2-404(2)(d)

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. The language modifications are needed as a result of H.B. 404, Land Trust Protection and Advocacy Act, that passed in the 2018 Legislative Session. Included in these changes are updates to code and rule references, and language clarifications. These changes are organization and clarification modifications only.

◆ 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. The language modifications are needed as a result of H.B. 404, Land Trust Protection and Advocacy Act, that passed in the 2018 Legislative Session. Included in these changes are updates to code and rule references, and language clarifications. These changes are organization and clarification modifications only.

◆ 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. The language modifications are needed as a result of H.B. 404, Land Trust Protection and Advocacy Act, that passed in the 2018 Legislative Session. Included in these changes are updates to code and rule references, and language clarifications. These changes are organization and clarification modifications only.

◆ 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. The language modifications are needed as a result of H.B. 404, Land Trust Protection and Advocacy Act, that passed in the 2018 Legislative Session. Included in these changes are updates to code and rule references, and language clarifications. These changes are organization and clarification modifications only.

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 61110 (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 large businesses with a NAICS code 61110). These rule changes have no fiscal impact on local education agencies and will not have a fiscal impact on large 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 12/03/2018

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2018

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 large businesses with a NAICS code 611110). These rule changes have no fiscal impact on local education agencies and will not have a fiscal impact on large 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.

R277-477. Distributions of Funds from the Trust [Earnings]Distribution Account and Administration of the School LAND Trust Program.

R277-477-1. Authority and Purpose.

(1) This rule is authorized by:

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

(b) Subsection 53F-2-404[(4)](2)(d), which allows the Board to adopt rules regarding the time and manner in which a student court shall be made for allocation of funds; 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 Board is the primary beneficiary representative and advocate for the beneficiaries of the School Trust corpus and the School LAND Trust Program.]~~

(2) In accordance with Section 53D-2-202, through representation on the Land Trusts Protection and Advocacy Committee, the Board exercises trust oversight of:

(a) the Common School Trust;

(b) the School for the Deaf Trust; and

(c) the School for the Blind Trust.

(3) The Board implements the School LAND Trust Program and provides oversight, support, and training for school community councils and Charter Trust Land Councils consistent with Subsection 53G-7-1206(2), Rule R277-491, and this Rule R277-477.

~~[(3)]~~(4) The purpose of this rule is to:

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

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

(c) provide direction in the distribution of funds from the Trust [Earnings]Distribution Account, as funded in S[ubs]ection 53F-2-404[(3)];

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

(e) provide for proper allocation of funds as stated in S[ubs]ection[s] 53F-2-404[(3) and (4)], and the appropriate and timely distribution of the funds;

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

(g) define the roles, duties, and responsibilities of the Superintendent with regards to the School Children's Trust~~[Director within the USOE].~~

R277-477-2. Definitions.

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

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

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

(i) the ~~[council]~~charter governing board meets the two-parent majority requirement; and

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

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

(4) "Digital citizenship" means the same as that term is defined in Section 53G-7-1202.

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

(6) "Funds" means School LAND Trust program funding as defined in S[ubs]ection 53F-2-404[(3)(a)].

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

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

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

(9) "Satellite charter school" has the same meaning as that term is defined in Section R277-482-2.

~~[(10) "School Children's Trust Director" means the Director appointed by the Board under Section 53E-3-514.]~~

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

(1)[2](1) "Trust [Earnings]Distribution Account" means the restricted account within the Uniform School Fund created under Subsection 53F-9-201(2).

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

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

(a) a school community council as required by Section 53G-7-1202 and Rule R277-491;

(b) a charter school trust land council as required by S[ubs]ection 53[F]G-[2-404(9)]7-1205; or

(c) an approved exemption under this rule.

(2) A public school receiving School LAND Trust Program funds shall submit a principal assurance form, as described in Section R277-491-~~[5]~~4 and Subsection 53~~[F-2-404(5)]~~G-7-1206(3)(c), prior to the public school receiving a distribution of School LAND Trust Program funds.

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

(a) have a charter trust land council;

(b) be subject to Section 53G-7-1203 if the charter trust land council is not a charter school governing board; and

(c) receive training about Section 53G-7-120~~[3]~~6.

(4) A charter school that is a small or special school may receive an exemption from the charter land trust council composition requirements contained in Subsection 53~~[F-2-404]~~G-7-1205(9) upon application to the ~~[Board]~~school's authorizer if the small or special school demonstrates and documents a good faith effort to recruit members to the charter trust land council.

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

(a) no later than April 1; or

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

(6)(a) An approving entity:

(i) shall consider a plan annually; and

(ii) may approve or disapprove a school plan.

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

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

(ii) request that the school revise the plan, consistent with Subsection 53~~[F-2-404]~~G-7-1206(4)(d).

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

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

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

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

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

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

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

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

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

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

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

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

(i) academic goals;

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

(iii) measurements to assess improvement; and

(iv) specific expenditures focused on student academic improvement needed to implement plan goals.

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

(c) Prior to approving a School LAND Trust plan, the president or chair of the approving entity shall provide training annually on the requirements of Section 53~~[F-2-404]~~G-7-1206 to the members of the approving entity.

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

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

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

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

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

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

(a) strategies that are measurable and show academic outcomes with multi-tiered systems of support; and

(b) counselors and educators working with students and families on academic and behavioral issues when a direct impact on academic achievement can be measured.

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

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

- (a) to cover the fixed costs of doing business;
- (b) for construction, maintenance, facilities, overhead, security, or athletics; or
- (c) to pay for non-academic in-school, co-curricular, or extracurricular activities.

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

(5)(a) A council may budget and spend no more than \$7,000 for in-school civic and character education, including student leadership skills training and digital citizenship training as described in Section 53G-7-1202.

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

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

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

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

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

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

(c) A school district shall adjust the current year distribution of funds received from the School LAND Trust Program as described in Section 53F-2-404, as necessary to maintain an equal per student distribution within a school district based on school openings and closings, boundary changes, and other enrollment changes occurring after the fall enrollment report.

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

(3)(a) For purposes of this Subsection (3) and Subsection (4), "qualifying charter school" means a charter school that:

- (i) would receive more funds from a per pupil distribution than the charter school receives from the base payment described in Subsection ([2]3)(c); and
- (ii) is not a newly opening charter school as described in Subsection ([3]4).

(b) The Superintendent shall distribute the funds allocated to charter schools as described in this Subsection ([2]3).

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

- (i) an amount equal to the total funds available for all charter schools; and
- (ii) at least 0.4%.

(d) After the Superintendent distributes the amount described in Subsection ([2]3)(c), the Superintendent shall distribute the remaining funds to qualifying charter schools on a per pupil basis.

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

- (i) the base payment described in Subsection (2)(c); or
- (ii) a per pupil amount based on the newly opened charter school's projected October 1 enrollment count.

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

(5) If a school chooses not to apply for funds or does not meet the requirements for receiving funds, the [USOE]Superintendent shall ~~retain the funds allocated for that school and include those funds in the statewide distribution for the following school year~~ deposit the unused balance in the Trust Distribution Account.

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

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

(2)(a) The principal shall submit a plan amendment authorized by Subsection 53[F-2-404(6)]G-7-1206(4)(d)(iii) through the School LAND Trust website for approval, including the date the council approved the amendment and the number of votes for, against, and absent.

(b) The approving entity shall:

- (i) consider the amendment for approval; and
- (ii) approve an amendment before the school uses funds according to the amendment.

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

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

(b) The [USOE]Superintendent shall ~~consider~~ recommend a district or school with a consistently large carryover balance over multiple years ~~as~~ for corrective action for not making adequate and appropriate progress on an approved plan.

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

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

- (a) the entity has reviewed the plan; and
- (b) the plan meets the requirements of statute and rule.

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

(b) The expenditure data shall appear in the final report submitted online by a principal, as required by Subsection 53[F-2-404]G-7-1206(5)(b).

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

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

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

(b) The School Children's Trust Section shall create a list of all schools whose final reports indicate that funds from the School LAND Trust Program were expended inconsistent with the statute, rule, or the school's approved plan.

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

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

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

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

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

R277-477-8. [School Children's Trust Director -- Other Provisions]Superintendent Responsibilities.

~~(1)(a) The School Children's Trust Director is an employee of the Board, pursuant to Section 53E-3-514 and Board bylaws.~~

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

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

~~(2)(a) The School Children's Trust Director shall submit a draft section budget to the Board Audit Committee annually, consistent with Subsection 53E-3-514(5)(a).~~

~~(b) The School Children's Trust Director shall include in the draft budget a proposed School LAND Trust Program and training schedule, as described in Subsection 53E-514(13).~~

~~(3) In addition to the duties established in 53E-3-514, the School Children's Trust Director shall:~~

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

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

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

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

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

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

The Superintendent shall:

(1) represent the Board on the Land Trusts Protection and Advocacy Committee in accordance with Section 53D-2-202;

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

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

(4) review and approve a plan submitted by the USDB school community council as necessary;

(5) prepare the annual distribution of funds to implement the School LAND Trust Program pursuant to Section 53F-2-404;

(6) report the total distribution amount for the following fiscal year to the Legislative Fiscal Analyst before December 31, annually; and

(7) provide training to entities involved with the School LAND Trust Program consistent with Subsection 53G-7-1206(8).

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

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

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

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

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

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

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

(d) any other necessary and appropriate corrective action.

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

KEY: schools, school community councils, trust lands funds

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

Notice of Continuation: August 13, 2015

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

Education, Administration
R277-487
Public School Data Confidentiality and Disclosure

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 43267
 FILED: 10/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Updates Rule R277-487 to reflect 2018 legislative updates and recommendations from Utah Student Data Privacy Advisory Groups.

SUMMARY OF THE RULE OR CHANGE: New definitions were added to rule R277-487 per recommendations from the Utah Student Data Privacy Advisory Groups. Changes also include a new Section 4, Retention of Student Data, and formatting updates.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X, Section 3 and Subsection 53E-3-401(4) and Subsection 53E-9-302(1) and Subsection 53G-11-511(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. Modifications to this rule reflect legislative updates, and/or recommendations from Student Data Privacy Advisory Groups regarding existing student privacy and security regulations.

◆ **LOCAL GOVERNMENTS:** These rule changes are not expected to have any fiscal impact on local government revenues or expenditures because they provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies. Modifications to this rule reflect legislative updates, and/or recommendations from Student Data Privacy Advisory Groups regarding existing student privacy and security regulations.

◆ **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. Modifications to this rule reflect legislative updates, and/or recommendations from Student Data Privacy Advisory Groups regarding existing student privacy and security regulations.

◆ **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. Modifications to this rule reflect legislative updates, and/or recommendations from Student Data Privacy Advisory Groups regarding existing student privacy and security regulations.

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 61110 (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 large businesses with a NAICS code 61110). These rule changes have no fiscal impact on local education agencies and will not have a fiscal impact on large 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 12/03/2018

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2018

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 large businesses with a NAICS code 611110). These rule changes have no fiscal impact on local education agencies and will not have a fiscal impact on large 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.
R277-487. Public School Data Confidentiality and Disclosure.
R277-487-1. 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 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;

(c) Subsection 53[A-13-301(4)]E-9-302(1), which directs that the Board may make rules to establish student data protection standards for public education employees, student aides, and volunteers ~~in public schools regarding the confidentiality of student information and student records~~; and

(d) Subsection 53[A-8a-410]G-11-511(4), which directs that the Board may make rules to ensure the privacy and protection of individual evaluation data ~~and~~.

~~(e) Section 53A-1-411, which directs the Board to establish procedures for administering or making available online surveys to obtain information about public education issues.]~~

(2) The purpose of this rule is to:

(a) provide for appropriate review and disclosure of student performance data on state administered assessments as required by law;

(b) provide for adequate and appropriate review of student performance data on state administered assessments to professional education staff and parents of students;

(c) ensure the privacy of student performance data and personally identifiable student ~~information~~ data, as directed by law;

(d) provide an online education survey conducted with public funds for Board review and approval; and

(e) provide for appropriate protection and maintenance of educator licensing data.

R277-487-2. Definitions.

(1) "Association" has the same meaning as that term is defined in Subsection 53[A-1-1601]G-7-1101(3).

(2) "Chief Privacy Officer" means a Board employee designated by the Board as primarily responsible to:

(a) oversee and carry out the responsibilities of this rule; and

(b) direct the development of materials and training about student and public education employee privacy standards for the Board and LEAs, including:

(i) FERPA; and

(ii) the Utah Student Data Protection Act, Title 53[A]E, Chapter [1]2, Part [14]3.

(3) "Classroom-level assessment data" means student scores on state-required tests, aggregated in groups of more than 10 students at the classroom level or, if appropriate, at the course level, without individual student identifiers of any kind.

(4) "Comprehensive Administration of Credentials for Teachers in Utah Schools" or "CACTUS" means the electronic file maintained and owned by the Board on all licensed Utah educators, which includes information such as:

(a) personal directory information;

(b) educational background;

(c) endorsements;

(d) employment history; and

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

(5) "Confidentiality" refers to an obligation not to disclose or transmit information to unauthorized parties.

~~(6)~~ "Cyber security framework" means:

- ~~(a)~~ the cyber security framework developed by the Center for Internet Security found at <http://www.cisecurity.org/controls/>; or
- ~~(b)~~ a IT security framework that is comparable to the cyber security framework described in Subsection ~~(6)(a)~~.

~~(6)Z~~ "Data governance plan" has the same meaning as defined in Subsection 53[A-1-1402(9)]E-9-301(7).

~~(7)8~~ "Data security protections" means protections developed and initiated by the Superintendent that protect, monitor and secure student, public educator and public education employee data as outlined and identified in FERPA and Sections 63G-2-302 through 63G-2-305.

~~(9)~~ "Destroy" means to remove data or a record:

- ~~(a)~~ in accordance with current industry best practices; and
- ~~(b)~~ rendering the data or record irretrievable in the normal course of business of an LEA or a third-party contractor.

~~(8)10~~ "Disclosure" includes permitting access to, revealing, releasing, transferring, disseminating, or otherwise communicating all or any part of any individual record orally, in writing, electronically, or by any other communication method.

~~(11)~~ "Expunge" means to seal a record so as to limit its availability to all except authorized individuals.

~~(9)12~~ "Enrollment verification data" includes:

- (a) a student's birth certificate or other verification of age;
- (b) verification of immunization or exemption from immunization form;
- (c) proof of Utah public school residency;
- (d) family income verification; or
- (e) special education program information, including:
 - (i) an individualized education program;
 - (ii) a Section 504 accommodation plan; or
 - (iii) an English language learner plan.

~~(10)13~~ "FERPA" means the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g, and its implementing regulations found at 34 C.F.R., Part 99.

~~(11)~~ "Information Technology Systems Security Plan" means a plan incorporating policies and process for:

- ~~(a)~~ system administration;
- ~~(b)~~ network security;
- ~~(c)~~ application security;
- ~~(d)~~ endpoint, server, and device security;
- ~~(e)~~ identity, authentication, and access management;
- ~~(f)~~ data protection and cryptography;
- ~~(g)~~ monitoring, vulnerability, and patch management;
- ~~(h)~~ high availability, disaster recovery, and physical protection;
- ~~(i)~~ incident responses;
- ~~(j)~~ acquisition and asset management; and
- ~~(k)~~ policy, audit, and e-discovery training.

~~(12)14~~ "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

~~(13)15~~ "Metadata dictionary" has the same meaning as defined in Subsection 53[A-1-1402(16)]E-9-301(14).

~~(14)16~~ "Personally identifiable student data" has the same meaning as defined in Subsection 53[A-1-1402(20)]E-9-301(14).

~~(17)~~ "Significant data breach" means a data breach where:

~~(a)~~ an intentional data breach successfully compromises student records;

~~(b)~~ a large number of student records are compromised;

~~(c)~~ sensitive records are compromised, regardless of number; or

~~(d)~~ a data breach an LEA deems to be significant based on the surrounding circumstances.

~~(15)18~~ "Student data advisory groups" has the same meaning as described in Subsection 53[A-1-1403]E-9-302(3).

~~(16)19~~ "Student data manager[?]" means the individual at the LEA level who:

(a) is designated as the student data manager by an LEA under Section 53[A-1-1404]E-9-303;

(b) authorizes and manages the sharing of student data;

(c) acts as the primary contact for the Chief Privacy Officer;

(d) maintains a list of persons with access to personally identifiable student [information]data; and

(e) is in charge of providing annual LEA staff and volunteer training on data privacy.

~~(17)(a)~~ "Student information" means materials, information, records and knowledge that an LEA possesses or maintains about individual students.

~~(b)~~ Student information is broader than student records and personally identifiable student information and may include information or knowledge that school employees possess or learn in the course of their duties.

~~(18)20~~ "Student performance data" means data relating to student performance, including:

(a) data on state, local and national assessments;

(b) course-taking and completion;

(c) grade-point average;

(d) remediation;

(e) retention;

(f) degree, diploma, or credential attainment; and

(g) enrollment and demographic data.

~~(19)20~~ "Third party contractor" has the same meaning as defined in Subsection 53[A-1-1402(26)]E-9-301(23).

R277-487-3. Data Privacy and Security Policies.

(1) The Superintendent shall develop resource materials for LEAs to train employees, aides, and volunteers of an LEA regarding confidentiality of personally identifiable student [information]data and student performance data.

(2) The Superintendent shall make the materials developed in accordance with Subsection (1) available to each LEA.

(3) An LEA or public school may not be a member or pay dues to an association that is not in compliance with:

(a) FERPA;

(b) Title 53[A]E, Chapter [1]2, Part [14]3, Student Data Protection Act;

(c) Title 53[A]E, Chapter [13]2, Part [3]2, Utah Family Educational Rights and Privacy Act; and

(d) this Rule R277-487.

(4) An LEA shall comply with Title 53[A]E, Chapter [1]2, Part [14]3, Student Data Protection Act.

(5) An LEA shall comply with Section 53[A-13-303]E-9-204.

(6) An LEA is responsible for the collection, maintenance, and transmission of student data.

(7) An LEA shall ensure that school enrollment verification data, student performance data, and personally identifiable student ~~[information]data~~ are collected, maintained, and transmitted:

(a) in a secure manner; and

(b) consistent with sound data collection and storage procedures, established by the LEA.

(8) An LEA may contract with a third party ~~[provider]contractor~~ to collect, maintain, and have access to school enrollment verification data or other student data if:

(a) the third party contractor meets the definition of a school official under 34 C.F.R. 99.31[-](a)(1)(i)(B); and

(b) the contract between the LEA and the third party contractor includes ~~[a]the provisions [that the data is the property of the student under Section 53A-1-1405; and]required by Subsection 53E-9-309(2).~~

~~[(c) the LEA monitors and maintains control of the data.~~

~~(9) If an LEA contracts with a third party contractor to collect and have access to the LEA's data as described in Subsection (6), the LEA shall notify a student and the student's parent or guardian in writing that the student's data is collected and maintained by the third party contractor.]~~

~~[(10) An LEA shall publicly post the LEA's definition of directory information, as defined in FERPA, and describe how a student data manager may share personally identifiable information that is directory information.~~

~~(10) An LEA shall provide the Superintendent with a copy or link to the LEA's directory information definition by October 1 annually.~~

(11) By ~~[July]October~~ 1 annually, an LEA shall enter all student data elements shared with third parties into the Board's metadata dictionary.

(12) An LEA shall report all ~~[unauthorized disclosures]significant data breaches~~ of student data either by the LEA or by third parties to the Superintendent within ten business days of the initial discovery of the significant data breach.

(13) An LEA shall provide the Superintendent with a copy or link to the LEA's data governance plan by October 1 annually.

~~[(14) An LEA shall provide the Superintendent with a copy or link to the LEA's Information Technology Systems Security Plan by October 1 annually.]~~

(14) An LEA shall provide the Superintendent with the following information by October 1 annually:

(a) evidence that the LEA has implemented a cyber security framework; and

(b) the name and contacted information for the LEA's designated Information Security Officer.

(15) All public education employees, aides, and volunteers in public schools shall become familiar with federal, state, and local laws regarding the confidentiality of student performance data and personally identifiable student ~~[information]data~~.

(16) All public education employees, aides, and volunteers shall maintain appropriate confidentiality pursuant to federal, state, local laws, and LEA policies created in accordance

with this section, with regard to student performance data and personally identifiable student ~~[information]data~~.

(17) An employee, aide, or volunteer may not share, disclose, or disseminate passwords for electronic maintenance of:

(a) student performance data; or

(b) personally identifiable student ~~[information]data~~.

(18) A public education employee licensed under Section 53[A-6-104]E-6-201 may only access or use student information and records if the public education employee accesses the student information or records consistent with the educator's obligations under Rule R277-515.

(19) The Board may discipline a licensed educator in accordance with licensing discipline procedures if the educator violates this Rule R277-487.

(20) An LEA shall annually provide a training regarding the confidentiality of student data to any employee with access to education records as defined in FERPA.

~~[(21) A school employee shall annually submit a certified statement to the LEA's student data manager, which certifies that the school employee completed the LEA's required student privacy training and understands student privacy requirements.]~~

R277-487-4. Retention of Student Data.

(1) An LEA shall classify all student data collected in accordance with Section 63G-2-604.

(2) An LEA shall retain and dispose of all student data in accordance with an approved retention schedule.

(3) If no existing retention schedule governs student disciplinary records collected by an LEA:

(a) An LEA may propose to the State Records Committee a retention schedule of up to one year if collection of the data is not required by federal or state law or Board rule; or

(b) An LEA may propose to the State Records Committee a retention schedule of up to three years if collection of the data is required by federal or state law or Board rule, unless a longer retention period is prescribed by federal or state law or Board rule.

(4) An LEA's retention schedules shall take into account the LEA's administrative need for the data.

(5) Unless the data requires permanent retention, an LEA's retention schedules shall require destruction or expungement of student data after the administrative need for the data has passed.

(6) A parent or adult student may request that an LEA amend, expunge, or destroy any record not subject to a retention schedule under Section 63G-2-604, and believed to be:

(a) inaccurate;

(b) misleading; or

(c) in violation of the privacy rights of the student.

(7) An LEA shall process a request under Subsection (6) following the same procedures outlined for a request to amend a student record in 34 CFR Part 99, Subpart C.

R277-487-[4]5. Transparency.

(1) The Superintendent shall recommend policies for Board approval and model policies for LEAs regarding student data systems.

(2) A policy prepared in accordance with Subsection (1) shall include provisions regarding:

(a) accessibility by parents, students, and the public to student performance data;

(b) authorized purposes, uses, and disclosures of data maintained by the Superintendent or an LEA;

(c) the rights of parents and students regarding their personally identifiable information under state and federal law;

(d) parent, student, and public access to information about student data privacy and the security safeguards that protect the data from unauthorized access and use; and

(e) contact information for parents and students to request student and public school information from an LEA consistent with the law.

R277-487-~~5~~6. Responsibilities of Chief Privacy Officer.

(1) The Chief Privacy Officer:

(a) may recommend legislation, as approved by the Board, for additional data security protections and the regulation of use of the data;

(b) shall supervise regular privacy and security compliance audits, following initiation by the Board;

(c) shall have responsibility for identification of threats to data ~~[security]~~privacy protections;

(d) shall develop and recommend policies to the Board and model policies for LEAs for:

(i) protection of personally identifiable student ~~[information]~~data;

(ii) consistent wiping or destruction of devices when devices are discarded by public education entities; and

(iii) appropriate responses to suspected or known breaches of data security protections;

(e) shall conduct training for Board staff and LEAs on student privacy; and

(f) shall develop and maintain a metadata dictionary as required by Section 53~~[A-1-1403]~~E-9-302.

R277-487-~~6~~7. Prohibition of Public Education Data Use for Marketing.

Data maintained by the state, a school district, school, or other public education agency or institution in the state, including data provided by contractors, may not be sold or used for marketing purposes, or targeted advertising as defined in Subsection 53~~[A-1-1402(26)]~~E-9-301(22) except with regard to authorized uses of directory information not obtained through a contract with an educational agency or institution.

R277-487-~~7~~8. Public Education Research Data.

(1) The Superintendent may provide limited or extensive data sets for research and analysis purposes to qualified researchers or organizations.

(2) The Superintendent shall use reasonable methods to qualify researchers or organizations to receive data, such as evidence that a research proposal has been approved by a federally recognized Institutional Review Board or "IRB."

(3) The Superintendent may post aggregate de-identified student assessment data to the Board website.

(4) The Superintendent shall ensure that personally identifiable student ~~[information]~~data is protected.

(5) The Superintendent:

(a) is not obligated to fill every request for data and shall establish procedures to determine which requests will be filled or to assign priorities to multiple requests;

(b) may give higher priority to requests that will help improve instruction in Utah's public schools; and

(c) may charge a fee to prepare data or to deliver data, particularly if the preparation requires original work.

(6) A researcher or organization shall provide a copy of the report or publication produced using Board data to the Superintendent at least 10 business days prior to the public release.

(7) Requests for personally identifiable student data that ~~[disclose student information]~~ may only be provided in accordance with Section 53~~[A-1-1409]~~E-9-308 and FERPA, ~~[incorporated herein by reference]~~, and may include:

(a) student data that are de-identified, meaning that a reasonable person in the school community who does not have personal knowledge of the relevant circumstances could not identify student(s) with reasonable certainty;

(b) agreements with recipients of student data where recipients agree not to report or publish data in a manner that discloses students' identities; or

(c) release of student data, with appropriate binding agreements, for state or federal accountability or for the purpose of improving instruction to specific student subgroups.

(8) Recipients of Board research data shall sign a confidentiality agreement, if required by the Superintendent.

(9) Either the Board or the Superintendent may commission research or may approve research requests.

(10) Request for records under Title 63G, Chapter 2, Government Records Access and Management Act, are not subject to this Section R277-487-~~7~~8.

~~[R277-487-8. Public Education Survey Data.~~

~~———— (1) The Superintendent shall approve statewide education surveys administered with public funds through the Board or through a contract approved by the Board, as required under Section 53A-1-411.~~

~~———— (2) Data obtained from a statewide survey administered with public funds under Subsection (1) to the extent not subject to Section 53A-1-1405 are the property of the Board.~~

~~———— (3) The Superintendent shall make data obtained from a survey developed in accordance with Subsection (1) available only if the data is shared in such a manner as to protect the privacy of students and educators in accordance with federal and state law.]~~

R277-487-9. CACTUS Data.

(1) The Board maintains information on all licensed Utah educators in CACTUS, including information classified as private, controlled, or protected under GRAMA.

(2) The Superintendent shall open a CACTUS file for a licensed Utah educator when the individual initiates a Board background check.

(3) Authorized Board staff may update CACTUS data as directed by the Superintendent.

(4) Authorized LEA staff may change demographic data and update data on educator assignments in CACTUS for the current school year only.

(5) A licensed individual may view his own personal data, but may not change or add data in CACTUS except under the following circumstances:

(a) A licensee may change the licensee's contact and demographic information at any time;

(b) An employing LEA may correct a current educator's assignment data on behalf of a licensee[-]; ~~and~~

(c) A licensee may petition the Board for the purpose of correcting any errors in the licensee's CACTUS file.

(6) The Superintendent shall include an individual currently employed by a public or private school under a letter of authorization or as an intern in CACTUS.

(7) The Superintendent shall include an individual working in an LEA as a student teacher in CACTUS.

(8) The Superintendent shall provide training and ongoing support to authorized CACTUS users.

(9) For employment or assignment purposes only, authorized LEA staff members may:

(a) access data on individuals employed by the LEA; or

(b) view specific limited information on job applicants if the applicant has provided the LEA with a CACTUS identification number.

(10) CACTUS information belongs solely to the Board.

(g) The Superintendent may release data within CACTUS in accordance with the provisions of Title 63G, Chapter 2, Government Records Access and Management Act.

R277-487-10. Educator Evaluation Data.

(1)(a) The Superintendent may provide classroom-level assessment data to administrators and teachers in accordance with federal and state privacy laws.

(b) ~~A [S]school administrator[s]~~ shall share information requested by parents while ensuring the privacy of individual personally identifiable student [information]data and educator evaluation data.

(2) A school, LEA, the Superintendent, and the Board shall protect [H]individual educator evaluation data ~~shall be protected at the school, LEA and state levels and, if applicable, by the Board~~.

(3) An LEA shall designate employees who may have access to educator evaluation records.

(4) An LEA may not release or disclose student assessment information that reveals educator evaluation information or records.

(5) An LEA shall train employees in the confidential nature of employee evaluations and the importance of securing evaluations and records.

R277-487-11. Application to Third ~~Party Contractors~~Parties.

(1) The Board and LEAs shall set policies that govern a third party contractor's access to personally identifiable student data and public school enrollment verification data consistent with Section 53~~[A-1-1401]~~E-9-301, et seq.

(2) An LEA may release personally identifiable student [information]data and public school enrollment verification data to a third party contractor if:

(a) the release is allowed by, and released in accordance with, Section 53~~[A-1-1409]~~E-9-308, ~~and~~ FERPA, ~~[incorporated herein by reference,]~~ and ~~[its]~~ FERPA's implementing regulations; and

(b) the LEA complies with the requirements of Subsection R277-487-3(6).

(4) All Board contracts shall include sanctions for contractors or third party providers who violate provisions of state

policies regarding unauthorized use and release of student and employee data.

(5) The Superintendent shall recommend that LEA policies include sanctions for contractors who violate provisions of federal or state privacy law and LEA policies regarding unauthorized use and release of student and employee data.

R277-487-12. Sharing Data With the Utah Registry of Autism and Developmental Disabilities.

(1) The Superintendent shall share personally identifiable student data with the Utah Registry of Autism and Developmental Disabilities as required by Subsection 53E-9-308(6)(b) through a written agreement designating the Utah Registry of Autism and Developmental Disabilities as the authorized representative of the Board for the purpose of auditing and evaluating federal and state supported education programs that serve students with autism and other developmental disabilities.

(2) The agreement required by Subsection (1) shall include a provision that:

(a) the Utah Registry of Autism and Developmental Disabilities may not use personally identifiable student data for any purpose not specified in the agreement;

(b) the Utah Registry of Autism and Developmental Disabilities shall flag all student personally identifiable data received from the Board to:

(i) ensure that the data is not used for purposes not covered by the agreement; and

(ii) allow the Superintendent access to the data for auditing purposes;

(c) the Utah Registry of Autism and Developmental Disabilities may redisclose de-identified data if:

(i) the de-identification is in accordance with HIPPA's safe harbor standard;

(ii) the de-identification is in accordance with Board rule; and

(iii) the Utah Registry of Autism and Development Disabilities annually provides the Superintendent with a description and the results of all projects and research undertaken using de-identified student data; and

(d) the Utah Registry of Autism and Developmental Disabilities shall allow an on-site audit conducted by the Superintendent to monitor for compliance with this rule no less than once per year.

(3) The Superintendent shall maintain a record of all personally identifiable student data shared with the Utah Registry of Autism and Developmental Disabilities in accordance with 34 C.F.R. 99.32.

(4)(a) A parent of a child whose personally identifiable student data was shared with the Utah Registry of Autism and Developmental Disabilities has the right to access the exact records disclosed.

(b) A parent identified in Subsection (4)(a) has the right to contest and seek to amend any data that is inaccurate, misleading, or otherwise in violation of the privacy rights of the student.

R277-487-~~12~~13. Annual Reports by Chief Privacy Officer.

(1) The Chief Privacy Officer shall submit to the Board an annual report regarding student data.

(2) The public report shall include:

- (a) information about the implementation of this rule;
- (b) information about the approved research studies ~~[begun or planned]~~ using personally identifiable student information and data;
- (c) identification of significant threats to student data privacy and security;
- (d) a summary of data system audits; and
- (e) recommendations for further improvements specific to student data security and the systems that are necessary for accountability in Board rules or legislation.

R277-487-~~[43]~~14. Data Security and Privacy Training for Educators.

- (1) The Superintendent shall develop a student and data security and privacy training for educators.
- (2) The Superintendent shall make the training developed in accordance with Subsection (1) available through UEN.
- (3) Beginning in the 2018-19 school year, an educator shall complete the training developed in accordance with Subsection (1) as a condition of re-licensure.

KEY: students, records, confidentiality, privacy
Date of Enactment or Last Substantive Amendment: ~~[July 10, 2017]~~2018
Notice of Continuation: November 14, 2014
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; ~~[53A-13-301(4); 53A-1-401; 53A-1-411; 53A-8a-410(4)]53E-9-302; 53E-3-401; 53G-11-511~~

Education, Administration
R277-488
 Critical Languages and Dual Language
 Immersion Program

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 43271
 FILED: 10/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended to conform with the recent changes made to the Dual Language Immersion program in S.B. 117 from the 2018 General Session.

SUMMARY OF THE RULE OR CHANGE: This rule is being amended to conform with the recent changes made to the Dual Language Immersion program in S.B. 117 from the 2018 General Session, including the required proficiency assessment and program evaluation. This amendment also makes conforming changes to align with S.B. 117 (2018) regarding transitioning the pilot program to a permanent program.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X, Section 3 and Section 53E-3-401 and Section 53F-2-502

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 this rule is being amended to conform with the recent changes made to the Dual Language Immersion program in S.B. 117 (2018), including the required proficiency assessment and program evaluation. These amendments also makes conforming changes to align with S.B. 117 (2018) regarding transitioning the pilot program to a permanent program. Funding was provided for the required proficiency assessment to the Utah State Board of Education (Board) that covers statewide implementation.

◆ **LOCAL GOVERNMENTS:** These rule changes are not expected to have any fiscal impact on local governments' revenues or expenditures because this rule is being amended to conform with the recent changes made to the Dual Language Immersion program in S.B. 117 (2018), including the required proficiency assessment and program evaluation. These amendments also makes conforming changes to align with S.B. 117 (2018) regarding transitioning the pilot program to a permanent program. Funding was provided for the required proficiency assessment to the Board that covers statewide implementation.

◆ **SMALL BUSINESSES:** These rule changes are not expected to have any fiscal impact on on small businesses' revenues or expenditures because this rule is being amended to conform with the recent changes made to the Dual Language Immersion program in S.B. 117 (2018), including the required proficiency assessment and program evaluation. These amendments also makes conforming changes to align with S.B. 117 (2018) regarding transitioning the pilot program to a permanent program. Funding was provided for the required proficiency assessment to the Board that covers statewide implementation.

◆ **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 this rule is being amended to conform with the recent changes made to the Dual Language Immersion program in S.B. 117 (2018), including the required proficiency assessment and program evaluation. These amendments also makes conforming changes to align with S.B. 117 (2018) regarding transitioning the pilot program to a permanent program. Funding was provided for the required proficiency assessment to the Board that covers statewide implementation.

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 large businesses with a NAICS code 611110). These rule changes have no fiscal impact on local education agencies and will not have a fiscal impact on large 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 12/03/2018

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2018

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 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 large businesses with a NAICS code 611110). This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on large 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.

R277-488. [Critical Languages and]Dual Language Immersion Program.

R277-488-1. 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 53F-2-516, which requires the Board to establish a Critical Languages Program;~~]
 - (~~(b)~~^(e)) Section 53F-2-502, which requires the Board to establish a Dual Language Immersion program; and
 - (~~(d)~~^(e)) 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:
 - (a) establish criteria and procedures for distributing funds to elementary and secondary schools participating in the Dual Language Immersion Program [~~and Critical Languages Program~~];
 - (b) increase the number of students who reach proficiency in world languages;
 - (c) build overall world language capacity in the state of Utah; and
 - (d) increase the number of biliterate and bilingual students.

R277-488-2. Definitions.

~~[(1) "Critical languages" means those languages described under Subsection 53F-2-516(1)(a).~~

~~[(2) "Critical Languages Program" means the program described under Section 53F-2-516.]~~

~~[(3)](1) "Dual language immersion" or "DLI" means a distinctive dual language education program in which native English speakers and active speakers of another language are integrated for academic content.~~

~~[(4)](2) "Secondary school" means grades 7-12 in whatever schools the grade levels exist.~~

R277-488-3[4]. Dual Language Immersion Program Requirements.

(1) The Superintendent shall disburse DLI program funds by July 1 of each fiscal year subject to state appropriation.

(2) The DLI program shall support world languages approved by the Superintendent.

(3) The Superintendent shall annually provide an application for an LEA to receive funding for DLI programs ~~[by April 14 annually].~~

(4) An LEA shall submit an application described in Subsection (3) no later than the deadline specified in the application ~~[May 14]~~ annually to be considered for elementary ~~[and secondary]~~ school DLI program funding in the subsequent school year.

(5) An application for DLI program funds shall include a plan that includes:

~~[(a) 50 percent of instruction in English and 50 percent of instruction in another language;~~

~~[(b) an instructional model identified in R277-488-2(4)(b);]~~

~~[(c)](a) a world language approved by the Superintendent;~~

~~[(d)](b) a timeline that begins the instructional model in kindergarten or grade 1, ~~[and]~~ adds an additional grade each year; and~~

~~[(e)](c) a plan and procedure in place to notify students and parents of the availability of at least one DLI course.~~

(6) The Superintendent shall give priority in DLI program funding to an LEA that:

(a) does not currently teach the requested language choice;

(b) demonstrates adequate local funding and infrastructure to begin a program or expand existing programs;

(c) demonstrates community interest and students committed and prepared to participate in a new or expanded program, including prepared instructors for the program;

(d) has adequate interest, resources, and infrastructure, but does not presently have a DLI program; and

(e) has a demonstrated community need for improved or expanded world language instruction in a specific school or community.

(7) A school receiving DLI program funds shall hire qualified world language teachers who:

(a) have a world language endorsement in the language of instruction and a DLI endorsement; and

(b) are Utah licensed elementary or secondary educators.

R277-488-3[4]. [Critical Language Program] Proficiency Assessment Requirements.

(1) The Superintendent shall select a proficiency assessment through an appropriate procurement process.

(2) The proficiency assessment described in Subsection (1) shall assess the following areas of proficiency:

(a) listening;

(b) speaking;

(c) reading; and

(d) writing.

(3) An LEA DLI program shall administer the proficiency assessment selected by the Superintendent as described in Subsection (1) for certain areas of proficiency listed in subsection (2) at each grade level starting at Grade 3 and through Grade 9.

~~[(1) A secondary school that desires to offer critical languages, through traditional instruction or a visiting guest teacher program, shall submit an application, to the Superintendent no later than May 1.~~

~~[(2) An LEA application shall be on a form provided by the Superintendent annually by April 1, which shall designate:~~

~~[(a) the name of the school district or charter school;~~

~~[(b) a plan and procedure to notify students and parents of the names of the critical languages that will support the dual language immersion continuation into secondary schools consistent with Subsection 53F-2-516(1); and~~

~~[(c) requirements for the visiting guest teacher exchange program, including:~~

~~[(i) programs shall operate under a Memorandum of Understanding between the Board and the country providing qualified guest teachers;~~

~~[(ii) international teacher expenses shall be paid as provided by the designated Memorandum of Understanding; and~~

~~[(iii) satisfaction of all other conditions provided by individual Memoranda of Understanding.~~

~~[(3) A school applying for either the traditional instruction or the visiting guest teacher program shall use materials identified and recommended by the Superintendent, including texts and consumables, purchased with funds appropriated by the Legislature.]~~

R277-488-5. International Guest Teacher Requirements

(1) An LEA may offer world languages through the DLI program using an international guest teacher as outlined in R277-527.

R277-488-5[6]. Dual Language Immersion Funds.

(1) ~~[Secondary and e]~~Elementary schools shall be selected for funding for the DLI program based on an evaluation of applications by the Superintendent.

(a) Secondary schools shall receive funding as recipients of DLI students through the regular school feeder system.

(2) The Superintendent shall make an award to an individual elementary or secondary school and allocate funds to the school's LEA to be fully distributed to the school based on the annual legislative funding allocation.

(3) The Superintendent shall notify a new school eligible for funding of a funds award for the subsequent fiscal year by June 1 annually.

R277-488-7[6]. Evaluation and Reports.

(1) Each school selected for funding shall submit an annual evaluation report to the Superintendent.

(2) The Superintendent may request additional data from a secondary or elementary school that receives funding.

KEY: critical languages, dual language immersion

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

Notice of Continuation: June 6, 2017

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; [~~53F-2-5116;~~] 53F-2-502; 53E-3-401[(4)]

Education, Administration
R277-491
School Community Councils

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 43268
FILED: 10/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These rule changes are in response to H.B. 404, Land Trust Protection and Advocacy Act, that passed in the 2018 Legislative Session.

SUMMARY OF THE RULE OR CHANGE: These changes to R277-477 update code and rule references, and make language clarifications.

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:** 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. The language modifications are needed as a result of H.B. 404, Land Trust Protection and Advocacy Act, that passed in the 2018 Legislative Session. Included in these changes are updates to code and rule references, and language clarifications. These changes are organization and clarification modifications only.

♦ **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. The language modifications are needed as a result of H.B. 404, Land Trust Protection and Advocacy Act, that passed in the 2018 Legislative Session. Included in these changes are updates to code and rule references, and language clarifications. These changes are organization and clarification modifications only.

♦ **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. The language modifications are needed as a result of H.B. 404, Land Trust Protection and Advocacy Act, that passed in the 2018 Legislative Session. Included in these changes are updates to code and rule references, and language clarifications. These changes are organization and clarification modifications only.

♦ **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. The language modifications are needed as a result of H.B. 404, Land Trust Protection and Advocacy Act, that passed in the 2018 Legislative Session. Included in these changes are updates to code and rule references, and language clarifications. These changes are organization and clarification modifications only.

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 large businesses with a NAICS code 611110). These rule changes have no fiscal impact on local education agencies and will not have a fiscal impact on large 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 12/03/2018

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2018

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

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
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 large businesses with a NAICS code 611110). These rule changes have no fiscal impact on local education agencies and will not have a fiscal impact on large or small businesses.

R277. Education, Administration.
R277-491. School Community Councils.
R277-491-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; and
 - (b) Subsection 53[A-1]E-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 procedures and clarifying information to a school community council to assist the council in fulfilling school community council responsibilities consistent with Sections 53[A-1a-108]G-7-1202 [and]through 53[A-1a-108-1]G-7-1203;
 - (b) provide direction to a local school board, school, and school district in establishing and maintaining a school community council;
 - (c) provide a framework and support for improved academic achievement of students that is locally driven from within an individual school;
 - (d) encourage increased participation of a parent, school employee, and others to support the mission of a school community council;
 - (e) increase public awareness of:
 - (i) school trust lands;
 - (ii) the permanent State School Fund; and
 - (iii) educational excellence; and
 - (f) enforce compliance with the laws governing a school community council.
- (3) This rule does not apply to charter schools.

R277-491-2. Definitions.

- (1) "Local school board" means the locally elected school board designated in Section 53[A-3-104]G-4-201.
- (2)(a) "Principal" means an administrator licensed as a principal in the state and employed in that capacity at a school.
- (b) "Principal" includes a specific designee of the principal.
- (3) "School community" means the geographic area a school district designates as the attendance area, with reasonable inclusion of a parent of a student who attends the school but lives outside the attendance area.
- (4) "Student" means a child in a public school, grades kindergarten through 12, counted on the audited October 1 fall enrollment report.

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

- (1) In addition to the election notice requirements of S[ub]section 53[A-1a-108(5)(c)]G-7-1202, the principal shall provide notice of:
 - (a) the location where a ballot may be cast; and
 - (b) the means by which a ballot may be cast, whether in person, by mail, or by electronic transfer.

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

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

(3)(a) A school, school district, or local school board may allow a parent to vote by electronic ballot through a district approved election process that is consistent with the election requirements in Subsection 53G-7-1202(5).

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

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

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

(i) recruit members;

(ii) have meetings; and

(iii) publicize the opportunity to serve on the council[=

and

~~(iv) publish election results to the school community].~~

(b) ~~[The]~~ local school board shall make the determination whether to grant the exemption for a school described in Subsection (5)(a).

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

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

(a) the school community council's election;

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

and

(c) that the school community council's bylaws or procedures comply with Section 53[A-1a-108]G-7-1202, Rule R277-477, and this rule.

(2) In addition to the requirements of Subsections 53[A-1a-108.1]G-7-1203 (5) and (6), each year the principal shall post the following information on the school's website on or before October 20:

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

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

(c) a copy of or link to the current School Improvement Plan as required in Section 53[A-1a-108.5]G-7-1204; and

(d) if the School LAND Trust Plan and School Improvement Plan have been consolidated into one, a statement that the local board has consolidated the two plans into one.

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

(1) After the school community council election, the school community council shall annually elect at the council's first meeting a chair and vice chair in accordance with Subsection 53[A-1a-108]G-7-1202(5)(j).

(2) The school community council chair shall:

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

~~(b)a~~ set the agenda for every meeting;

~~(e)b~~ conduct every meeting;

~~(d)c~~ keep written minutes of every meeting, consistent with S[ub]section 53[A-1a-108.1(9)]G-7-1203;

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

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

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

R277-491-6. School Community Council Business.

(1)(a) The school community council shall adopt rules of order and procedure to govern a council meeting in accordance with Subsection 53[A-1a-108.1]G-7-1203(10).

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

(i) selecting a chair and vice chair;

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

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

(2) The school community council shall:

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

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

(3)(a) The principal shall provide an annual report to the school community council that summarizes current practices used by the school district and school to facilitate the school community council's responsibilities under Subsections 53[A-1a-108(3)(a)]G-7-1203(3)(a)(iii)(D), (iv), and (v).

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

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

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

(iii) internet safety training ~~[required by Section 53A-1a-108]provided to a student and parent by the school or district.~~

(c) A school community council's School LAND Trust Program plan may not conflict with the school district's approved LEA plan related to a digital teaching and learning grant awarded to the school district under Title 53[A]E, [e]Chapter [4]2, Part [44]5.

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

~~R277-491-7. Inapplicable to Charter Schools.
 This rule does not apply to a charter school.~~

R277-491-[8]7. Failure to Comply with Rule.

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

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

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

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

KEY: school community councils

Date of Enactment or Last Substantive Amendment: ~~January 9, 2018~~

Notice of Continuation: August 13, 2015

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; ~~53A-1E-3-401(4); 53A-1a-108; 53A-1a-108.1; 53G-7-12~~

Education, Administration
R277-496
 K-3 Reading Software Licenses

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE NO.: 43278
 FILED: 10/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended to conform with changes made to the statutory language that governs this program.

SUMMARY OF THE RULE OR CHANGE: This rule is being amended to conform with changes made to the statutory language that governs this program. S.B. 127 passed during the 2018 General Session requires the Utah State Board of Education (Board) to make rules that describe the strategies a local education agency (LEA) will use to accomplish early literacy goals. These amendments add language regarding personalized fidelity as part of the overall strategies for K-3 Reading Program.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X, Section 3 and Section 53F-4-203 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. This rule is being amended to conform with changes made to the statutory language that governs this program. S.B. 127 (2018) requires the Board to make rules that describe the strategies an LEA will use to accomplish early literacy goals. These amendments add language regarding personalized fidelity as part of the overall strategies for K-3 Reading 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. This rule is being amended to conform with changes made to the statutory language that governs this program. S.B. 127 (2018) requires the Board to make rules that describe the strategies an LEA will use to accomplish early literacy goals. These amendments add language regarding personalized fidelity as part of the overall strategies for K-3 Reading 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. This rule is being amended to conform with changes made to the statutory language that governs this program. S.B. 127 (2018) requires the Board to make rules that describe the strategies an LEA will use to accomplish early literacy goals. These amendments add language regarding personalized fidelity as part of the overall strategies for K-3 Reading program.

◆ **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. This rule is being amended to conform with changes made to the statutory language that governs this program. S.B. 127 (2018) requires the Board to make rules that describe the strategies an LEA will use to accomplish early literacy goals. These amendments add language regarding personalized fidelity as part of the overall strategies for K-3 Reading program.

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 large businesses with a NAICS code 611110). These rule changes have no fiscal impact on local education agencies and will not have a fiscal impact on large 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 12/03/2018

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2018

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

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 large businesses with a NAICS code 611110). This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on large 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

R277. Education, Administration.

R277-496. K-3 Reading Software Licenses.

R277-496-1. 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 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) Subsections 53F-4-203(2), which directs the Board to distribute software licenses for the [K-3]early interactive reading software program to LEAs that apply for the licenses.

(2) The purpose of this rule is to establish criteria and procedures to administer the K-3 reading software program.

R277-496-2. Definitions.

(1) "Aggregate student population" means the total number of students within a school who are using a technology provider's [K-3]early interactive reading software licenses.

(2) "Dosage" means amount of instruction time.

(2) "Early interactive reading software" or "K-3 reading software license" means technology tools and software that adjust the presentation of educational material according to a student's weaknesses and strengths, as indicated by the student's responses to questions.

(3) "Personalized fidelity" means local measures for fidelity to a software product based on three or more data points that demonstrate successful student outcomes at or above the level of student outcomes achieved by the technology provider's dosage recommendations.

(4) "Use early interactive reading software in accordance with a technology provider's dosage recommendations" means when at least 80% of the aggregate student population of a school, by provider[;]:

(a) uses a technology provider's K-3 reading software for at least 80% of:

(i) the minimum number of weeks of use recommended by the technology provider for the K-3 reading software program[;] or

(ii) the average number of minutes of use recommended by the technology provider for the K-3 reading software program[;] or

(b) demonstrates personalized fidelity per programmatic requirements.

R277-496-3. K-3 Reading Software Licenses.

(1) The Superintendent shall select one or more technology providers through an RFP to provide early interactive reading software for students in kindergarten through grade 3.

(2) A school may apply for early interactive reading software for students in kindergarten through grade 3.

(3) The Superintendent shall accept applications from LEAs for K-3 early interactive reading software licenses that satisfy the requirements of Section 53F-4-203 and the provisions of this rule.

(4) If the number of requests for K-3 reading software licenses exceeds the number of licenses available, the Superintendent shall give priority to:

(a) requests for licenses to be used in Kindergarten or grade 1; or

(b) a school that:

(i) received a K-3 reading license in a previous school year; and

(ii) used the K-3 reading license in accordance with the technology provider's dosage recommendations.

(5) The Superintendent shall establish timelines for submission of applications.

(6) A school may not require a student to participate in the K-3 reading software license program.

R277-496-4. School Probationary Re-entry Into the Program.

(1) If a school does not use the K-3 early interactive reading software licenses in accordance with the technology provider's dosage recommendations [~~as described in Subsection 53F-4-203(3)(e)~~], the school may not receive K-3 reading software licenses for one year.

(2) A school described in Subsection (1) may reapply to re-enter the program on a probationary basis and receive K-3 reading software licenses if the school meets the probation requirements of this Section R277-496-4.

(3) A school is on probation if the school:

(a) previously received K-3 reading software licenses;

(b) lost eligibility to participate in the program, which includes failure to use the early interactive software per the technology provider's dosage recommendations for two consecutive years [~~as described in Subsection 53F-4-203(3)(e)~~]; and

(c) receives K-3 reading software licenses after re-entering the program.

(4)(a) The school principal, instructional leaders, and teachers of a school on probation shall engage in all of the available technology provider support structures and interventions for probationary software programs, including:

(i) data dives;

(ii) professional learning; and

(iii) usage and fidelity updates.

(b) A technology provider shall establish the specific support structure requirements and interventions described in Subsection (4)(a) for the technology provider's software program.

(5) If a technology provider does not offer support structure requirements and interventions as described in Subsection (4), the Superintendent may not make the technology provider's software available for a school that is on probation.

(6) If a school on probation does not use the K-3 early interactive reading software licenses in accordance with a technology provider's dosage recommendations during the probationary year, the school may not receive an K-3 early interactive reading license for the following year unless the school on probation pays for 50% of the costs of the K-3 reading license software license.

R277-496-5. Reporting.

(1) An LEA [~~receiving~~]that receives K-3 reading software licenses shall provide information that is requested by the Superintendent or external evaluator selected by the Board in conducting the evaluation required in Subsection 53F-4-203(3) and (4).

(2) The Superintendent may recommend action to the Board, including withholding of funds, in accordance with Rule R277-114 for an LEA that fails to provide complete, accurate, and timely reporting as required by this rule.

KEY: reading, software, licenses

Date of Enactment or Last Substantive Amendment: September 21, 2017

Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-4-203

Education, Administration **R277-620** Suicide Prevention Programs

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 43276
FILED: 10/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended to provide technical, conforming, and stylistic changes.

SUMMARY OF THE RULE OR CHANGE: R277-620 is due for its five-year review and continuation. R277-620 is also amended to provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Utah State Board of Education (Board) policies.

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:** 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. This rule is being updated to reflect the updated current programmatic standards to guide statewide suicide prevention standards.

◆ **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. This rule is being updated to reflect the updated current programmatic standards to guide statewide suicide prevention standards.

◆ **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. This rule is being updated to reflect the updated current programmatic standards to guide statewide suicide prevention standards.

◆ **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. This rule is being updated to reflect the updated current programmatic standards to guide statewide suicide prevention standards.

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

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 large businesses with a NAICS code 611110). These rule changes have no fiscal impact on local education agencies and will not have a fiscal impact on large 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.

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EDUCATION
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250 E 500 S
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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.
R277-620. Suicide Prevention Programs.
R277-620-1[2]. Authority and Purpose.

[A-](1) This rule is authorized under:
 (a) Utah Constitution Article X Section 3 which vests general control and supervision of public education in the Board[;], and
 (b) Section [53A-1-40+][53E-3-401(3)4] which allows the Board to adopt rules in accordance with its responsibilities.
 [B-](2) The purposes of this rule are:
 (+)(a) to provide for collaboration with the Department of Health and Department of Human Services to establish, oversee, and provide model policies, programs for an LEA[s] and training for parents about youth suicide prevention programs;
 (2)(b) to require an LEA[s] to have and update youth protection policies; and
 (3)(c) to direct an LEA[s] to send notice to parents and protect the confidentiality of the required parent notification record regarding bullying and suicide incidents.

R277-620-2[4]. Definitions.

[A-] A. "Board" means the Utah State Board of Education.
 (1) "Adverse Childhood Experiences Study" or "ACES" means the study conducted on potentially traumatic events that can

have negative, lasting effects on health, learning, and well-being as defined by the American Journal of Preventive Medicine.

[B-](2) "Intervention" means an effort to prevent a student from attempting suicide.

[C-](3) "LEA" ~~means a local education agency, including local school boards/public school districts, charter schools, and includes~~, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

[D-](4) "Parent notification" means a notice provided by a public school to a students' parent(s) consistent with Section [53A-11a-203]53G-9-604(2) and [53A-11a-30+][53G-9-605(3)(e).

[E-](5) "Postvention" means mental health intervention after a suicide attempt or death to prevent or contain contagion.

[F-](6) "Program for secondary grades" means a youth suicide prevention program for students in grades 7 through 12, including grade 6 if middle or junior high school includes grade 6.

[G-](7) "State suicide prevention coordinator" means the person designated by the Department of Health - State Division of Substance Abuse and Mental Health in Section 62A-15-1101.

[H-] "USOE" means the Utah State Office of Education.

I. "USOE suicide prevention coordinator" means person designated by the Board to oversee the youth suicide prevention programs of LEAs and who is responsible to coordinate prevention programs, services, and efforts with the state suicide prevention coordinator.

[J-](8) "Youth protection and mental health seminar" means a seminar offered for each 11,000 students enrolled in a school district to parents of students consistent with Section [53A-15-130+][53G-9-702.

R277-620-3. [Board, USOE and LEA Responsibilities] Youth Suicide Prevention Grants - LEA Reporting Requirements.

[A-] Board and USOE responsibilities:
 (1) The USOE suicide prevention coordinator shall oversee LEA youth suicide prevention programs.
 (2)(1) The [USOE]Superintendent, in collaboration with the Department of Health - State Division of Substance Abuse and Mental Health and the S[s]tate suicide prevention coordinator, shall establish model youth suicide prevention programs for LEAs that include training and resources addressing:
 (a) prevention of youth suicides[;];
 (b) standard response protocols that utilize trauma informed practices, which may reference the ACES or other empirical data;
 (c) youth suicide intervention[;]; and
 (d) postvention for family, students, and faculty.
 (3)(2) Based on legislative appropriation, the Board shall distribute funds to LEAs to support suicide prevention efforts in the school district or charter school.[so that]
 (a) An LEA[s] [can]may use the awarded funds to select and implement:
 (i) evidenced-based practices and programs[;]; or
 (ii) emerging best practices and programs[;],[to support suicide prevention efforts in the school district or charter school].
 (4) The Board shall report jointly with the state suicide prevention coordinator to the Legislature's Education Interim Committee in 2014 on:
 (a) the progress of LEA programs; and

~~(b) the Board's coordination efforts with the Department of Health - State Division of Substance Abuse and Mental Health and the state suicide prevention coordinator.]~~

~~[B. LEA responsibilities:~~

~~(1)(3) An LEA[s] shall implement youth suicide prevention programs for students in secondary grades, including grades 7 through 12 and grade 6, if grade 6 is part of a secondary grade model.~~

~~(2)(4) [The programs]An LEA's youth suicide prevention program shall include the components provided in Subection [53A-15-1301]53G-9-702 (2).~~

~~(3) LEAs shall update bullying, cyber-bullying, harassment, hazing, and retaliation policy(ies) consistent with Section 53A-11a-301 and R277-613, including](5) An LEA shall establish a policy governing the required parent notification outlined in Sections [53A-11a-203]53G-9-604(2) and [53A-11a-301]53G-9-605(3)(e) and Subsection R277-613-4[C and D].~~

~~(4)(6) An LEA[s] shall provide necessary reporting information consistent with Subection [53A-15-1301]53G-9-702[(3)] (7) [and (5)] for the Board's report on the coordination of suicide prevention programs and seminar program implementation to the Legislature's Education Interim Committee.~~

KEY: public schools, suicide prevention programs, parent notifications, seminars

Date of Enactment or Last Substantive Amendment: October 9, 2014

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

**Environmental Quality, Waste
Management and Radiation Control,
Radiation
R313-28-31
General and Administrative
Requirements**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 43253
FILED: 10/11/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: X-ray inspectors from the Division are finding x-ray equipment being used in medical facilities in Utah that have been purchased from overseas sources. In some cases, this equipment does not meet the safety requirements set forth in this rule making the use of the equipment a potential hazard to the health of the operator and the patient. In all cases, it has been determined that the equipment was not certified and identified as being approved by the federal Food and Drug Administration (FDA) for use in the United States. The purpose of this amendment is to clarify that x-ray

equipment purchased for use in Utah must be certified and identified as meeting requirements set by the FDA for x-ray equipment being used in the United States as required by 21 CFR 1010.2 and 1010.3.

SUMMARY OF THE RULE OR CHANGE: Subsection R315-28-31(a) is being added to this rule. The subsection clarifies that x-ray equipment purchased for use in Utah shall be FDA approved for use in the United States and shall be certified and identified in accordance with 21 CFR 1010.2 and 1010.3.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-3-104 and Section 19-6-104

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There will be no cost or savings to the state due to this amendment because this amendment does not add any new requirements or remove any existing requirements. X-ray equipment manufactured and sold for use in the United States is already required by the federal FDA to be certified and identified as approved for use in the United States. This amendment simply places this requirement in state rules.

♦ **LOCAL GOVERNMENTS:** There will be no cost or savings to local governments due to this amendment because this amendment does not add any new requirements or remove any existing requirements. X-ray equipment manufactured and sold for use in the United States is already required by the federal FDA to be certified and identified as approved for use in the United States. This amendment simply places this requirement in state rules.

♦ **SMALL BUSINESSES:** There will be no cost or savings to small businesses due to this amendment because this amendment does not add any new requirements or remove any existing requirements. X-ray equipment manufactured and sold for use in the United States is already required by the federal FDA to be certified and identified as approved for use in the United States. This amendment simply places this requirement in state rules.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There will be no cost or savings to persons other than small businesses, businesses or local government entities due to this amendment because this amendment does not add any new requirements or remove any existing requirements. X-ray equipment manufactured and sold for use in the United States is already required by the federal FDA to be certified and identified as approved for use in the United States. This amendment simply places this requirement in state rules.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There should be no additional compliance costs for affected persons because federal rule already requires x-ray equipment manufactured and sold for use in the United States to meet FDA requirements. Anyone who has purchased equipment that does not meet these requirements is already in violation of federal rules and should not have purchased the equipment. When an inspector finds this type of equipment in use the facility is informed that they cannot use the

equipment and must purchase equipment that meets the requirements. It is unknown how many persons may have purchased equipment that does not meet the requirements so the potential additional cost of compliance is inestimable.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: It is not anticipated that adoption of this rule amendment will have any fiscal impact on businesses because they should already be in compliance with federal rules. This amendment simply reinforces the fact that the federal rule applies in Utah and provides x-ray inspectors with a Utah rule to cite when they encounter facilities with equipment that does not meet the requirements.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 WASTE MANAGEMENT AND RADIATION CONTROL, RADIATION
 SECOND FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116-4880
 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 12/03/2018

THIS RULE MAY BECOME EFFECTIVE ON: 12/14/2018

AUTHORIZED BY: Scott Anderson, Director

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 any business operating x-ray equipment in Utah must already have equipment that complies with federal FDA requirements that are cited in this rule amendment.

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

**"Non-small business" means a business employing 50 or more persons; "small business" means a business employing fewer than 50 persons.

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

R313. Environmental Quality, Waste Management and Radiation Control, Radiation.

R313-28. Use of X-Rays in the Healing Arts.

R313-28-31. General and Administrative Requirements.

(1) Persons shall not make, sell, lease, transfer, lend, or install x-ray equipment or the accessories used in connection with x-ray equipment unless the accessories and equipment, when properly placed in operation and properly used, will meet the applicable requirements of these rules.

(a) X-ray equipment shall be FDA approved for use in the United States and shall be certified in accordance with 21 CFR 1010.2 and identified in accordance with 21 CFR 1010.3.

(2) The registrant shall be responsible for directing the operation of the x-ray machines which are under the registrant's administrative control. The registrant or registrant's agent shall assure that the requirements of R313-28-31(2)(a) through R313-28-31(2)(i) are met in the operation of the x-ray machines.

(a) An x-ray machine which does not meet the provisions of these rules shall not be operated for diagnostic purposes, when directed by the Director.

(b) Individuals who will be operating the x-ray equipment shall be instructed in the registrant's written radiation safety program and be qualified in the safe use of the equipment. Required operator qualifications are listed in R313-28-350.

(c) The registrant of a facility shall create and make available to x-ray operators written safety procedures, including patient holding and restrictions of the operating technique required for the safe operation of the x-ray systems. Individuals who operate x-ray systems shall be responsible for complying with these rules.

(d) Except for individuals who cannot be moved out of the room and the patient being examined, only the staff and ancillary personnel or other individuals needed for the medical procedure or training shall be present in the room during the radiographic exposure and shall be positioned as follows:

(i) individuals other than the patient shall be positioned so that no part of the body will be struck by the useful beam unless protected by not less than 0.5 mm lead equivalent material;

(ii) the x-ray operator, other staff, ancillary personnel and other individuals needed for the medical procedure shall be protected from primary beam scatter by protective aprons or barriers unless it can be shown that by virtue of distances employed, EXPOSURE levels are reduced to the limits specified in R313-15-201; and

(iii) patients who are not being examined and cannot be removed from the room shall be protected from the primary beam scatter by whole body protective barriers of not less than 0.25 mm lead equivalent material or shall be so positioned that the nearest portion of the body is at least two meters from both the tube head and nearest edge of the image receptor.

(e) For patients who have not passed reproductive age, gonad shielding of not less than 0.5 mm lead equivalent material shall be used during radiographic procedures in which the gonads are in the useful beam, except for cases in which this would interfere with the diagnostic procedure.

(f) Individuals shall be exposed to the useful beam for healing arts purposes only when the exposure has been specifically ordered and authorized by a licensed practitioner of the healing arts after a medical consultation. Deliberate exposures for the following purposes are prohibited:

(i) exposure of an individual for training, demonstration or other non-healing arts purposes; and

(ii) exposure of an individual for the purpose of healing arts screening except as authorized by R313-28-31(2)(i).

(g) When a patient or film must be provided with auxiliary support during a radiation exposure:

(i) mechanical holding devices shall be used when the technique permits. The written procedures, required by R313-28-31(2)(c), shall list individual projections where mechanical holding devices can be utilized;

(ii) written safety procedures, as required by R313-28-31(2)(c), shall indicate the requirements for selecting an individual to hold patients or films and the procedure that individual shall follow;

(iii) the individual holding patients or films during radiographic examinations shall be instructed in personal radiation safety and protected as required by R313-28-31(2)(d)(i);

(iv) Individuals shall not be used routinely to hold film or patients;

(v) In those cases where the patient must hold the film, except during intraoral examinations, portions of the body other than

the area of clinical interest struck by the useful beam shall be protected by not less than 0.5 mm lead equivalent material; and

(vi) Facilities shall have protective aprons and gloves available in sufficient numbers to provide protection to personnel who are involved with x-ray operations and who are otherwise not shielded.

(h) Personnel monitoring. Individuals who are associated with the operation of an x-ray system are subject to the applicable requirements of R313-15.

(i) Healing arts screening. Persons proposing to conduct a healing arts screening program shall not initiate the program without prior approval of the Director. When requesting approval, that person shall submit the information outlined in R313-28-400. If information submitted becomes invalid or outdated, the Director shall be notified immediately.

(3) Maintenance of records and information. The registrant shall maintain at least the following information for each x-ray machine:

(a) model numbers of major components;

(b) record of surveys or calculations to demonstrate compliance with R313-15-302, calibration, maintenance and modifications performed on the x-ray machine; and

(c) a shielding design report for the x-ray suite which states assumed values for workload and use factors and includes a drawing of surrounding areas showing assumed values for occupancy factors.

(4) X-ray records. Facilities shall maintain an x-ray record containing the patient's name, the types of examinations, and the dates the examinations were performed. When the patient or film must be provided with human auxiliary support, the name of the human holder shall be recorded. The registrant shall retain these records for three years after the record is made.

(5) Portable or mobile equipment shall be used only for examinations where it is impractical to transfer the patient to a stationary radiographic installation.

(6) Hand-held medical x-ray systems. X-ray equipment designed to be hand-held shall comply with Section R313-28-31, excluding Subsection R313-28-31(5), and R313-28-52, excluding Subsections R313-28-52(8)(b)(i) and (ii).

(a) When operating hand-held equipment for which it is not possible for the operator to remain at least six feet from the x-ray machine during x-ray exposure, protective aprons of at least 0.5 millimeter lead equivalence shall be provided for the operator to protect the operator's torso and gonads from backscatter radiation;

(b) In addition to the dose limits in R313-15-301, operators of hand-held x-ray equipment shall ensure that members of the public that may be exposed to scatter radiation or primary beam transmission from the hand-held device are not exposed above 2 milliroentgen per hour;

(i) Operators will ensure that members of the public likely to be exposed to greater than 2 milliroentgen per hour will be provided protective aprons of at least 0.5 millimeter lead equivalence or are moved to a distance such that the exposure rate to the individual is below 2 milliroentgen per hour; and

(c) In addition to the requirements of Subsection R313-28-350(1), each operator of hand-held x-ray equipment shall complete the training program supplied by the manufacturer prior to using the x-ray unit. Records of training shall be maintained on file for examination by an authorized representative of the Director.

(7) Procedures and auxiliary equipment designed to minimize patient and personnel exposure commensurate with the needed diagnostic information shall be utilized.

(a) The speed of the screen and film combinations used shall be the fastest speed consistent with the diagnostic objective of the examinations. Film cassettes without intensifying screens shall not be used for routine diagnostic radiological imaging, with the exception of standard film packets for intra-oral use in dental radiography. If the requirements of R313-28-31(6)(a) cannot be met, an exemption may be requested pursuant to R313-12-55.

(b) The radiation exposure to the patient shall be the minimum exposure required to produce images of good diagnostic quality.

(c) X-ray systems, other than fluoroscopic, computed tomography, dental or veterinary units, shall not be utilized in procedures where the source to patient distance is less than 30 centimeters.

KEY: dental, X-rays, mammography, beam limitation
Date of Enactment or Last Substantive Amendment: ~~March 24, 2015~~ 2018
Notice of Continuation: July 1, 2016
Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-6-107

**Environmental Quality, Waste
 Management and Radiation Control,
 Waste Management
 R315-273
 Standards for Universal Waste
 Management**

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 43252
 FILED: 10/11/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of these amendments to Rule R315-273 is to fix some errors found in this rule since the last rule amendment in 2016, update this rules for lamp crushers so that they reflect the current manufacturing and operating standards for lamp crushers, remove some language that exempts lamp crushers from registration that does not meet the intent of this rule, and add propylene glycol to the definition of antifreeze.

SUMMARY OF THE RULE OR CHANGE: Antifreeze was added to this rule in 2016. Since that time, the Division of Waste Management and Radiation Control (Division) has learned that propylene glycol is frequently used as a substitute for ethylene glycol in low toxicity, environmentally

friendly automotive antifreeze. The Division is aware that auto repair and maintenance shops do not discriminate between ethylene glycol and propylene glycol when flushing radiators so both chemicals are mixed together in collection containers prior to being recycled or disposed. In order to continue to encourage the recycling of waste antifreeze and avoid any potential compliance issues at facilities where the two chemicals are mixed together, the Division is adding propylene glycol to the definition of antifreeze at Subsection R315-273-9(c). Language found in Sections R315-273-10 and R315-273-30 that exempts generators from having to register their lamp crushers is being deleted from this rule. No justification can be found for this exemption and a recent review of this rule determined that this exemption does not meet the intent of this rule which is to have all lamp crushers registered. Subsections R315-273-13(d)(3)(i) and R315-273-33(d)(3)(i) require the accumulation container used with a drum top lamp crusher to be designed specifically for crushing lamps. No such container exists. Instead, drum top lamp crushers are designed to be attached to open top 55-gallon drums. Therefore, the language is being changed to state that the handler should use an accumulation container specified by the manufacturer of the lamp crusher. Language found in Subsections R315-273-13(d)(3)(iii) and R315-273-33(d)(3)(iii) specifying that a lamp crusher shall have a bag filter followed by a HEPA filter and an activated carbon filter is being changed to state that this configuration is the minimum requirement. Many lamp crushers have more filters than the three specified in this rule and the Division does not want to exclude handlers from using lamp crushers with more than three filters. The term "Waste-antifreeze" is being deleted from Subsections R315-273-14(f) and R315-272-34(f) to allow facilities managing waste antifreeze to use this term to label containers of waste antifreeze that is not being managed as a hazardous waste or as a universal waste. A typographical error is being fixed at Subsection R315-273-6(a) where the subsections were numbered (1), (2), and (4). The 4 is being changed to a 3. Typographical errors at Subsections R315-273-14(f) and R315-273-34(f) where there are extra spaces in the terms "Universal Waste-antifreeze". The extra spaces are being deleted.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 19-6-104 and Section 19-6-105 and Section 19-6-106

ANTICIPATED COST OR SAVINGS TO:
 ♦ **THE STATE BUDGET:** These rule changes will not affect the state budget because only one state agency operates a registered drum top lamp crusher and no state agencies are exempt from having to register a drum top lamp crusher. It is not anticipated that the changes made by these amendments will increase or decrease the cost of operating the one registered drum top lamp crusher. Any state agencies that may be recycling waste antifreeze can continue to do so with the added benefit of being able to legally recycle waste antifreeze containing propylene glycol along with ethylene glycol.

◆ LOCAL GOVERNMENTS: These rule changes will not affect local governments because no local governments operate a registered or exempt drum top lamp crusher. Any local governments that may be recycling waste antifreeze can continue to do so with the added benefit of being able to legally recycle waste antifreeze containing propylene glycol along with ethylene glycol.

◆ SMALL BUSINESSES: It is not anticipated that these rule changes will add any additional cost of doing business to small businesses nor will there be any savings. The changes for drum top lamp crushers are being made because the Division conducted inspections of businesses that are operating drum top lamp crushers and determined that this rule did not reflect how drum top lamp crushers are designed and operated. These rule changes are being made so that this rule reflects the design and operation of this equipment. The Division is not aware of any small businesses that have been operating a drum top lamp crusher under the exemption from registration that is being removed from this rule. There are approximately 1,758 businesses in Utah that perform automobile repair and maintenance. It is not known how many of these are small businesses and how many flush radiators or collect waste antifreeze from other repair or maintenance processes. As stated previously, auto repair and maintenance shops do not discriminate between ethylene glycol and propylene glycol when flushing radiators so both chemicals are mixed together in collection containers prior to being recycled or disposed. Small businesses that are currently recycling waste antifreeze without discriminating between the two chemicals antifreeze will not see any additional cost or savings from the addition of propylene glycol to the definition of antifreeze.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: It is not anticipated that these rule changes will add any additional cost of doing business to persons other than small businesses, businesses, or local governments nor will there be any savings. The changes for drum top lamp crushers are being made because the Division conducted inspections of businesses that are operating drum top lamp crushers and determined that this rule did not reflect how drum top lamp crushers are designed and operated. These rule changes are being made so that this rule reflects the design and operation of this equipment. The Division is not aware of any persons that are operating a drum top lamp crusher under the exemption from registration that is being removed from this rule. There are approximately 1,758 businesses in Utah that perform automobile repair and maintenance. It is not known how many of these are persons other than small businesses or businesses and how many flush radiators or collect waste antifreeze from other repair or maintenance processes. As stated previously, auto repair and maintenance shops do not discriminate between ethylene glycol and propylene glycol when flushing radiators so both chemicals are mixed together in collection containers prior to being recycled or disposed. Persons other than small businesses or businesses that are currently recycling waste antifreeze without discriminating

between the two chemicals antifreeze will not see any additional cost or savings from the addition of propylene glycol to the definition of antifreeze.

COMPLIANCE COSTS FOR AFFECTED PERSONS: It is anticipated that there will be no additional compliance costs for affected persons associated with these rule amendments because they do not add any additional compliance costs that do not already exist. The Division is not aware of any persons that are operating drum top lamp crushers under the exemption from registration that is being removed from this rule therefore, the Division does not anticipate that there will be any additional compliance costs associated with these changes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Since this rule requiring the registering of drum top lamp crushers was adopted in 2016, the Division has registered only one drum top lamp crusher. Several applications for registration have been received and many have been withdrawn during the review process. Several applications are still being reviewed. It is not anticipated that these rule changes for drum top lamp crushers will have any fiscal impact on any of the facilities operating drum top lamp crushers. It is not anticipated that these changes to the addition of propylene glycol to the definition of antifreeze will have any fiscal impact on any of the businesses in Utah that collect and recycle waste antifreeze.

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 12/03/2018

THIS RULE MAY BECOME EFFECTIVE ON: 12/14/2018

AUTHORIZED BY: Scott Anderson, 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
 There are approximately 1,758 businesses in Utah that are registered as Automobile Repair and Maintenance businesses (NAICS 811192, 811192, 811111, 811122, 811121, 811198, 811118, 811113). It is not known how many of these are non-small businesses. However; these rule changes are not expected to have any fiscal impact on non-small businesses revenues or expenditures because those businesses that collect waste antifreeze do not discriminate between ethylene glycol and propylene glycol when flushing radiators so both chemicals are mixed together in collection containers prior to being recycled or disposed, and these changes would allow this practice to continue and do not create any new or additional regulatory requirements. Additionally, there are no non-small businesses that are operating registered drum top lamp crushers and the Division is not aware of any non-small businesses that are operating drum top lamp crushers under the exemption so these rule changes for drum top lamp crushers are not expected to have any fiscal impact on non-small businesses.

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

****"Non-small business" means a business employing 50 or more persons; "small business" means a business employing fewer than 50 persons.**

R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.
R315-273. Standards for Universal Waste Management.
R315-273-6. Standards for Universal Waste Management -- Applicability for Utah Specific Wastes.

- (a) Antifreeze.
 - (1) The requirements of Rule R315-273 apply to persons managing antifreeze, as described in Section R315-273-9, except those listed in Subsection R315-273-6(a)(2).
 - (2) Antifreeze not covered under Rule R315-273. The requirements of Rule R315-273 do not apply to persons managing the following antifreeze:
 - (i) Antifreeze, as described in Section R315-273-9, that is not yet a waste under Rule R315-261, including antifreeze that does not meet the criteria for waste generation in Subsection R315-273-6(a)(4).
 - (ii) Antifreeze, as described in Section R315-273-9 that is not hazardous waste. Antifreeze is a hazardous waste if it exhibits one or more of the characteristics identified in Sections R315-261-20 through 24.
 - ([4]3) Generation of waste antifreeze.
 - (i) Antifreeze becomes a waste on the date it is discarded, e.g., when sent for reclamation.
 - (ii) Antifreeze becomes a waste on the date the handler decides to discard it.
- (b) Aerosol Cans
 - (1) The requirements of Rule R315-273 apply to persons managing aerosol cans, as described in Section R315-273-9, except those listed in Subsection R315-273-6(b)(2).
 - (2) Aerosol cans not covered under Rule R315-273. The requirements of Rule R315-273 do not apply to persons managing the following aerosol cans:
 - (i) Aerosol cans, as described in Section R315-273-9, that are not yet wastes under Rule R315-261, including those that do not meet the criteria for waste generation in subsection R315-273(b)(3).
 - (ii) Aerosol cans, as described in Section R315-273-9, that are not hazardous waste. An aerosol can shall be managed as a hazardous waste if the can or its contents exhibit one or more of the characteristics identified in Sections R315-261-20 through 24, or if its contents are listed in Sections R315-261-30 through 35.
 - (3) Generation of waste aerosol cans.
 - (i) An aerosol can becomes a waste on the date it is discarded or is no longer useable. For purposes of Rule R315-273, an aerosol can is considered to be no longer useable when:
 - (A) the can is as empty as proper work practices allow;
 - (B) the spray mechanism no longer operates as designed;
 - (C) the propellant is spent; or
 - (D) the product is no longer used.
 - (ii) An unused aerosol can becomes a waste on the date the handler decides to discard it.

R315-273-9. Standards for Universal Waste Management – Definitions.

(a) "Aerosol can" means a container with a total capacity of no more than 24 ounces of gas under pressure and is used to aerate and dispense any material through a valve in the form of a spray or foam.

(b) "Ampule" means an airtight vial made of glass, plastic, metal, or any combination of these materials.

(c) "Antifreeze" means an ethylene glycol or propylene glycol based mixture that lowers the freezing point of water and is used as an engine coolant.

(d) "Battery" means a device consisting of one or more electrically connected electrochemical cells, which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections, electrical and mechanical, as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

(e) "Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in Subsections R315-273-13(a) and (c) and Subsections R315-273-33(a) and (c). A facility, at which a particular category of universal waste is only accumulated, is not a destination facility for purposes of managing that category of universal waste.

(f) "Drum-top lamp crusher" means a device attached to a drum or container that mechanically reduces the size of lamps and includes a bag filter followed in series by a HEPA filter and an activated carbon filter. Drum-top crushers are the only devices that can be approved for the use of crushing lamps.

(g) "FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136-136y).

(h) "Generator" means any person, by site, whose act or process produces hazardous waste identified or listed in Rule R315-261 or whose act first causes a hazardous waste to become subject to regulation.

(i) "Lamp," also referred to as "universal waste lamp" is defined as the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infra-red regions of the electromagnetic spectrum. Examples of common universal waste electric lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps.

(j) "Large Quantity Handler of Universal Waste" means a universal waste handler, as defined in Section R315-273-9 who accumulates 5,000 kilograms or more total of universal waste; batteries, pesticides, mercury-containing equipment, lamps, or any other universal waste regulated in Rule R315-273, calculated collectively; at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which the 5,000 kilogram limit is met or exceeded.

(k) "Mercury-containing equipment" means a device or part of a device, including thermostats, but excluding batteries and lamps, that contains elemental mercury integral to its function.

(l) "On-site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided that the entrance and exit between the properties is at a cross-

roads intersection, and access is by crossing as opposed to going along the right of way. Non-contiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access, are also considered on-site property.

(m) "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, other than any article that:

(1) Is a new animal drug under FFDCA section 201(w), or

(2) Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug, or

(3) Is an animal feed under FFDCA section 201(x) that bears or contains any substances described by (1) or (2) above.

(n) "Small Quantity Handler of Universal Waste" means a universal waste handler, as defined in this Section R315-273-9 who does not accumulate 5,000 kilograms or more of universal waste at any time.

(o) "Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element, and mercury-containing ampules that have been removed from these temperature control devices in compliance with the requirements of Subsection R315-273-13(c)(2) or 33(c)(2).

(p) "Universal Waste" means any of the following hazardous wastes that are subject to the universal waste requirements of Rule R315-273:

(1) Batteries as described in Section R315-273-2;

(2) Pesticides as described in Section R315-273-3;

(3) Mercury-containing equipment as described in Section R315-273-4;

(4) Lamps as described in Section R315-273-5;

(5) Antifreeze as described in Subsection R315-273-6(a);

and

(6) Aerosol cans as described in Subsection R315-273-6(b).

(q) "Universal Waste Handler:"

(1) Means:

(i) A generator, as defined in Section R315-273-9, of universal waste; or

(ii) The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

(2) Does not mean:

(i) A person who treats, except under the provisions of Subsection R315-273-13(a) or (c), or 33(a) or (c), disposes of, or recycles universal waste; or

(ii) A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

(r) "Universal Waste Transfer Facility" means any transportation-related facility including loading docks, parking areas, storage areas and other similar areas where shipments of universal waste are held during the normal course of transportation for ten days or less.

(s) "Universal Waste Transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

R315-273-10. Standards for Universal Waste Management, Standards for Small Quantity Handlers of Universal Waste -- Applicability.

Sections R315-273-10 through 20 apply to small quantity handlers of universal waste, as defined in Section R315-273-9[~~except that the registration requirement of Subsection R315-273-13(d)(3) and Subsections R315-273-13(d)(6) and (7) do not apply to generators.~~].

R315-273-13. Standards for Universal Waste Management, Standards for Small Quantity Handlers of Universal Waste -- Waste Management.

(a) Batteries. A small quantity handler of universal waste shall manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) A small quantity handler of universal waste shall contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container shall be closed, structurally sound, compatible with the contents of the battery, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(2) A small quantity handler of universal waste may conduct the following activities as long as the casing of each individual battery cell is not breached and remains intact and closed, except that cells may be opened to remove electrolyte but shall be immediately closed after removal:

- (i) Sorting batteries by type;
- (ii) Mixing battery types in one container;
- (iii) Discharging batteries so as to remove the electric charge;
- (iv) Regenerating used batteries;
- (v) Disassembling batteries or battery packs into individual batteries or cells;
- (vi) Removing batteries from consumer products; or
- (vii) Removing electrolyte from batteries.

(3) A small quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste, e.g., battery pack materials, discarded consumer products, as a result of the activities listed above, shall determine whether the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste identified in Sections R315-261-20 through 24.

(i) If the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste, it is subject to all applicable requirements of Rules R315-260 through 266, 268 and 270. The handler is considered the generator of the hazardous electrolyte and/or other waste and is subject to Rule R315-262.

(ii) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(b) Pesticides. A small quantity handler of universal waste shall manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides shall be contained in one or more of the following:

(1) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or

(2) A container that does not meet the requirements of Subsection R315-273-13(b)(1), provided that the unacceptable container is overpacked in a container that does meet the requirements of Subsection R315-273-13(b)(1); or

(3) A tank that meets the requirements of 40 CFR 265.190 through 202, except for 40 CFR 265.197(c) and 40 CFR 265.200 and 201, 40 CFR 265 is adopted by reference in R315-265; or

(4) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(c) Mercury-containing equipment. A small quantity handler of universal waste shall manage universal waste mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) A small quantity handler of universal waste shall place in a container any universal waste mercury-containing equipment with non-contained elemental mercury or that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container shall be closed, structurally sound, compatible with the contents of the device, shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions, and shall be reasonably designed to prevent the escape of mercury into the environment by volatilization or any other means.

(2) A small quantity handler of universal waste may remove mercury-containing ampules from universal waste mercury-containing equipment provided the handler:

(i) Removes and manages the ampules in a manner designed to prevent breakage of the ampules;

(ii) Removes the ampules only over or in a containment device, e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage;

(iii) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules from that containment device to a container that meets the requirements of Section R315-262-34;

(iv) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of Section R315-262-34;

(v) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

(vi) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

(vii) Stores removed ampules in closed, non-leaking containers that are in good condition;

(viii) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation;

(3) A small quantity handler of universal waste mercury-containing equipment that does not contain an ampule may remove the open original housing holding the mercury from universal waste mercury-containing equipment provided the handler:

(i) Immediately seals the original housing holding the mercury with an air-tight seal to prevent the release of any mercury to the environment; and

(ii) Follows all requirements for removing ampules and managing removed ampules under Subsection R315-273-13(c)(2); and

(4)(i) A small quantity handler of universal waste who removes mercury-containing ampules from mercury-containing equipment or seals mercury from mercury-containing equipment in its original housing shall determine whether the following exhibit a characteristic of hazardous waste identified in Sections R315-261-20 through 24:

(A) Mercury or clean-up residues resulting from spills or leaks; and/or

(B) Other solid waste generated as a result of the removal of mercury-containing ampules or housings, e.g., the remaining mercury-containing device.

(ii) If the mercury, residues, and/or other solid waste exhibits a characteristic of hazardous waste, it shall be managed in compliance with all applicable requirements of Rules R315-260 through 266, 268, and 270. The handler is considered the generator of the mercury, residues, and/or other waste and shall manage it in compliance with Rule R315-262.

(iii) If the mercury, residues, and/or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(d) Lamps. A small quantity handler of universal waste shall manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) A small quantity handler of universal waste shall contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages shall remain closed and shall lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

(2) A small quantity handler of universal waste shall immediately clean up and place in a container any lamp that is broken and shall place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Containers shall be closed, structurally sound, compatible with the contents of the lamps and shall lack evidence of leakage, spillage or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions.

(3) A small quantity handler of universal waste may crush universal waste lamps using a drum-top lamp crusher designed specifically for crushing lamps provided that the small quantity handler submits a drum-top lamp crusher registration application to and receives approval from the Director. The registration application shall demonstrate that the small quantity handler shall operate the drum-top lamp crusher to ensure the following:

(i) The lamps are crushed in a closed accumulation container ~~designed specifically for crushing lamps~~ as specified by the manufacturer of the drum-top lamp crusher;

(ii) The lamps are crushed in a controlled manner that prevents the release of mercury vapor or other contaminants in exceedance of the manufacturer's specifications;

(iii) The drum-top lamp crusher shall have a filtration system consisting of, at a minimum, a bag filter followed in series by a HEPA filter and an activated carbon filter;

(iv) The drum-top lamp crusher is installed, maintained, and operated in accordance with written procedures developed by the manufacturer of the equipment including specific instructions for the frequency of filter changes;

(v) Filters are either characterized to demonstrate that they are not a hazardous waste or managed as a hazardous waste;

(vi) A spill clean-up kit is available;

(vii) The area in which the drum-top crusher is operated is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

(viii) An employee using the drum-top lamp crusher is trained annually on the written operating, safety, personal protection and maintenance procedures of the system;

(ix) An employee using the drum-top lamp crusher is trained annually in emergency procedures;

(x) An operating record is kept and consists of the following:

(A) the number and size of lamps crushed per calendar day, per calendar month, and per calendar year;

(B) the schedule for the change out of filters;

(C) date and time of filter change out;

(D) date, type, and time of equipment maintenance;

(E) any occurrence of equipment malfunction; and

(F) procedures for preventing equipment malfunctions.

(4) The operating record shall be maintained for at least three years.

(5) When a drum-top crusher is no longer used or is relocated, the area where the crusher was located shall be decontaminated of all mercury and other contaminants caused by the use of the drum-top lamp crusher. A report documenting the decontamination steps as well as supporting analytical data demonstrating successful remediation shall be submitted to the Director for approval within 30 days following completion of decontamination.

(6) The small quantity handler shall provide a closure plan along with a detailed written estimate, in current dollars, of the cost of disposing of the drum-top lamp crusher; decontamination of the area surrounding the drum-top lamp crusher, and any analytical costs required to show that decontamination is complete. Drum-top lamp crushers operated by the state or the federal government are exempt from the cost estimate requirement of Subsection R315-273-13(d)(6).

(7) The small quantity handler shall demonstrate financial assurance for the detailed cost estimates determined in Subsection R315-273-13(d)(6) using one of the options in Subsections R315-261-143(a) through (e). Drum-top lamp crushers operated by the state or the federal government are exempt from the financial assurance requirement of Subsection R315-273-13(d)(7).

(8) Crushed universal waste lamps may be managed as universal waste lamps under Rule R315-273 or they may be managed as hazardous waste in accordance with all applicable requirements of Rules R315-260 through 266 and 268.

(e) Antifreeze. A small quantity handler of universal waste shall manage universal waste antifreeze in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste antifreeze shall be contained in one or more of the following:

(1) A container that remains closed, structurally sound, compatible with the antifreeze, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or

(2) A container that does not meet the requirements of Subsection R315-273-13(e)(1), provided that the unacceptable container is overpacked in a container that does meet the requirements of Subsection R315-273-13(e)(1); or

(3) A tank that meets the requirements of 40 CFR 265.190 through 202, except for 40 CFR 265.197(c) and 40 CFR 265.200 and 201, 40 CFR 265 is adopted by reference in R315-265; or

(4) A transport vehicle or vessel that is closed, structurally sound, compatible with the antifreeze, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(f) Aerosol cans. A small quantity handler of universal waste shall manage universal waste aerosol cans in a way that prevents release of any universal waste or component of a universal waste or accelerant to the environment as follows:

(1) A small quantity handler of universal waste shall immediately contain any universal waste aerosol can that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a separate individual container. The individual container shall be closed, structurally sound, compatible with the contents of the universal waste aerosol can, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(2) A small quantity handler of universal waste may accumulate universal waste aerosol cans in a specially designated accumulation container provided it is clearly marked for such use. The accumulation container shall be closed, structurally sound, compatible with the contents of the universal waste aerosol can, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The universal waste aerosol cans shall be sorted by type and compatibility of contents to ensure that incompatible materials are segregated and managed appropriately in separate accumulation containers.

(3) A small quantity handler of universal waste may puncture universal waste aerosol cans to remove and collect the contents of the aerosol can provided the handler:

(i) Ensures that the universal waste aerosol can is punctured in a manner designed to prevent the release of any universal waste or component of universal waste or accelerant to the environment;

(ii) Ensures that the puncturing operations are performed safely by developing and implementing a written procedure detailing how to safely puncture universal waste aerosol cans. This procedure shall include:

(A) the type of equipment to be used to puncture the universal waste aerosol cans safely;

(B) operation and maintenance of the unit;

(C) segregation of incompatible wastes;

(D) proper waste management practices, i.e., ensuring that flammable wastes are stored away from heat or open flames; and

(E) waste characterization;

(iii) Ensures that a spill clean-up kit is readily available to immediately clean up spills or leaks of the contents of the universal waste aerosol can which may occur during the can-puncturing operation;

(iv) Immediately transfers the contents of the universal waste aerosol can, or puncturing device if applicable, to a container that meets the requirements of Section R315-262-34;

(v) Ensures that the area in which the universal waste aerosol cans are punctured is well ventilated; and

(vi) Ensures that employees are thoroughly familiar with the procedure for sorting and puncturing universal waste aerosol cans, and proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies.

(4)(i) A small quantity handler of universal waste who punctures universal waste aerosol cans to remove the contents of the aerosol can, or who generates other solid waste as a result of the activities listed above, shall determine whether the contents of the universal waste aerosol can, residues and/or other solid wastes exhibit a characteristic of hazardous waste identified in Sections R315-261-20 through 24, or are listed as a hazardous waste identified in Sections R315-261-30 through 35.

(ii) If the contents of the universal waste aerosol can, residues and/or other solid waste exhibit a characteristic of hazardous waste or are listed hazardous wastes, they shall be managed in compliance with all applicable requirements of Rules R315-260 through 266, 268, 270 and 124. The handler is considered the generator of the contents of the universal waste aerosol can, residues, and/or other waste and is subject to the requirements of Rule R315-262. In addition to the Rule R315-262 labeling requirements, the container used to accumulate, store, or transport the hazardous waste contents removed from the punctured universal waste aerosol can shall be labeled with all applicable EPA Hazardous Waste Codes found in Sections R315-261-20 through 24 and Sections R315-261-30 through 35.

(iii) If the contents of the universal waste aerosol can, residues, and/or other solid waste are not hazardous, the handler may manage the waste in a way that is in compliance with applicable federal, state or local solid waste regulations.

R315-273-14. Standards for Universal Waste Management, Standards for Small Quantity Handlers of Universal Waste – Labeling/Marking.

A small quantity handler of universal waste shall label or mark the universal waste to identify the type of universal waste as specified below:

(a) Universal waste batteries, i.e., each battery, or a container in which the batteries are contained, shall be labeled or marked clearly with any one of the following phrases: "Universal Waste-Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies);"

(b) A container, or multiple container package unit, tank, transport vehicle or vessel in which recalled universal waste pesticides as described in Subsection R315-273-3(a)(1) are contained shall be labeled or marked clearly with:

(1) The label that was on or accompanied the product as sold or distributed; and

(2) The words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s);"

(c) A container, tank, or transport vehicle or vessel in which unused pesticide products as described in Subsection R315-273-3(a)(2) are contained shall be labeled or marked clearly with:

(1)(i) The label that was on the product when purchased, if still legible;

(ii) If using the labels described in Subsection R315-273-14(c)(1)(i) is not feasible, the appropriate label as required under the Department of Transportation regulation 49 CFR part 172;

(iii) If using the labels described in Subsections R315-273-14(c)(1)(i) and (ii) is not feasible, another label prescribed or designated by the waste pesticide collection program administered or recognized by a state; and

(2) The words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s)."

(d)(1) Universal waste mercury-containing equipment, i.e., each device, or a container in which the equipment is contained, shall be labeled or marked clearly with any of the following phrases: "Universal Waste-Mercury Containing Equipment," "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."

(2) A universal waste mercury-containing thermostat or container containing only universal waste mercury-containing thermostats may be labeled or marked clearly with any of the following phrases: "Universal Waste-Mercury Thermostat(s)," "Waste Mercury Thermostat(s)," or "Used Mercury Thermostat(s)."

(e) Each lamp or a container or package in which such lamps are contained shall be labeled or marked clearly with one of the following phrases: "Universal Waste-Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)".

(f) A container, tank, or transport vehicle or vessel in which antifreeze is contained shall be labeled or marked clearly with the words "Universal Waste-[-]antifreeze" ~~or "Waste-antifreeze."~~

(g) Universal waste aerosol cans, i.e., each can, or a container in which the universal waste aerosol cans are contained or accumulated, shall be labeled or marked clearly with any one of the following phrases: "Universal Waste-Aerosol Can(s)," or "Waste Aerosol Can(s)".

R315-273-30. Standards for Universal Waste Management, Standards for Large Quantity Handlers of Universal Waste -- Applicability.

Sections R315-273-30 through 40 apply to large quantity handlers of universal waste, as defined in Section R315-273-9[~~except that the registration requirement of Subsection R315-273-33(d)(3) and Subsections R315-273-33(d)(6) and (7) do not apply to generators.~~]

R315-273-33. Standards for Universal Waste Management, Standards for Large Quantity Handlers of Universal Waste -- Waste Management.

(a) Batteries. A large quantity handler of universal waste shall manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) A large quantity handler of universal waste shall contain any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a container. The container shall be closed, structurally sound, compatible with the contents of the battery, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(2) A large quantity handler of universal waste may conduct the following activities as long as the casing of each individual battery cell is not breached and remains intact and closed, except that cells may be opened to remove electrolyte but shall be immediately closed after removal:

(i) Sorting batteries by type;

(ii) Mixing battery types in one container;

(iii) Discharging batteries so as to remove the electric charge;

(iv) Regenerating used batteries;

(v) Disassembling batteries or battery packs into individual batteries or cells;

(vi) Removing batteries from consumer products; or

(vii) Removing electrolyte from batteries.

(3) A large quantity handler of universal waste who removes electrolyte from batteries, or who generates other solid waste, e.g., battery pack materials, discarded consumer products, as a result of the activities listed above, shall determine whether the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste identified in Sections R315-261-20 through 24.

(i) If the electrolyte and/or other solid waste exhibit a characteristic of hazardous waste, it shall be managed in compliance with all applicable requirements of Rules R315-260 through 266, 268 and 270. The handler is considered the generator of the hazardous electrolyte and/or other waste and is subject to Rule R315-262.

(ii) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(b) Pesticides. A large quantity handler of universal waste shall manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides shall be contained in one or more of the following:

(1) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or

(2) A container that does not meet the requirements of Subsection R315-273-33(b)(1), provided that the unacceptable container is overpacked in a container that does meet the requirements of Subsection R315-273-33(b)(1); or

(3) A tank that meets the requirements of 40 CFR 265.190 through 202, except for 40 CFR 265.197(c) and 40 CFR 265.200 and 201, 40 CFR 265 is adopted by reference in R315-265; or

(4) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(c) Mercury-containing equipment. A large quantity handler of universal waste shall manage universal waste mercury-containing equipment in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) A large quantity handler of universal waste shall place in a container any universal waste mercury-containing equipment with non-contained elemental mercury or that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container shall be closed, structurally sound, compatible with the contents of the device, shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions, and shall be reasonably designed to prevent the escape of mercury into the environment by volatilization or any other means.

(2) A large quantity handler of universal waste may remove mercury-containing ampules from universal waste mercury-containing equipment provided the handler:

(i) Removes and manages the ampules in a manner designed to prevent breakage of the ampules;

(ii) Removes the ampules only over or in a containment device, e.g., tray or pan sufficient to collect and contain any mercury released from an ampule in case of breakage;

(iii) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks of broken ampules from that containment device to a container that meets the requirements of Section R315-262-34;

(iv) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of Section R315-262-34;

(v) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

(vi) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;

(vii) Stores removed ampules in closed, non-leaking containers that are in good condition;

(viii) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation;

(3) A large quantity handler of universal waste mercury-containing equipment that does not contain an ampule may remove the open original housing holding the mercury from universal waste mercury-containing equipment provided the handler:

(i) Immediately seals the original housing holding the mercury with an air-tight seal to prevent the release of any mercury to the environment; and

(ii) Follows all requirements for removing ampules and managing removed ampules under Subsection R315-273-33(c)(2); and

(4)(i) A large quantity handler of universal waste who removes mercury-containing ampules from mercury-containing equipment or seals mercury from mercury-containing equipment in its original housing shall determine whether the following exhibit a characteristic of hazardous waste identified in Sections R315-261-20 through 24:

(A) Mercury or clean-up residues resulting from spills or leaks and/or

(B) Other solid waste generated as a result of the removal of mercury-containing ampules or housings, e.g., the remaining mercury-containing device.

(ii) If the mercury, residues, and/or other solid waste exhibits a characteristic of hazardous waste, it shall be managed in compliance with all applicable requirements of Rules R315-260 through 266, 268 and 270. The handler is considered the generator of the mercury, residues, and/or other waste and shall manage it in compliance with Rule R315-262.

(iii) If the mercury, residues, and/or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal, state or local solid waste regulations.

(d) Lamps. A large quantity handler of universal waste shall manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) A large quantity handler of universal waste shall contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages shall remain closed and shall lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

(2) A large quantity handler of universal waste shall immediately clean up and place in a container any lamp that is broken and shall place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Containers shall be closed, structurally sound, compatible with the contents of the lamps and shall lack evidence of leakage, spillage or damage that could cause leakage or releases of mercury or other hazardous constituents to the environment under reasonably foreseeable conditions.

(3) A large quantity handler of universal waste may crush universal waste lamps using a drum-top lamp crusher designed specifically for crushing lamps provided that the Large quantity handler submits a drum-top lamp crusher registration application and receives approval from the Director. The registration application shall demonstrate that the large quantity handler shall operate the drum-top lamp crusher to ensure the following:

(i) The lamps are crushed in a closed accumulation container [~~designed specifically for crushing lamps~~] as specified by the manufacturer of the drum-top lamp crusher;

(ii) The lamps are crushed in a controlled manner that prevents the release of mercury vapor or other contaminants in exceedance of the manufacturer's specifications;

(iii) The drum-top lamp crusher shall have a filtration system consisting of, at a minimum, a bag filter followed in series by a HEPA filter and an activated carbon filter;

(iv) The drum-top lamp crusher is installed, maintained, and operated in accordance with written procedures developed by the manufacturer of the equipment including specific instructions for the frequency of filter changes;

(v) Filters are either characterized to demonstrate that they are not a hazardous waste or managed as a hazardous waste;

(vi) A spill clean-up kit is available;

(vii) The area in which the drum-top crusher is operated is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;

(viii) The employee using the drum-top lamp crusher is trained annually on the written operating, safety, personal protection and maintenance procedures of the system;

(ix) The employee using the drum-top lamp crusher is trained annually in emergency procedures;

(x) An operating record is kept and consists of the following:

(A) the number and size of lamps crushed per calendar day, per calendar month, and per calendar year;

(B) the schedule for the change out of filters;

(C) date and time of filter change out;

(D) date, type, and time of equipment maintenance;

(E) any occurrence of equipment malfunction; and

(F) procedures for preventing equipment malfunctions.

(4) The operating record shall be maintained for at least three years.

(5) When a drum-top crusher is no longer used or is relocated, the area where the crusher was located shall be decontaminated of all mercury and other contaminants caused by the use of the drum-top lamp crusher. A report documenting the decontamination steps as well as supporting analytical data demonstrating successful remediation shall be submitted to the Director for approval within 30 days following completion of decontamination.

(6) The large quantity handler shall provide a closure plan along with a detailed written estimate, in current dollars, of the cost of disposing the drum-top lamp crusher; decontamination of the area surrounding the drum-top lamp crusher, and any analytical costs required to show that decontamination is complete. Drum-top lamp crushers operated by the state or the federal government are exempt from the cost estimate requirement of Subsection R315-273-33(d)(6).

(7) The large quantity handler shall demonstrate financial assurance for the detailed cost estimates determined in Subsection R315-273-33(d)(6) using one of the options in Subsections R315-261-143(a) through (e). Drum-top lamp crushers operated by the state or the federal government are exempt from the financial assurance requirement of Subsection R315-273-33(d)(7).

(8) Crushed universal waste lamps may be managed as universal waste lamps under Rule R315-273 or they may be managed as hazardous waste in accordance with all applicable requirements of Rules R315-260 through 266 and 268.

(e) Antifreeze. A large quantity handler of universal waste shall manage universal waste antifreeze in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste antifreeze shall be contained in one or more of the following:

(1) A container that remains closed, structurally sound, compatible with the antifreeze, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions; or

(2) A container that does not meet the requirements of Subsection R315-273-13(e)(1), provided that the unacceptable container is overpacked in a container that does meet the requirements of Subsection R315-273-13(e)(1); or

(3) A tank that meets the requirements of 40 CFR 265.190 through 202, except for 40 CFR 265.197(c) and 40 CFR 265.200 and 201, 40 CFR 265 is adopted by reference in R315-265; or

(4) A transport vehicle or vessel that is closed, structurally sound, compatible with the antifreeze, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(f) Aerosol cans. A large quantity handler of universal waste shall manage universal waste aerosol cans in a way that prevents release of any universal waste or component of a universal waste or accelerant to the environment as follows:

(1) A large quantity handler of universal waste shall immediately contain any universal waste aerosol can that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions in a separate individual container. The individual container shall be closed, structurally sound, compatible with the contents of the universal waste aerosol can, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(2) A large quantity handler of universal waste may accumulate universal waste aerosol cans in a specially designated accumulation container provided it is clearly marked for such use. The accumulation container shall be closed, structurally sound, compatible with the contents of the universal waste aerosol can, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The universal waste aerosol cans shall be sorted by type and compatibility of contents to ensure that incompatible materials are segregated and managed appropriately in separate accumulation containers.

(3) A large quantity handler of universal waste may puncture universal waste aerosol cans to remove and collect the contents of the aerosol can provided the handler:

(i) Ensures that the universal waste aerosol can is punctured in a manner designed to prevent the release of any universal waste or component of universal waste or accelerant to the environment;

(ii) Ensures that the puncturing operations are performed safely by developing and implementing a written procedure detailing how to safely puncture universal waste aerosol cans. This procedure shall include:

(A) the type of equipment to be used to puncture the universal waste aerosol cans safely;

(B) operation and maintenance of the unit;

(C) segregation of incompatible wastes;

(D) proper waste management practices, i.e., ensuring that flammable wastes are stored away from heat or open flames; and

(E) waste characterization;

(iii) Ensures that a spill clean-up kit is readily available to immediately clean up spills or leaks of the contents of the universal waste aerosol can which may occur during the can-puncturing operation;

(iv) Immediately transfers the contents of the universal waste aerosol can, or puncturing device if applicable, to a container that meets the requirements of Section R315-262-34;

(v) Ensures that the area in which the universal waste aerosol cans are punctured is well ventilated; and

(vi) Ensures that employees are thoroughly familiar with the procedure for sorting and puncturing universal waste aerosol cans, and proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies.

(4)(i) A large quantity handler of universal waste who punctures universal waste aerosol cans to remove the contents of the aerosol can, or who generates other solid waste as a result of the activities listed above, shall determine whether the contents of the universal waste aerosol can, residues and/or other solid wastes exhibit a characteristic of hazardous waste identified in Sections R315-261-20 through 24, or are listed as a hazardous waste identified in Sections R315-261-30 through 35.

(ii) If the contents of the universal waste aerosol can, residues and/or other solid waste exhibit a characteristic of hazardous waste or are listed hazardous wastes, they shall be managed in compliance with all applicable requirements of Rules R315-260 through 266, 268, 270 and 124. The handler is considered the generator of the contents of the universal waste aerosol can, residues, and/or other waste and is subject to the requirements of Rule R315-262. In addition to the Rule R315-262 labeling requirements, the container used to accumulate, store, or transport the hazardous waste contents removed from the punctured universal waste aerosol can shall be labeled with all applicable EPA Hazardous Waste Codes found in

Sections R315-261-20 through 24 and Sections R315-261-30 through 35.

(iii) If the contents of the universal waste aerosol can, residues, and/or other solid waste are not hazardous, the handler may manage the waste in a way that is in compliance with applicable federal, state or local solid waste regulations.

R315-273-34. Standards for Universal Waste Management, Standards for Large Quantity Handlers of Universal Waste -- Labeling/Marking.

A large quantity handler of universal waste shall label or mark the universal waste to identify the type of universal waste as specified below:

(a) Universal waste batteries, i.e., each battery, or a container or tank in which the batteries are contained, shall be labeled or marked clearly with any one of the following phrases: "Universal Waste-Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies);"

(b) A container, or multiple container package unit, tank, transport vehicle or vessel in which recalled universal waste pesticides as described in Subsection R315-273-3(a)(1) are contained shall be labeled or marked clearly with:

(1) The label that was on or accompanied the product as sold or distributed; and

(2) The words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s);"

(c) A container, tank, or transport vehicle or vessel in which unused pesticide products as described in Subsection R315-273-3(a)(2) are contained shall be labeled or marked clearly with:

(1)(i) The label that was on the product when purchased, if still legible;

(ii) If using the labels described in Subsection R315-273-34(c)(1)(i) is not feasible, the appropriate label as required under the Department of Transportation regulation 49 CFR part 172;

(iii) If using the labels described in Subsections R315-273-34(c)(1)(i) and (1)(ii) is not feasible, another label prescribed or designated by the pesticide collection program; and

(2) The words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s)."

(d)(1) Mercury-containing equipment, i.e., each device, or a container in which the equipment is contained, shall be labeled or marked clearly with any of the following phrases: "Universal Waste-Mercury Containing Equipment," "Waste Mercury-Containing Equipment," or "Used Mercury-Containing Equipment."

(2) A universal waste mercury-containing thermostat or container containing only universal waste mercury-containing thermostats may be labeled or marked clearly with any of the following phrases: "Universal Waste-Mercury Thermostat(s)," "Waste Mercury Thermostat(s)," or "Used Mercury Thermostat(s)."

(e) Each lamp or a container or package in which such lamps are contained shall be labeled or marked clearly with any one of the following phrases: "Universal Waste-Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

(f) A container, tank, or transport vehicle or vessel in which antifreeze is contained shall be labeled or marked clearly with the words "Universal Waste-[-]antifreeze" ~~[-] or "Waste- antifreeze."~~

(g) Universal waste aerosol cans, i.e., each can, or a container in which the universal waste aerosol cans are contained or accumulated, shall be labeled or marked clearly with any one of the

following phrases: "Universal Waste-Aerosol Can(s)", or "Waste Aerosol Can(s)".

KEY: hazardous waste, universal waste

Date of Enactment or Last Substantive Amendment: ~~[August 31, 2017]~~ **2018**

Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106

**Health, Family Health and
Preparedness, Emergency Medical
Services
R426-3
Licensure**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43257

FILED: 10/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These changes update language to be consistent with Title 26-8a, replace the existing emergency rule for ambulance providers, remove language for air ambulance licensing, and amend mutual aid requirements for ambulance providers.

SUMMARY OF THE RULE OR CHANGE: These amendments update language to be consistent with Title 26-8a by changing the term "licensed" to include individuals, and delete language for the licensure of air ambulance providers since a new rule (R426-10) is being concurrently submitted to address those requirements. These amendments also reflect an expectation of mutual aid support to adjoining EMS service areas for ground ambulance providers.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-8a

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 terminology and documentation for licensed ambulance providers. State expenditures and staff time are not affected.

◆ **LOCAL GOVERNMENTS:** A possible fiscal benefit will result to all licensed ambulance service providers by removing the requirement for a written mutual aid agreement with adjoining geographical service areas as a condition of licensing or license renewal.

♦ **SMALL BUSINESSES:** A possible fiscal benefit will result to the one small licensed ambulance service provider by removing the requirement for a written mutual aid agreement with adjoining geographical service areas as a condition of licensing or license renewal.

♦ **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 governmental entities, because these amendments do not put any additional constraints on affected parties. These rule changes include updates to language, punctuation, references, formatting, and deletion of air ambulance language. A possible fiscal benefit might be due to amendments for aid agreements. These rule changes will simplify the licensing application, and clarify the intent of the aid agreement process.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These proposed rule amendments are not expected to have any fiscal impact on affected persons.

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

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 by mail to PO Box 142004.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/03/2018

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

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 large businesses revenues or expenditures, because the amendments do not require any additional constraints on affected parties. The rule changes include updates to language, punctuation, references, formatting, and deletion of air ambulance language. A possible fiscal benefit might be due to amendments for aid agreements. The rule changes will simplify the licensing application, and clarify the intent of the aid agreement process.

I approve publication of this proposed amendment to rule R426-3 Emergency Medical Services. Licensure. Joseph Miner, MD

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0

R426. Health, Family Health and Preparedness, Emergency Medical Services.

R426-3. Licensure.

R426-3-100. Authority and Purpose.

(1) This Rule [is established under Chapter 8, Title 26a, Chapter 8a. It] establishes standards for the licensure of [an air ambulance,] ground ambulance[,] and paramedic services.

(2) The purpose of this rule is to set forth ~~[air and]~~ ground ambulance policies, rules, and standards adopted by the Utah Emergency Medical Services Committee, which promotes and protects the health and safety of the people of this state.

~~[(3) The definitions in Title 26, Chapter 8a are adopted and incorporated by reference into this rule.]~~

R426-3-200. Requirement for Licensure.

(1) A person who provides or represents that it provides ~~[air ambulance,]~~ ground ambulance, paramedic ground ambulance, or paramedic services shall first be licensed by the Department.

R426-3-300. Licensure Types.

(1) The Department may issue exclusive ground ambulance transport licenses for the following types of service at the given levels:

- (a) emergency medical technician (EMT);
- (b) advanced emergency medical technician (AEMT); and
- (c) paramedic.

~~[(2) Current emergency medical technician intermediate-advanced (EMT-IA) licenses will remain in effect, no new EMT-IA ground ambulance licenses will be issued.]~~

(1)(2) The Department may issue exclusive ground ambulance inter-facility transport licenses for the following types of service at the given levels:

- (a) emergency medical technician (EMT);
- (b) advanced emergency medical technician (AEMT); and
- (c) paramedic.

(1)(3) The Department may issue exclusive paramedic, non-transport licenses.

(1)(4) The Department may issue a paramedic tactical license that is a ~~[designation of]~~ function not tied to a specific geographical location.

[R426-3-310. Air Ambulance Licensure Types.

~~[(1) The Department may issue an Air Ambulance provider a license in accordance with services accredited by a Department approved accreditation vendor.]~~

R426-3-400. Scope of Operations.

(1) A ground ambulance or paramedic licensed provider ~~[as described in R426-3-300]~~ may only provide service to its specific licensed geographic service area and is responsible to provide all services to its entire specific geographic service area except as provided by ~~[R426-3-900 Aid Agreements]~~ aid agreements. It will provide emergency medical services for its category of licensure ~~[that corresponds to the licensed levels in R426-5 Emergency Medical Services Training, Licensure and Certification Standards].~~

(2) A ground ambulance provider or paramedic service provider ~~[as described in R426-3-300]~~ shall provide services 24 hours a day, every day of the year.

~~[(3) Air ambulance services shall provide services 24 hours a day, every day of the year as allowed by weather conditions.]~~

(1)(3) A ground ambulance provider or paramedic service provider ~~[as described in R426-3-300]~~ shall provide all standby services for any special event that requires ground ambulance or paramedic services within its geographic service area. The licensed provider may arrange for those services through ~~[R426-3-900]~~ aid agreements. Designated quick response units may also support licensed ground ambulance or paramedic services at special events. If

a licensed provider refuses to provide service, or is non-responsive in a timely manner to a request for a special event, the event organizer may use a licensed or designated provider of their choice.

R426-3-500. Minimum Licensure Requirements [Air Ambulance, Ground Ambulance,] and Paramedic Services.

A licensed provider ~~[conforming to R426-3-200]~~ shall meet the following minimum requirements:

(1) sufficient ~~[air or]~~ ground ambulances, emergency response vehicle(s), equipment, and supplies that meet the requirements of this rule and as may be necessary to carry out its responsibilities under its license or proposed license without relying upon aid agreements with other licensed provider;

(2) locations or staging areas for stationing its vehicles;

(3) a current written dispatch agreement with a designated emergency medical dispatch center;

(4) ground ambulances may have current written aid agreements with other ground ambulance licensed providers to give assistance in times of unusual demand;

(5) a Department certified EMS training officer that is responsible for continuing education;

(6) a current plan of operations[-];

(7) a description of how the licensed provider or applicant proposes to interface with other licensed and designated EMS providers[-];

(8) demonstrate fiscal viability;

(9) medical personnel roster which includes level of licensure to ensure there is sufficient trained and licensed staff ~~[who meet the requirements of R426-4-200 Staffing, and]~~ for operational procedures[-];

(10) all proposed permitted vehicles; ~~[shall be equipped to allow field EMS personnel to be able to:~~

~~— (a) communicate with hospital emergency departments, dispatch centers, EMS providers, and law enforcement services; and~~

~~— (b) communicate on radio frequencies assigned to the Department for EMS use by the Federal Communications Commission.]~~

(11) a current written agreement with a Department-certified off-line medical director or a medical director certified in the state where the service is based ~~[pursuant to R426-3-700];~~

(12) provide ~~[the Department with]~~ a copy of its certificate of insurance or if seeking application, provide proof of the ability to obtain insurance to respond to damages due to operation of a vehicle ~~[or air ambulance]~~ in the manner and following minimum amounts:

(a) liability insurance in the amount of \$1,000,000 for each individual claim; and

(b) liability insurance in the amount of \$1,000,000 for property damage from any one occurrence;

(c) ~~[the licensed provider as described in R426-3-300 shall]~~ obtain the insurance from an insurance company authorized to write liability coverage in Utah or through a self-insurance program and shall:

(i) provide the Department with a copy of its certificate of insurance demonstrating compliance with this section; and

(ii) direct the insurance carrier or self-insurance program to notify the Department of all changes in insurance coverage within 60 days[-];

(13) not be disqualified for ~~[any of the following reasons:~~

~~_____ (a) violation of Subsection 26-8a-504; or
 _____ (b)]disciplinary action relating to an EMS license, permit, designation, or certification in this or any other state[~~-that adversely affect its service under its license; and];~~~~

~~(14) [A]a paramedic tactical service [as described in R426-3-300] shall be a public safety agency or have a letter of recommendation from a county or city law enforcement agency within the paramedic tactical service's geographic service area[;];~~

~~[_____ (15) In areas that are served by more than one transport provider, both providers shall have an agreement addressing first response and transport responsibilities for all types of facilities listed in R426-1-200(29) in effect by June 30, 2018 and shall provide copies to the Department and all impacted PSAP's and dispatch centers. The Department may act as mediator if needed to reach agreement.]~~

~~_____ (15) applicable fees and application on Department-approved forms to the Department;~~

~~_____ (16) a detailed description and detailed map of the exclusive geographical areas that will be served;~~

~~_____ (17) if the requested geographical service area is for less than all ground ambulance or paramedic services, the applicant shall include a written description and detailed map showing how the areas not included will receive ground ambulance or paramedic services;~~

~~_____ (18) if an applicant is responding to a public bid, the applicant shall include detailed maps and descriptions for all geographical areas served;~~

~~_____ (19) documentation showing that the applicant meets all local zoning and business licensing standards within the exclusive geographical service area that it will serve;~~

~~_____ (20) a written description of how the applicant will communicate with dispatch centers, law enforcement agencies, on-line medical control, and patient transport destinations;~~

~~_____ (21) patient care protocols, medications, and equipment approved by the provider's medical director based on licensure level according to Department policies;~~

~~_____ (22) applicant's plans for operations during times of unusual demand;~~

~~_____ (23) a written assessment of field performance from the applicant's off-line medical director;~~

~~_____ (24) other information that the Department determines necessary for the processing of the application and the oversight of the licensed entity.~~

~~_____ (25) written cost, quality, and access goals as described in R426-3-600, if available;~~

~~_____ (26) response to a request for proposal;~~

~~_____ (27) if, upon Department review, the application for a new license is complete and meets all the requirements, the Department shall issue a notice of approved application;~~

~~_____ (28) award of a new license or a renewal license is contingent upon the applicant's demonstration of compliance with all applicable statute and rules and a successful Department quality assurance review;~~

~~_____ (29) after review and before issuing a license to a new service, the Department will inspect the ground vehicle(s), equipment, and required documentation; and~~

~~_____ (30) a license may be issued for up to a four-year period unless revoked or suspended by the Department. The Department may alter the length of the license to standardize renewal cycles.~~

R426-3-600. Cost, Quality, and Access Goals for Ground Ambulance Providers.

(1) A local government shall establish emergency medical service goals[~~pursuant to Title 26-8a-408(7)~~].

(2) Goals shall be renewed every four years in concurrence with the licensure process for the EMS licensed ground ambulance provider. All local governments in a licensed service area are required to participate.

(3) Goals may be amended, if necessary, due to:

(a) unforeseen changes in service delivery[;];

(b) community impacts[;]; or

(c) significant unforeseen impact in the geographical service area.

(4) Goals shall be written, approved by local governments, and submitted to the Department with licensure and re-licensure application by the EMS licensed ground ambulance provider for the geographical service area.

(5) Local governments may choose to recognize EMS providers who have achieved accreditation by a Department approved accreditation organization as meeting the cost, quality, and access goals.

(6) Cost goals shall indicate the expected financial cost to the local government(s) and patients for the level of service provided.

(7) Quality goals shall indicate the expected level of service plus any additional foreseen improvements or advancements in service expectations.

(8) Access goals shall indicate the local government's expectation for access to the EMS system by any individual within the local government's geographic area.

~~**[R426-3-700. Ground Ambulance or Paramedic Service Application.**~~

~~_____ (1) An applicant desiring to obtain a new license for ground ambulance, or paramedic services shall submit the applicable fees and application on Department approved forms to the Department. As part of the application, the applicant shall submit documentation that it meets the requirements listed in R426-3-500 along with the following:~~

~~_____ (a) a detailed description and detailed map of the exclusive geographical areas that will be served;~~

~~_____ (b) if the requested geographical service area is for less than all ground ambulance or paramedic services, the applicant shall include a written description and detailed map showing how the areas not included will receive ground ambulance or paramedic services;~~

~~_____ (c) if an applicant is responding to a public bid as described in 26-8a-405.2 the applicant shall include detailed maps and descriptions for all geographical areas served in accordance with 26-8a-405.2(2);~~

~~_____ (d) documentation showing that the applicant meets all local zoning and business licensing standards within the exclusive geographical service area that it will serve;~~

~~_____ (e) a written description of how the applicant will communicate with dispatch centers, law enforcement agencies, on-line medical control, and patient transport destinations;~~

~~_____ (f) patient care protocols, medications, and equipment approved by the provider's medical director based on licensure level according to Department policies; and~~

~~_____ (g) applicant's plans for operations during times of unusual demand.~~

~~(2) An applicant desiring to renew an existing license shall submit documentation that it meets the requirements listed in R426-3-500, along with the following:~~

~~(a) a written assessment of field performance from the applicant's off-line medical director; and~~

~~(b) other information that the Department determines necessary for the processing of the application and the oversight of the licensed entity.~~

~~(3) An applicant desiring to obtain a new license or renew an existing license shall submit written cost, quality, and access goals as described in R426-3-600, if available.~~

~~(4) A ground ambulance or paramedic service holding a license under 26-8a-404, including any political subdivision that is part of a special district may respond to a request for proposal if it complies with 26-8a-405(2).~~

~~(5) Upon receipt of an appropriately completed application, ground ambulance or paramedic service license and submission of license fees, the Department shall collect supporting documentation and review each application.~~

~~(6) If, upon Department review, the application for a new license is complete and meets all the requirements, the Department shall issue a notice of approved application as required by 26-8a-405 and 406.~~

~~(7) Award of a new license or a renewal license is contingent upon the applicant's demonstration of compliance with all applicable statute and rules and a successful Department quality assurance review.~~

~~(8) After review and before issuing a license to a new service, the Department shall directly inspect the ground vehicle(s), equipment, and required documentation.~~

~~(9) A license may be issued for up to a four-year period unless revoked or suspended by the Department. The Department may alter the length of the license to standardize renewal cycles.~~

R426-3-710. Air Ambulance Application.

~~An applicant desiring to obtain a new license or to renew its license for air ambulance services shall submit the applicable fees and application on Department approved forms to the Department. As part of the application, the applicant shall submit documentation that it meets the requirements listed in R426-3-500 and the following:~~

~~(1) certified articles of incorporation, if incorporated;~~

~~(2) a statement summarizing the training and experience of the applicant in the air transportation and care of patients;~~

~~(3) a copy of current Federal Aviation Administration (FAA) Air Carrier Operating Certificate authorizing FAR, Part 135, operations;~~

~~(4) a copy of the current certificates of insurance demonstrating coverage for medical malpractice;~~

~~(5) a description and location of each dedicated and back-up air ambulance(s) procured for use in the air ambulance service, including the make, model, and year of manufacture, FAA-N number, insignia, name or monogram, or other distinguishing characteristics;~~

~~(6) successful completion of a Department approved accreditation process and such accreditation decision shall exclude Federal Aviation Agency or Aviation Deregulation Act regulated activities;~~

~~(7) for new air ambulance services licensed under R426-3-200, the applicant shall submit an application for accreditation by a~~

~~Department approved accreditation process within one year of receiving a license under this rule; and~~

~~(8) licensed air ambulance services shall achieve accreditation and maintain accreditation.~~

~~(9) Any new air ambulance providers applying for a license who have been licensed and operating in any other state for at least one year shall provide the Department with a copy of a successful accreditation decision, or an application sent to a Department approved accreditation vendors prior to receiving an air ambulance license.~~

~~(10) Upon receipt of an appropriately completed application for air ambulance provider license and submission of license fees, the Department shall collect supporting documentation and review each application.~~

~~(11) After review and before issuing a license to a new service, the Department shall directly inspect the air vehicle(s), equipment, and required documentation.~~

~~(12) Department approved accreditation vendors shall allow a Department representative to accompany accreditation surveyors on site surveys or during any accreditation inspections at the request of the Department.~~

~~(13) If, upon Department review, the application for a new license is complete and meets all the requirements, the Department shall issue a notice of approved application as required by 26-8a-405 and 406.~~

~~(14) Award of a new license or a renewal license is contingent upon the applicant's demonstration of compliance with all applicable statute and rules and a successful Department quality assurance review.~~

~~(15) Any events impacting patient safety including death, permanent harm, or severe temporary harm, or requiring intervention to sustain life shall be reported to the Department and the associated Department approved accreditation vendor(s) by the licensed air ambulance provider within 30 days of the event.~~

~~(16) A license may be issued for up to a four-year period unless revoked or suspended by the Department. The Department may alter the length of the license to standardize renewal cycles.]~~

R426-3-[8]700. Medical Control.

(1) All licensed providers shall enter into a written agreement with a physician to serve as its off-line medical director to supervise the medical care or instructions provided by the field EMS personnel and dispatchers. The physician shall be familiar with:

(a) the design and operation of the local pre-hospital EMS system; and

(b) local dispatch and communication systems and procedures.

(2) The off-line medical director shall:

(a) develop and implement patient care standards which include written standing orders and triage, treatment, and transport protocols;

(b) ensure the qualification of field EMS personnel involved in patient care through the provision of ongoing continuing medical education programs and appropriate review and evaluation;

(c) develop and implement an effective quality improvement program, including medical audit, review, and critique of patient care;

(d) annually review triage, treatment, and transport protocols and update them as necessary;

(e) suspend from patient care, pending Department review, a field EMS personnel who does not comply with local medical triage, treatment and transport protocols, or who violates any of the EMS rules, or who the medical director determines is providing emergency medical service in a careless or unsafe manner. The medical director shall notify the Department within one business day of the suspension;

(f) attend meetings of the local EMS Council, if one exists, to participate in the coordination and operations of local EMS providers; and

(g) licensed providers shall notify the Department if an off-line medical director is replaced, within thirty days.

~~_____ (3) It is the responsibility of the air ambulance medical director to:~~

~~_____ (a) authorize written protocols for the use by air medical attendants and review policies and procedures of the Air ambulance service; and~~

~~_____ (b) develop and review treatment protocols, assess field performance, and critique at least 10% of the Air ambulance service runs.]~~

R426-3-[9]800. Ground Ambulance or Paramedic Service Provider Aid Agreements.

(1) All licensed ground ambulance providers are expected to render mutual aid support for adjoined geographical service areas. Mutual aid support means that they may be called upon to provide assistance during times of unusual demand. Exceptions for this expectation should be submitted as part of a license application.

(2) Other types of aid agreements shall be in writing, signed by both parties, and detail the:

(a) purpose of the agreement;

(b) type of assistance required;

(c) circumstances under which the assistance would be given; and

(d) duration of the agreement.

(3) The parties shall provide a copy of any aid agreement(s) except for mutual aid support ~~[as described in R426-3-900(1)]~~ to the Department and to the designated emergency medical dispatch center(s) that dispatch the licensed ground ambulance providers.

(4) When mutual aid support is given ~~[as described in R426-3-900(1)]~~, the licensed ground ambulance provider rendering support will be responsible for the following, unless otherwise stated in writing, and approved by the Department prior to the event:

(a) billing or other financial reimbursements;

(b) liability for EMS operations related to staff and patient care ~~[-and]; and~~

(c) patient care protocols for licensure level.

R426-3-[11]900. Application Review and Award for Ground Ambulance Providers Selected by Public Bid.

(1) Upon receipt of an appropriately completed application, for ground ambulance or paramedic service license and submission of license fees, the Department shall collect supporting documentation and review each application.

(2) If, upon Department review, the application is complete and meets all the requirements, the Department shall:

(a) for a new license application, issue a notice of approved application ~~[as required by 26-8a-405 and 406];~~

(b) issue a renewal license to an applicant ~~[in accordance with 26-8a-413(1) and (2) or 26-8a-405.1(3), whichever is applicable];~~

(c) issue a four-year renewal license to a license selected by a political subdivision if the political subdivision ~~[certified]~~ verified to the Department that the licensed provider has met all of the specifications of the original bid and requirements ~~[of 26-8a-413(1) through 26-8a-313(3)];~~ or

(d) issue a second four-year renewal license to a licensed provider selected by a political subdivision if:

(i) the political subdivision ~~[certified]~~ verified to the Department that the licensed provider has met all of the specifications of the original bid and requirements ~~[of 26-8a(1) through (3)];~~ and

(ii) if the Department or the political subdivision has not received, prior to the expiration date, written notice from an approved applicant desiring to submit a bid for ambulance or paramedic services.

(3) Upon the request of the political subdivision and the agreement of all interested parties and the Department that the public interest would be served, the renewal license may be issued for a period of less than four years or a new request for the proposal process may be commenced at any time.

R426-3-[12]1000. Criteria for Denial or Revocation of Licensure.

(1) The Department may deny an application for a license, a renewal of a license, or revoke, suspend or restrict a license without reviewing whether a license shall be granted or renewed to meet public convenience and necessity for any of the following reasons:

(a) failure to meet substantial requirements as specified in the rules governing the service;

(b) failure to meet vehicle, equipment, staffing, or insurance requirements;

(c) failure to meet agreements covering training standards or testing standards;

(d) substantial violations ~~[of Subsection 26-8a-504(1)];~~

(e) a history of disciplinary action relating to a license, permit, designation, or certification in this or any other state;

(f) a history of serious or substantial public complaints;

(g) a history of criminal activity by the licensee or its principals while licensed or designated as an EMS provider or while operating as an EMS service with permitted vehicles;

(h) falsification or misrepresentation of any information in the application or related documents;

(i) failure to pay the required licensing or permitting fees or other fees or failure to pay outstanding balances owed to the Department;

(j) failure to submit records and other data to the Department as required ~~[by R426-7];~~

(k) a history of inappropriate billing practices ~~[-such as:~~

~~_____ (i) charging a rate that exceeds the maximum rate allowed by rule;~~

~~_____ (ii) charging for items or services for which a charge is not allowed by statute or rule; or~~

~~_____ (iii) Medicare or Medicaid fraud.];~~

(l) misuse of grant funds ~~[received under Section 26-8a-207];~~ or

(m) violation of OSHA or other federal standards that it is required to meet in the provision of the EMS service.

(2) An applicant or licensed provider that has been denied, revoked, suspended or issued a restricted license may appeal by filing a written appeal within thirty calendar days of the receipt of the issuance of the Department's denial.

R426-3-~~13~~1100. Change of Owner.

(1) A license and the vehicle permits cannot be transferred to another party.

(2) ~~[As outlined in 26-8a-415, a]~~ A new owner shall submit within 10 (ten) calendar days prior to acquisition of property, applications and fees for a new license and vehicle permits.

KEY: emergency medical services, licensure

Date of Enactment or Last Substantive Amendment: [April 19,] 2018

Authorizing, and Implemented or Interpreted Law: 26-8a

**Health, Family Health and
Preparedness, Emergency Medical
Services
R426-4
Operations**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43258

FILED: 10/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These rule changes update language to be consistent with Title 26-8a, amend terms for personnel certification to license, and remove language for air ambulance licensing.

SUMMARY OF THE RULE OR CHANGE: These proposed rule changes update language to be consistent with Title 26-8a by changing the term "licensed" to include individuals, and delete language for the licensure of air ambulance providers since a new rule (R426-10, also published in the November 11, 2018 Bulletin) is being concurrently submitted to address those requirements.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-8a

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 terminology, and documentation for licensed ambulance providers. State expenditures and staff time are not affected.

◆ **LOCAL GOVERNMENTS:** These proposed rule changes are not expected to have any fiscal impact on local governments' revenues or expenditures because these

amendments do not put any additional constraints on affected parties. These rule changes include updates to language, punctuation, references, formatting, and deletion of air ambulance language.

◆ **SMALL BUSINESSES:** These proposed rule changes are not expected to have any fiscal impact on the one small business that is a licensed ground ambulance provider because these amendments do not put any additional constraints on affected parties. These rule changes include updates to language, punctuation, references, formatting, and deletion of air ambulance language.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These proposed rule changes are not expected to have any fiscal impact on persons other than small businesses, businesses, or local governmental entities, because these amendments do not put any additional constraints on affected parties. These rule changes include updates to language, punctuation, references, formatting, and deletion of air ambulance language.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These proposed rule changes are not expected to have any fiscal impact on affected persons.

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

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 by mail to PO Box 142004.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/03/2018

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2018

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
 This rule change is not expected to have any fiscal impacts on large businesses revenues or expenditures, because the amendments do not require any additional constraints on affected parties. The rule changes include updates to language, punctuation, references, formatting, and deletion of air ambulance language.

I approve publication of this proposed amendment to rule R426-4 Emergency Medical Services. Operations. Joseph Miner, MD

R426. Health, Family Health and Preparedness, Emergency Medical Services.
R426-4. Operations.
R426-4-100. Authority and Purpose.

[This rule is established under Title 26, Chapter 8a. It establishes standards for the operation of EMS providers licensed or designated under the provisions of the Emergency Medical Services

~~System Act.~~ (1) This rule establishes standards for the operation of licensed ground EMS providers or designated EMS providers under the provisions of the Utah Emergency Medical Services System Act.

R426-4-200. Licensed Ground Ambulance and [QRV] Designated QRV Staffing.

(1) While responding to a call, each permitted QRV shall be staffed by at least one individual [certified] licensed at or above the provider's designated level of service.

(2) While responding to a call, each licensed ground ambulance shall be staffed with the following minimum complement of [certified] licensed personnel for the service level described:

(a) Basic Life Support ambulance: two EMTs, AEMTs, or paramedics, or any combination thereof[-];

(b) AEMT ambulance: one AEMT and one EMT, AEMT, or paramedic[-];

(c) EMT-IA ambulance: one EMT-IA and one EMT, AEMT, or Paramedic[-];

(d) Paramedic ambulance: one paramedic and one EMT, AEMT, EMT-IA, or paramedic[-];

(e) Paramedic (non-transport): one paramedic[-];

(f) Paramedic inter-facility: one paramedic and one EMT, AEMT, EMT-IA, or paramedic[-];

(g) Paramedic tactical: one paramedic.

(3) A paramedic ground ambulance or paramedic provider shall deploy two paramedics to the scene of 911 calls for service requiring Advanced Life Support response, unless otherwise determined by local selective medical dispatch system protocols.

(4) When providing care, responders not in a [Department approved] uniform shall display upon request their level of medical [certification] licensure.

(5) Each licensed or designated provider shall maintain a personnel file for each [certified] licensed individual. The personnel file [must] shall include records documenting the individual's qualifications, training, certifications, licensure, immunizations, and continuing medical education.

(6) A [n] licensed individual may perform only to his [certified service] licensed EMS provider level, even if the licensed EMS or designated provider is licensed or designated at a higher level.

[R426-4-210. Air Ambulance Staffing:

~~(1) Air ambulance provider shall have at least one medical attendant who is a licensed PA, RN, or MD/DO. This attendant shall be the primary medical attendant. The second medical attendant shall be a Paramedic, PA, Respiratory Therapist, RN, or MD/DO.~~

~~(2) Air ambulance providers shall operate only within their accreditation standards designation.~~

~~(3) Air ambulance providers shall notify the Department if the air ambulance provider changes its specialty designation through its accrediting agency.]~~

R426-4-300. Permits and Inspections.

(1) A licensed ground ambulance[-] or designated [QRV or air ambulance] EMS provider shall only use vehicles for which the provider has obtained a permit from the Department. All new ground ambulances shall meet current State approved specifications and standards. Department policy for ground ambulances will be posted on the Bureau of Emergency Medical Services and Preparedness's website.

~~[(a) Ground ambulances must meet Federal General Services Administration Specification for ground ambulances as of the date of manufacture. New ground ambulance vehicles must meet current state approved specifications for ground ambulances.~~

~~(b) QRVs shall meet the Department requirements.]~~

(2) A permit issued by the Department is valid for one year.

(3) The provider shall display the current permit location on vehicle in a location easily visible at ground level from outside of the vehicle.

(4) Permits and decals are not transferable to other vehicles.

(5) Each permit holder licensed ambulance and designated provider shall annually provide proof upon request that every operator of an emergency vehicle has successfully completed an emergency vehicle operator's course approved by the Department ~~[for all emergency vehicle operators].~~

~~**R426-4-310. Air Ambulance Shall Meet Federal Aviation Regulations.**~~

~~Air Ambulance providers shall meet all Federal Aviation Regulations specific to their operations.]~~

R426-4-400. Ground Ambulance and QRV Licensed Ground Ambulance and Designated QRU Provider Operations.

(1) Each licensed ground ambulance provider or QRV designated QRU provider shall notify the Department of the permanent location of its ground ambulances and QRVs. The ~~ground ambulance provider or QRV licensed ground EMS provider or designated QRU provider~~ shall notify the Department in writing whenever it changes the permanent location for any ~~ground ambulance or QRV permitted vehicles.~~

(2) Each ~~ground ambulance provider or QRV licensed ground ambulance provider or designated QRU provider~~ shall maintain each operational permitted vehicle on a premise suitable to make it available for immediate use, in good mechanical repair, properly equipped, and in a sanitary condition.

(3) Each ~~ground ambulance provider or QRV licensed ground ambulance provider or designated provider~~ shall maintain each operational vehicle in a clean condition with the interior being thoroughly cleaned after each use in accordance with OSHA standards and the provider's exposure control plan.

(4) Each ~~ground ambulance provider or QRV licensed ground ambulance provider or designated provider~~ shall equip each operational vehicle with adult and child safety restraints. To the point practicable and feasible, all occupants ~~must shall~~ be safely restrained during operation.

(5) Each ~~ground ambulance provider or QRV licensed ground ambulance provider or designated provider~~ shall assure that each emergency vehicle operator who may drive the emergency vehicle:

(a) is at least 18 years of age;

(b) possesses a valid driver license;

(c) successfully passed the provider's criminal background check within the prior four years; and

(d) successfully completed a department approved emergency vehicle operator's course or refresher course within the past two years.

(6) The Department shall verify annually that licensed ground ambulance providers or designated providers are in compliance with this requirement.

R426-4-500. Scene and Patient Management.

(1) Designated E emergency medical service dispatch centers shall use a selective medical dispatch system to determine which ~~EMS service provider licensed ambulance provider~~ will be notified for patient transport.

(2) When responding to a medical emergency call, EMS personnel shall follow protocols approved by the service provider's medical director, and act within their scope of practice.

(3) EMS personnel shall establish communication with on-line medical control as soon as reasonable.

(4) Licensed Paramedic tactical service provider may only function at the invitation of the local or state public safety authority. When called upon for assistance, the licensed tactical paramedic provider shall immediately notify the local emergency medical service dispatch center to coordinate patient transportation.

R426-4-600. Pilot Projects.

(1) A person who proposes to undertake a research or study project which requires waiver of any rule ~~must shall~~ have a project director who is a physician licensed to practice medicine in Utah, and shall submit a written proposal to the Department for presentation to the EMS Committee for recommendation.

(2) The proposal shall include the following:

(a) ~~A~~ a project description that describes the

(i) need for project;

(ii) project goal;

(iii) specific objectives;

(iv) approval by the provider off-line medical director;

(v) methodology for the project implementation;

(vi) geographical area involved by the proposed project;

(vii) specific rule or portion of rule to be waived;

(viii) proposed waiver language; ~~and~~

(ix) evaluation methodology;

(b) ~~A~~ a list of the EMS providers and hospitals participating in the project; and

(c) a signed statement of endorsement from the participating hospital medical directors and administrators, the director of each participating licensed paramedic and ambulance licensee provider, other project participants, and other parties who may be significantly affected.

(d) If the pilot project requires the use of additional skills, a description of the skills to be utilized by the field licensed personnel and provision for training and supervising the field EMS licensed personnel who are to utilize these skills, including the names of the field EMS licensed personnel.

(e) The name and signature of the project director attesting to his or her support and approval of the project proposal.

(f) If the pilot project involves human subjects' research, the applicant ~~must shall~~ also obtain Department Institutional Review Board approval.

(g) The Department or Committee, as appropriate, may require the applicant to meet additional conditions as it considers necessary or helpful to the success of the project, integrity of the EMS system, and safety to the public.

(h) The Department or Committee, as appropriate, may initially grant project approval for one year. The Department or Committee, as appropriate, may grant approval for continuation beyond the initial year based on the achievement and satisfactory progress as evidenced in written progress reports to be submitted to the

Department at least 90 days prior to the end of the approved period. A pilot project may not exceed three years[;].

([6]8) [t]The Department or Committee, as appropriate, may only waive a rule if:

- (a) the applicant has met the requirements of this section;
- (b) the waiver is not inconsistent with statutory requirements;
- (c) there is not already another pilot project being conducted on the same subject; and
- (d) it finds that the pilot project has the potential to improve pre-hospital medical care.

([7]9) Approval of a project allows the field EMS licensed personnel listed in the proposal to exercise the specified skills of the participants in the project. The project director shall submit the names of field EMS licensed personnel not initially approved to the Department.

([8]10) The Department or Committee, as appropriate, may rescind approval for the project at any time if:

- (a) [F]those implementing the project fail to follow the protocols and conditions outlined for the project;
- (b) it determines that the waiver is detrimental to public health; or
- (c) it determines that the project's risks outweigh the benefits that have been achieved.

([9]11) The Department or Committee, as appropriate, shall allow the licensed or designated EMS provider involved in the study to appear before the Department or Committee, as appropriate, to explain and express its views before determining to rescind the waiver for the project.

([10]12) At least six months prior to the planned completion of the project, the medical director shall submit to the Department a report with the preliminary findings of the project and any recommendations for change in the project requirements.

R426-4-700. Confidentiality of Patient Information.

(1) Licensed or designated EMS [P]providers and all licensed EMS personnel shall not disclose patient information except as necessary for patient care or as allowed by statute or rule.

R426-4-800. [~~Ground Ambulance and QRV~~]Permitted Vehicle Supply Requirements.

(1) In accordance with the [~~license~~]licensed EMS provider level or designation type and level, the [~~ground ambulance or QRV~~]each permitted vehicle shall carry [~~on each vehicle~~]the quantities of supplies, medications, and equipment as described in the Department inspection requirements. The vehicle requirements shall be approved by the State EMS Medical Director and the State EMS Committee.

(2) Medical directors for licensed or designated providers are responsible to provide protocols, training, and quality assurance for all medications used by [~~certified~~]licensed individuals performing duties for their respective licensed or designated provider.

(3) If a licensed or designated EMS provider desires to carry different equipment, supplies, or medication from the vehicle supply requirements, the provider shall submit a written request from the certified off-line medical director to the Department requesting the waiver. The request shall include:

- (a) a detailed training outline;
- (b) protocols;

- (c) proficiency testing;
- (d) supporting documentation;
- (e) local EMS Council or committee comments; and
- (f) a detailed letter of justification.

(4) All non-disposable equipment shall be designed and constructed of materials that are durable and capable of withstanding repeated cleaning. The provider shall:

- (a) [~~shall~~]clean the equipment after each use in accordance with OSHA standards;
- (b) [~~shall~~]sanitize or sterilize equipment prior to reuse;
- (c) [~~shall~~]not reuse equipment intended for single use;
- (d) [~~shall~~]clean and change linens after each use; and
- (e) [~~shall~~]store or secure all equipment in a readily accessible and safe manner to prevent its movement.

(5) The provider shall have all equipment tested, maintained, and calibrated according to the manufacturer's standards.

(6) The provider shall document all equipment inspections, testing, maintenance and calibrations. Testing or calibration conducted by an outside service shall be documented. Such inspections, testing and calibration shall be performed monthly. All testing documentation shall be maintained and available for Department review upon request.

(7) A provider required to carry any of the following equipment shall perform monthly inspections to ensure proper functionality:

- ([i]a) defibrillator, manual, or automatic;
- ([ii]b) autovent;
- ([iii]c) infusion pump;
- ([iv]d) glucometer;
- ([v]e) flow restricted, oxygen-powered ventilation devices;
- ([vi]f) suction equipment;
- ([vii]g) electronic Doppler device;
- ([viii]h) automatic blood pressure/pulse measuring device;
- ([ix]i) pulse oximeter; and,
- ([x]j) any other electronic, battery powered, or critical care device.

(8) The licensed or designated EMS provider shall perform monthly inspections to ensure proper functionality of all equipment that require consumable[;]items, power supplies, electrical cables, pneumatic power lines, hydraulic power lines, or related connectors.

(9) Unless otherwise authorized by the State EMS Medical Director, a licensed or designated EMS provider shall store all medications according to the manufacturers' recommendations, [;]

[~~—(a) for~~] including temperature control and packaging requirements[; and].

(10) All medication known or suspected to have been subjected to temperatures outside the recommended temperature range shall be return to the supplier for replacement.

[~~—(b) return to the supplier for replacement of any medication known or suspected to have been subjected to temperatures outside the recommended range.~~]

([10]11) The Department shall maintain and publish requirements for ground ambulances, [~~and~~]QRVs, and other designated providers on the Department's website.

[R426-4-900. Air Ambulance Equipment Standards.

~~—Air ambulance providers must maintain minimum quantities of supplies and equipment for each air ambulance transport in accordance with its accreditation designation. The air ambulance~~

medical director shall oversee and determine the protocols and provide training to support the medications.

R426-4-1000. Air Ambulance Operational Standards:

- ~~(1) An air ambulance pilot may refuse transport to any individual who the pilot considers to be a safety hazard to the air ambulance or any of its passengers.~~
- ~~(2) Air ambulance providers shall provide a patient care record to the receiving hospital as soon as practical, but no longer than 24 hours after completion of the transport.~~
- ~~(3) Air ambulance providers shall maintain a personnel file which shall include staff qualifications and training.~~
- ~~(4) All air ambulance providers shall have an operational manual or policy and procedures manual available for all air ambulance personnel.~~
- ~~(5) All air ambulance provider records shall be available for inspection by representatives of the Department.~~
- ~~(6) Air ambulances shall be equipped to allow air ambulance provider personnel to be able to:

 - ~~(a) Communicate with hospital emergency medical departments, flight operations centers, air traffic control, ground ambulance providers, and law enforcement agencies;~~
 - ~~(b) Communicate with other air ambulances while in flight;~~
 - ~~(c) Have the ability to override any radio or telephone transmission in the event of an emergency.~~~~
- ~~(7) The management of the air ambulance provider shall be familiar with the federal regulations related to air ambulance providers.~~
- ~~(8) Each air ambulance provider shall have a safety committee, with a designated safety officer. The committee shall meet at least quarterly to review safety issues and submit a written report to the air ambulance provider's management and maintain a copy on file at the air ambulance provider's office.~~
- ~~(9) Air ambulance providers shall have a quality management team and a program implemented by this team to assess and improve the quality of patient care provided by the air ambulance provider.]~~

KEY: emergency medical services

Date of Enactment or Last Substantive Amendment: [~~September 24, 2015~~]**2018**

Authorizing, and Implemented or Interpreted Law: 26-8a

Health, Family Health and
Preparedness, Emergency Medical
Services
R426-10
Air Ambulance Licensure and
Operations

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43259

FILED: 10/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new rule is to implement new air ambulance requirements based on national model rules for federal compliance, standardization for providers with other state rules, and to reflect best practices in the industry.

SUMMARY OF THE RULE OR CHANGE: This new rule will consolidate past air ambulance rules with a format and requirements based on model rules developed by the National Association of State EMS Officials. The requirements in this new rule have been vetted to regulatory federal agencies for compliance with federal regulations. This new rule also implements best practices of the air ambulance industry. The rule contains licensing and operational requirements previously contained in R426-3 and R46-4.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-8a

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This proposed rule is not expected to have any fiscal impact on state government revenues or expenditures because it will not increase regulatory requirements or increase staff workload.
- ◆ **LOCAL GOVERNMENTS:** Local governments do not license air ambulance providers. They do not have any regulatory requirements or authority over air ambulance providers.
- ◆ **SMALL BUSINESSES:** No small businesses are licensed to operate an air ambulance in Utah.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This new rule is not expected to have any fiscal impact on persons other than small businesses, businesses, or local governmental entities, because this rule does not put any additional constraints on them.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This proposed rule is not expected to have any fiscal impact on affected 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: Businesses will experience a fiscal impact because of the requirements set out in this rule; however, the impact cannot be estimated since current licensed providers exceed the requirements set out in this rule.

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 by mail to PO Box 142004.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/03/2018

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 2: Regulatory Impact to Non-Small Businesses

There are six licensed air ambulance providers operating and based in Utah. This number is based on current licenses per Utah Department of Health data. These businesses will experience a fiscal cost because of increased requirements described in this new rule. The full impact to these non-small businesses cannot be estimated because currently licensed air ambulance providers exceed the effective rule requirements, and will meet the new requirements without addition impacts. However, these new requirements are more costly than past requirements. Also, actual cost data from air ambulance providers is not available for comparisons. Non-fiscal impacts will include better efficiencies or possible cost savings for non-small businesses affected. This is due to rule or regulatory standardization states for air ambulance providers licensed in multiple states.

I approve publication of this proposed new rule R426-10 Air Ambulance Licensure and Operations. Joseph Miner, MD

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.

R426. Health, Family Health and Preparedness, Emergency Medical Services.

R426-10. Air Ambulance Licensure and Operations.

R426-10-100. Authority and Purpose.

(1) This rule is established for the licensing requirements and operations for air ambulance providers.

R426-10-200. Air Ambulance Service Application and Licensure.

(1) No person, either as owner, agent or otherwise, shall furnish, operate, conduct, maintain, advertise or otherwise be engaged in the provision of emergency medical care using an air ambulance unless currently licensed by the State of Utah Department of Health. The state retains the right to conduct air ambulance service investigations per state law.

(2) The following shall be complied with to obtain a State of Utah air ambulance license:

(a) A person from another state shall not provide emergency medical services aboard an air ambulance within the state unless that person complies with the requirements under this chapter. This requirement applies to any person that provides patient care within the State of Utah.

(b) Applicants desiring to be licensed or to renew its license for an air ambulance service shall submit the applicable fees and application on Department-approved forms prior to being issued a license to operate.

(c) Applicants shall submit a copy of air ambulance service license(s) concurrently issued and on file with other states.

(d) Applicants shall provide information about individual aircraft that will be used while providing medical care licensed under this Chapter to the state for physical inspection of medical compliance.

(e) Applicants shall provide results to the Department from the prior 10 years of any investigations, disciplinary actions, or exclusions with the potential to impact the quality of medical care provided to patients. Such investigations, disciplinary actions, or exclusions that shall be reported apply to all current and prior legal names of the entity and all other names used by the entity to provide health care services (see R426-10-600, Change of Ownership/Management) and any person or entity who had direct or indirect ownership of at least 50% interest in the air ambulance service within the prior 10-year period.

(f) Applicants shall identify an air ambulance service medical director pursuant to requirements found in R426-5-2400. The

medical director shall be responsible for medical direction and oversight regarding credentialing air medical providers, clinical practice, and all patient care issues. Personnel changes in medical director shall be reported to the Department within 30 days.

(g) Applicants shall submit all required fees, when applicable.

(h) When the name or ownership of the air ambulance service changes, an air ambulance service license application shall be submitted to the Department at least 30 days prior to the effective date of the change.

(i) Air ambulance services shall provide emergency information about the service to the Department. This information shall be used by the Department to provide effective communications and resource management, in the event of a statewide or localized disaster or emergency situation. The information is included in the initial and renewal application for certification of air ambulance services.

(j) Air ambulance permits and licenses are not transferable.

(k) Duplicate air ambulance permits and licenses can be obtained by submitting a written request to the Department. The request shall include a letter signed by the licensee certifying that the original permit and license has been lost, destroyed or rendered unusable.

(l) Each licensed air ambulance provider shall obtain a new air ambulance inspection and subsequent permit or certification from the Department prior to returning an air ambulance to service following a modification, change or any renovation that results in a change to the stretcher placement or seating in the air ambulance interior configuration to ensure the aircraft meets patient care requirements.

(m) The licensed air ambulance service shall file an amended list of aircraft that are used to provide service within the state to the Department within 30 days after an air ambulance is added or removed permanently from service.

(n) The licensure period for all licensed air ambulance services shall be for 4 years.

(o) Licensure authorizes the air ambulance provider only to provide emergency medical care using an air ambulance, and does not constitute authority to provide air transportation. Such authority shall be obtained from the Federal Aviation Administration and United States Department of Transportation.

(p) The following regulations shall not relieve the licensed air ambulance provider from compliance with other statutes, rules, or regulations in effect for medical personnel and emergency medical services, involving licensing and authorizations, insurance, prescribed and proscribed acts and penalties.

R426-10-300. Exceptions to Air Ambulance Service Application and Licensure.

(1) This rule does not apply to the following:

(a) An air ambulance or air ambulance service operated by an agency of the United States government.

(b) Services that provide rescue and evacuation equipment and aircraft owned and operated by a governmental entity whose primary role is not to transport patients by air ambulance, and who is not receiving payment for such services.

(c) Evacuation and rescue equipment used and owned by the department of public safety in air, ground, or water evacuation.

R426-10-400. Air Ambulance Service Deemed Status.

(1) The Department may grant deemed status for state license to an air ambulance provider that has received accreditation from a Department recognized accreditation service. An air ambulance provider who has deemed status may receive a license if they meet all of the requirements for application and licensure.

(2) To be recognized by the Department as an approved accreditation organization for the purposes of this section, the accrediting organization shall meet the following minimum standards:

(a) Publish standards that are equivalent to or exceed the standards in this chapter.

(b) Publish standards which address every component of a medical transport service that could potentially impact the quality of care and patient safety with respect to communications centers, pilots, drivers, maintenance, patient care providers, and administrative support.

(c) Provide evidence of timely reviews of applications from providers seeking accreditation.

(d) Procedures for random site visits, audits, and other strategies utilized to ensure an accredited provider or a provider seeking accreditation is adhering to the accreditation standards.

(e) Publish policies for the

(i) initial accreditation requirements;

(ii) the tenure of accreditation, not to exceed three (3) years;

(iii) the requirements for reaccreditation; and

(iv) the accreditation decision making process.

(f) Uses trained accreditation personnel with experience in medical transport at the level of accreditation and license for the level of accreditation being sought.

(g) A formal training program that educates accreditation auditors in consistent interpretation of standards and policies of the accreditation agency.

(h) Publish the required qualifications for accreditation personnel who conduct site surveys. Such qualifications must demonstrate an extensive depth of experience with and knowledge of the air ambulance industry.

(i) Policies and standards that recognize the special circumstances of medical transport services that serve rural areas.

(j) Demonstrate that accreditation standards are updated on a regular basis to stay current with changes in healthcare and air medical transportation.

(k) Provide definition of all sentinel events including near misses. The accrediting agency shall outline the processes for notifying the Department of such events and the process for investigating and instituting corrective measures for such events.

(l) Provide information about the Board of Directors. Members of the Board of Directors shall have experience in the air medical transport industry. The Board of Directors shall include broad representation by members of relevant national organizations that are engaged in the development, training, and oversight of critical care and air medical patient transportation.

(m) Clearly outline the Conflict of Interest Policy that excludes Board members or other accreditation agency representatives from participating in accreditation decisions, site surveys, or other processes when a real or potential conflict of interest exists.

(n) Publish fees for providers seeking accreditation.

(o) Provide documentation of the process that allows and encourages input, suggestions, and review by outside individuals and agencies related to its standards, policies, and procedures.

_____ (p) Explain the procedure for a corrective action plan when an audit uncovers areas that are out of compliance.

_____ (q) Demonstrate a continuous quality improvement process that reviews the application process, site surveys, accreditation decisions, and accreditation standards. The process must include measures to achieve improvement, fairness, and transparency.

_____ (r) Maintain insurance (General liability, Medical Professional Liability, Directors & Officers and Travel) and be able to present their current certificates of insurance to the state licensing agency.

_____ (s) Comply with all applicable Health Insurance Portability and Accountability Act (HIPAA) regulations, including any necessary requirements of a Business Associate entity.

_____ (t) Allow a Department representative to be present during site surveys, investigations, and any other on-site visit performed in the Utah.

_____ (u) Provide simultaneous notification to the Department of an air ambulance provider's accreditation decisions, corrective action, any changes in accreditation status, and sentinel event reports; and

_____ (v) List the accrediting agency's involvement in research to improve the air medical transportation industry.

_____ (3) A current list of recognized accreditation organizations is available on the Department's website.

R426-10-500. Air Ambulance Service Compliance with State Licensure Requirements.

_____ (1) Deemed status recognition is intended to streamline the licensure process for air ambulance services by preventing duplicative documentation.

_____ (2) The Department reserves the right to verify and inspect all equipment and documentation at any time to ensure that the air ambulance service maintains full compliance with requirements related to the air ambulance service licensure.

R426-10-600. Licensed Air Ambulance Provider Change of Ownership and Management.

_____ (1) When a currently licensed air ambulance provider anticipates a change of ownership, the current licensed air ambulance provider shall notify the Department within thirty (30) calendar days before a change of ownership. A licensed air ambulance provider who is seeking a new license, shall submit an application for change of ownership along with the requisite fees and documentation within thirty (30) calendar days.

_____ (2) The conversion of a licensed air ambulance provider's legal structure, or the legal structure of an entity that has a direct or indirect ownership interest in the licensed air ambulance provider is not a change of ownership unless the conversion also includes a transfer of at least 50 percent of the licensed air ambulance provider's direct or indirect ownership interest to one or more new owners. Specific instances of what does or does not constitute a change of ownership are set forth below in section (4).

_____ (3) The Department shall consider the following criteria in determining whether there is a change of ownership of a licensed air ambulance provider that requires a new license:

_____ (a) Sole proprietors:

_____ (i) The transfer of at least 50 percent of the ownership interest in a licensed air ambulance provider from a sole proprietor to another individual, whether or not the transaction affects the title to real property, shall be considered a change of ownership.

_____ (ii) Change of ownership does not include forming a corporation from the sole proprietorship with the proprietor as the sole shareholder.

_____ (b) Partnerships:

_____ (i) Dissolution of the partnership and conversion into any other legal structure shall be considered a change of ownership if the conversion also includes a transfer of at least 50 percent of the direct or indirect ownership to one or more new owners.

_____ (ii) Change of ownership does not include dissolution of the partnership to form a corporation with the same persons retaining the same shares of ownership in the new corporation.

_____ (c) Corporations:

_____ (i) Consolidation of two or more corporations resulting in the creation of a new corporate entity shall be considered a change of ownership if the consolidation includes a transfer of at least 50 percent of the direct or indirect ownership to one or more new owners.

_____ (ii) Formation of a corporation from a partnership, a sole proprietorship or a limited liability company shall be considered a change of ownership if the change includes a transfer of at least 50 percent of the direct or indirect ownership to one or more new owners.

_____ (iii) The transfer, purchase, or sale of shares in the corporation such that at least 50 percent of the direct or indirect ownership of the corporation is shifted to one or more new owners shall be considered a change of ownership.

_____ (d) Limited liability companies:

_____ (i) The transfer of at least 50 percent of the direct or indirect ownership interest in the company shall be considered a change of ownership.

_____ (ii) The termination or dissolution of the company and the conversion thereof into any other entity shall be considered a change of ownership if the conversion also includes a transfer of at least 50 percent of the direct or indirect ownership to one or more new owners.

_____ (iii) Change of ownership does not include transfers of ownership interest between existing members if the transaction does not involve the acquisition of ownership interest by a new member. For the purposes of this subsection, "member" means a person or entity with an ownership interest in the limited liability company.

_____ (4) Management contracts, leases or other operational arrangements:

_____ (a) If the owner of an air ambulance service enters into a lease arrangement or management agreement whereby the owner retains no authority or responsibility for the operation and management of the licensed air ambulance provider, the action shall be considered a change of ownership that requires a new license.

_____ (5) Each applicant for a change of ownership shall provide the following information:

_____ (a) The legal name of the entity and all other names used by it to provide health care services. The applicant has a continuing duty to notify the Department of all name changes at least thirty (30) calendar day prior to the effective date of the change.

_____ (b) Contact information for the entity including mailing address, telephone and facsimile numbers, e-mail address and website address, as applicable.

_____ (c) The identity of all persons and business entities with a controlling interest in the licensed air ambulance provider, including administrators, directors, managers and management contractors.

_____ (i) A non-profit corporation shall list the governing body and officers.

(ii) A for-profit corporation shall list the names of the officers and stockholders who directly or indirectly own or control five percent or more of the shares of the corporation.

(iii) A sole proprietor shall include proof of lawful presence in the United States in compliance with section 24-76.5-103(4), C.R.S.

(d) The name, address and business telephone number of every person identified in R426-10-600 as ownership or management and the individual designated by the applicant as the chief executive officer of the entity. If the addresses and telephone numbers provided above are the same as the contact information for the entity itself, the applicant shall also provide an alternate address and telephone number for at least one individual for use in the event of an emergency or closure of the licensed air ambulance provider.

(e) Proof of professional liability insurance obtained and held in the name of the license applicant. Such coverage shall be maintained for the duration of the license term and the Department shall be notified of any change in the amount, type or provider of professional liability insurance coverage during the license term.

(f) Articles of incorporation, articles of organization, partnership agreement, or other organizing documents required by the secretary of state to conduct business in Utah; and by-laws or equivalent documents that govern the rights, duties and capital contributions of the business entity.

(g) The address of the entity's physical location and the name(s) of the owner(s) of each structure on the campus where licensed services are provided if different from those identified in elsewhere in this section.

(h) A copy of any management agreement pertaining to operation of the entity that sets forth the financial and administrative responsibilities of each party.

(i) If an applicant leases one or more building(s) to operate as a licensed air ambulance service, a copy of the lease shall be filed with the license application and show clearly in its context which party to the agreement is to be held responsible for the physical condition of the property.

(j) A statement signed and dated contemporaneously with the application stating whether, within the previous ten (10) years, any of the new owners have been the subject of, or a party to, one of more of the following events, regardless of whether action has been stayed in a judicial appeal or otherwise settled between the parties.

(i) Been convicted of a felony or misdemeanor involving crimes as described in R426-5-3100 under the laws of any state of the United States.

(ii) Had a state license or federal certification denied, revoked, or suspended by another jurisdiction.

(iii) Had a civil judgment or a criminal conviction in a case brought by federal, state or local authorities that resulted from the operation, management, or ownership of a health facility or other entity related to substandard patient care or health care fraud.

(iv) Certifies whether it is presently or has ever been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in a Contract by any governmental department or agency, whether international, national, state, or local, and certifies it is in compliance with Utah Code Ann. Section 63G-6a-904 et seq. and OMB guidelines at 2 C.F.R. 180 which implement Executive Order Nos. 12549 and 12689. Notification to the Department within thirty (30) days must occur if debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded

from participation in any contract by any governmental entity during the tenure of the license.

(k) Any statement regarding the information requested in this section of rule shall include the following, if applicable:

(i) If the event is an action by federal, state or local authorities; the full name of the authority, its jurisdiction, the case name, and the docket, proceeding or case number by which the event is designated, and a copy of the consent decree, order or decision.

(ii) If the event is a felony or misdemeanor conviction involving moral turpitude, the court, its jurisdiction, the case name, the case number, a description of the matter or a copy of the indictment or charges, and any plea or verdict entered by the court.

(iii) If the event involves a civil action or arbitration proceeding, the court or arbiter, the jurisdiction, the case name, the case number, a description of the matter or a copy of the complaint, and a copy of the verdict, the court or arbitration decision.

(6) The existing licensee shall be responsible for correcting all rule violations and deficiencies in any current plan of correction before the change of ownership becomes effective. In the event that such corrections cannot be accomplished in the time frame specified, the prospective licensee shall be responsible for all uncorrected rule violations and deficiencies including any current plan of correction submitted by the previous licensee unless the prospective licensee submits a revised plan of correction, approved by the Department, before the change of ownership becomes effective.

(7) If the Department issues a license to the new owner, the previous owner shall return its license to the Department within five (5) calendar days of the new owner's receipt of its license.

R426-10-700. Air Ambulance Service Insurance Requirements.

(1) Applicants for licensure shall demonstrate liability coverage for injuries to persons and for loss or property damages, resulting from negligence by the service or medical crew. A license holder shall immediately notify the Department and cease operations if the coverage required by this section is cancelled or suspended.

(2) The Department shall not issue an air ambulance license to an air ambulance provider unless the applicant for a license or the licensee has evidence of medical professional liability insurance that requires the insurer to compensate for injuries to persons or unintentional damage to property.

(a) Applicants shall provide a copy of the current certificates of insurance demonstrating coverage for each air ambulance medical crew member that demonstrates, at a minimum, aggregate limits of \$1,000,000 per claim made and a total of \$3,000,000 for all claims made against the provider during the policy year.

(3) Worker's compensation coverage is required as defined by the State of Utah regulating bodies.

R426-10-800. Base Locations.

(1) A base location is the physical address where the crew, medical equipment and supplies, and the air ambulance are located. This will be designated by where the licensee operates and maintains or makes readily available records of operations.

(2) The Department may conduct announced and unannounced inspections at any locations where a licensed air ambulance provider operates at any time, including nights or weekends to determine compliance with these rules and regulations.

(3) Each base location shall have readily available at all times the following:

(i) Security measures in place that protects medical supplies and equipment onboard the air ambulance from tampering and unauthorized access, including pharmaceuticals. This would include direct visual monitoring or closed circuit television or the air ambulance must be in a secured location with locked perimeter fencing or hangar.

(ii) State license or certificate of operation prominently displayed within the building.

(iii) Evidence of medical professional liability insurance.

(iv) Drug Enforcement Agency Registration shall be prominently displayed within those buildings that store controlled substances.

(v) Current Post-Accident Incident Plan.

(vi) Documentation showing the professional certifications and licenses of all flight crew members.

(4) The facility shall be clean and free of debris at all times and shall be compliant with all state and local building and fire codes.

R426-10-900. Number and Type of Air Ambulances.

(1) Air ambulance providers shall provide a list of all air ambulances to be licensed and inspected for medical compliance by the Department, including tail number (N-Number) and designation of (rotor or fixed wing) capabilities.

R426-10-1000. Capabilities of Medical Communications.

(1) A licensed air ambulance provider shall have a communications network available consisting of reliable equipment designed to afford clear communications related to the number and condition of patients among all stakeholders within the system.

(2) The communication center shall demonstrate and maintain voice communications linkage with the radios and other allowable communication devices used in the air ambulance for the declared service area.

(3) Licensed air ambulance providers shall have two-way communications equipment available that allows for or has the following:

(a) Real-time patient tracking that shall be maintained and documented every 15 minutes including the time the air ambulance returns to service following transport.

(b) Appropriate wireless communications capabilities with dispatch centers, local first responders, to include fire, EMS, and law enforcement.

(c) Communications with medical referral and receiving facilities to exchange patient information and consult with medical control that shall be capable of communications exclusive of the air traffic control system.

(d) A dedicated telephone number for the air ambulance service dispatch center.

(4) The licensed air ambulance provider base station or communications network shall be manned during all phases of patient treatment and transport.

(5) An emergency plan for communications during power outages and in disaster situations shall be established.

(6) A policy for delineating methods for maintaining medical communications during power outages and in disaster situations.

R426-10-1100. Coordination of Medical Communications.

(1) All licensed air ambulance providers shall have flights coordinated by designated medical dispatchers or communications specialists.

(3) Communication specialists are required for processing requests, initiating responses, telecommunications, and assessing the capability for utilizing emergency medical dispatch protocols approved by the Department.

(4) Air ambulance communications specialists shall have training commensurate with the scope of responsibility given them by the particular licensed air ambulance provider.

(5) The following requirements shall apply to all air ambulance communications centers:

(a) Establish and maintain policies and procedures based on state or nationally accepted emergency medical dispatch standards and state or nationally accepted EMS clinical guidelines to aid in directing the daily operation of the air ambulance communications center.

(b) Coordinate air ambulance deployment activities and communications with primary 911 PSAP call centers and appropriate medical facilities.

(c) Require its communications specialists to satisfy performance standards that are based on state or nationally accepted emergency medical dispatch standards and state or nationally accepted EMS clinical guidelines.

(6) At a minimum, the air ambulance communications center's performance standards shall measure a communication specialist's ability to:

(a) Deploy the appropriate medical resources within the prescribed timeframe established by the communications center's standard operating procedures.

(b) Provide pertinent information to the appropriate 911 PSAP call center and receive updated information about the incident from the responding units or medical facilities.

(c) Establish a quality assurance review process that is executed with consistency and objectivity in accordance with internal standards developed by the licensed air ambulance provider.

R426-10-1200. Communications Specialists Personnel Qualifications.

(1) Communication specialists shall have appropriate training pertaining to EMS and medical transportation communications related to the provision of health care and receive certification within (1) year.

R426-10-1300. Pre-arrival and Hand-Off Communications to Hospitals or Emergency Patient Receiving Facilities.

(1) All licensed air ambulance providers shall have a plan in place to transmit significant clinical data to hospital or emergency patient receiving facility medical personnel prior to arrival.

(2) Licensed air ambulance providers shall start the process for transferring responsibility of patient care during patient transport to reduce the communication load on patient arrival to the facility as early as possible. Transfer of care documentation shall be part of the EMS record.

(3) Information transmitted to the hospital or the emergency patient receiving facility prior to arrival shall include:

- (a) patient information;
 - (b) chief complaint;
 - (c) brief patient history;
 - (d) condition of patient;
 - (e) treatment provided; and
 - (f) estimated time of arrival.
- (4) Information at the time of patient hand-off shall include a copy of the patient care report to the hospital or emergency patient receiving facility within 24 hours after the end of the patient transport.
- If a completed patient care report cannot be left at the facility at the end of the patient transfer to the hospital or emergency patient receiving facility, an abbreviated patient encounter form containing information essential to continued patient care shall be provided.
- (5) Abbreviated Patient Encounter form shall include:
- (a) patient information;
 - (b) chief complaint;
 - (c) brief patient history;
 - (d) allergies (if known);
 - (e) time and date of onset of symptoms;
 - (f) pertinent physical findings;
 - (g) patient medications (if known);
 - (h) vital signs;
 - (i) air medical treatment, including medications administered, IV fluids, procedures performed, and oxygen delivery; and
 - (j) transfer of care (name of air medical crew member to the receiving healthcare professional legibly included in documentation).

R426-10-1400. Data Collection, Submission and Call Volume.

- (1) All licensed air ambulance providers shall have a system in place to collect, submit, monitor, and track all flight requests. This information shall be submitted to the Department.
- (2) All licensed air ambulance providers shall:
 - (a) Report the specified state minimum data set, as required by the Department for every request that results in the dispatch of an air ambulance, whether emergency prehospital, inter-hospital transport, aborted flight, cancellation of requested service, death on scene (non-transport), or refusal of care as requested by the Department.
 - (b) Provide a yearly call volume report or EMS agency status report documenting the number of flights made within that calendar year. This report shall contain the number of flights organized by emergency prehospital, inter-hospital transport, aborted flight, cancellation of requested service, death on scene, non-transport, or refusal of care to assist efforts related to evaluating patient care and the improvement of the EMS system.

R426-10-1500. Temporary Air Ambulance Use.

- (1) A licensed air ambulance provider shall notify the Department when it temporarily removes a permitted air ambulance from service, or replaces it with a substitute air ambulance.
- (2) Upon receipt of notification, the Department may issue a temporary permit for the operation of said air ambulance, as required by the Department.

R426-10-1600. Medical Operations Policies and Procedures.

- (1) A detailed manual of policies and procedures shall be available for reference in the flight coordination office and available for inspection by the Department to assist with EMS system planning and resource coordination efforts.

- (2) Personnel shall be familiar and comply with policies contained within the manual, which shall include all of the following:
 - (a) procedures for acceptance of requests, referrals, and/or denial of service for medically related reasons;
 - (b) a written description of the geographical boundaries and features for the service area, and a copy of the service area map;
 - (c) scheduled hours of operation;
 - (d) criteria for the medical conditions and indications or medical contraindications for flight;
 - (e) medical communication procedures, including but not limited to medically-related dispatch protocol, call verification, and advisories to the requesting party, to include procedures for informing requesting party of flight procedures, anticipated time of aircraft patient arrival, or cancellation of flight;
 - (f) criteria regarding acceptable destinations based upon medical needs of the patient;
 - (g) non-aviation safety procedures for medical crew assignments and notification, including rosters of medical personnel;
 - (h) written policy that ensures that air medical personnel shall not be assigned or assume cockpit duties concurrent with patient care duties and responsibilities;
 - (i) written policy that directs air ambulance personnel to honor a patient request for a specific service or destination when the circumstances will not jeopardize patient safety;
 - (j) medical communications procedures;
 - (k) flight cancellation and referral procedures;
 - (l) mutual aid procedures;
 - (m) a written plan that addresses the actions to be taken in the event of an emergency, diversion, or patient crisis during transport operations;
 - (n) patient tracking procedures that shall assure air/ground position reports at intervals not to exceed fifteen (15) minutes (inflight) and forty-five (45) minutes while landed on the ground;
 - (o) policy for delineating methods of maintaining medical communications during power outages and in disaster situations; and
 - (p) written procedures governing the licensed air ambulance provider's medical complaint resolution process and protocols. At a minimum, the licensed air ambulance provider shall designate personnel responsible for its dispute resolution process and provide the protocols it shall follow when investigation, tracking, documenting, reviewing, and resolving the complaint. The licensed air ambulance provider's complaint resolution procedures shall emphasize resolution of complaints and problems within a specified period of time.
- R426-10-1700. Medical Transport Plans.**
- (1) To ensure proper patient care and the effective coordination of statewide emergency medical and trauma services, all licensed air ambulance providers shall have an integrated medical transport plan for each air ambulance permitted by the Department that describes the following:
 - (a) base location;
 - (b) hours of operation;
 - (c) emergency (dispatch) and non-emergency (business) contact information;
 - (d) description of primary and secondary service areas;
 - (e) medical criteria for utilization;
 - (f) description of medical capabilities (including availability of specialized medical transport equipment);

(g) communications capabilities including (but not limited to) radio frequencies and talk groups;

(h) procedures for communicating with the air medical crew; and

(i) mutual aid or backup procedures when the service is not available.

R426-10-1800. Coordination with Regional and State Disaster Preparedness Plans.

(1) To ensure coordinated response to local, regional, or statewide disaster, all licensed air ambulance providers shall participate in regional and state disaster preparedness advisory groups, including preparedness planning meetings and scheduled exercises.

R426-10-1900. Medically Related Dispatch Protocols.

(1) When air ambulance transport is indicated, requests shall be coordinated through the local Public Safety Answering Point (PSAP) or 911 call center as part of an integrated response, whenever possible in order for the PSAP to be able to coordinate communications among all entities involved in the response.

R426-10-2000. Ethical Practices and Conduct.

(1) All licensed air ambulance providers shall have and follow a written code of conduct that demonstrates ethical practices including business, clinical operations, marketing and professional conduct.

(2) Licensed air ambulance providers are subject to disciplinary action, or may be denied licensure for unethical practices or conduct which includes but shall not be limited to the following:

(a) misrepresentation of the availability or level of medical or patient related services offered or provided; and

(b) failing to take appropriate action in safeguarding the patient from incompetent or inappropriate health care practices of emergency medical services personnel.

R426-10-2100. Continuous Quality Improvement (QI) Program.

(1) Licensed air ambulance providers shall establish a quality management team and a program implemented by this team to assess and improve the quality and appropriateness of patient care provided by the air ambulance services.

(2) The program shall include:

(a) development of protocols, standing orders, training, policies and procedures;

(b) approval of medications and techniques permitted for field use by service personnel in accordance with regulations of the Department;

(c) direct observation, field instruction, in-service training, or other means available to assess the quality of field performance; and

(d) Participation in local and regional performance improvement activities.

(3) All licensed air ambulance providers shall have a written policy that outlines a process to identify, document, and analyze sentinel events, adverse medical events, or potentially adverse events with specific goals to improve patient medical safety and/or quality of patient care.

(4) Policies shall include the following:

(a) review of events should address the effectiveness and efficiency of the organization, its support systems, as well as that of individuals within the organization;

(b) when a sentinel event is identified, a method of information gathering shall be developed, and shall include outcome studies, chart review, case discussion, or other methodology;

(c) findings, conclusions, recommendations, and actions shall be made and recorded including follow-up which also shall be determined, recorded, and performed; and

(d) training and education needs, individual performance evaluations, equipment or resource acquisition, patient medical safety and risk management issues shall be integrated with the continuous quality improvement process.

(5) All licensed air ambulance providers shall have a written policy outlining a utilization review process.

R426-10-2200. Staffing and Medical Personnel Requirements.

(1) At a minimum a licensed air ambulance provider shall have the following medical personnel:

(a) Medically qualified Utah licensed, or certified, individuals appropriate to the scope and mission of the licensed air ambulance provider, or EMS personnel recognized under an interstate compact of which Utah is a member. Acceptable medical personnel include, but are not limited to physicians(MD/DO), paramedics, registered nurses(RN), registered nurse practitioners(RN-P), advanced practice nurses, physician assistants(PA), respiratory therapists(RRT), or other allied health professionals.

(b) One medical attendant who is a licensed PA, RN, or MD/DO. This attendant shall be the primary medical attendant. The second medical attendant shall be a paramedic, PA, Respiratory Therapist, RN, or MD/DO.

R426-10-2300. Air Ambulance Staffing and Personnel Qualifications.

(1) Each patient transport by a licensed air ambulance provider requires a minimum of two (2) medically qualified staff who are licensed or certified according to Utah or providers recognized under an interstate compact, REPLICA, who provide direct patient care, plus a vehicle operator.

(2) The composition of the medical team may be amended for specialty missions upon approval and credentialing by the licensed air ambulance provider's medical director:

(a) The licensed nurse shall have appropriate specialty certification within two (2) years of hire and must have pre-hire experience in the medications and interventions necessary for the service's scope of care. The licensed nurse also shall have three (3) years critical care experience, which is no less than 4000 hours experience in an ICU or emergency department.

(b) The paramedic shall have a FP-C or CCP-C within (2) years of hire in addition to at least (3) years (minimum of 4000 hours) of advanced life support experience.

(c) The RRT shall have a minimum of 4000 hours of emergency department or ICU experience and appropriate specialty certification within two (2) years of hire.

(3) Medical personnel shall have cognitive, affective, and psychomotor abilities sufficient to meet the clinical needs for the type of patient missions served.

(4) A licensed air ambulance provider shall have a plan to assess and document the competency and proficiency of the personnel who provide medical services.

R426-10-2400. Air Ambulance Personnel Training Requirements.

(1) All licensed air ambulance providers shall have a documented, structured educational program required for all air ambulance personnel, including the medical director.

(2) The educational program shall at a minimum contain program orientation; initial and recurrent training which adheres to the services scope of care, patient population, mission statement and medical direction.

(3) Each medical crew member shall complete and document training in mission specific procedures related to patient care as established by the licensed air ambulance provider's medical director and such federal, state, or local agencies with authority to regulate licensed air ambulance providers. Documentation showing completion of all initial and recurrent training may be required by the Department for license renewal.

(4) Clinical experiences shall include but are not limited to the following:

(a) experiences specific to the mission statement and scope of care of the medical transport service;

(b) measurable objectives developed and documented for each experience listed below reflecting hands-on experience versus observation only;

(c) care of patients in the air medical environment including the impact of altitude and other stressors;

(d) advanced airway management;

(e) applicable medical device specific training (Automatic Implantable Cardioverter Defibrillator (AICD), Extracorporeal Membrane Oxygenation (ECMO), Intra-Aortic Balloon Pump (IABP), Left Ventricular Assist Device (LVAD), medication pumps, ventilators, etc.);

(f) cardiology;

(g) mechanical ventilation and respiratory physiology for adult, pediatric, and neonatal patients as it relates to the mission statement and scope of care of the medical transport service specific to the equipment;

(h) high risk obstetric emergencies;

(i) basic care for pediatrics, neonatal and obstetrics;

(j) emergency/critical care for all patient populations to include special needs population;

(k) hazardous materials recognition and response;

(l) management of disaster and mass casualty events;

(m) infection control and prevention; and

(n) ethical and legal issues.

R426-10-2500. Medical Staff and Patient Safety Welfare.

(1) Medical personnel scheduling and individual work schedules shall demonstrate strategies to minimize duty-time fatigue, length of shift, number of shifts per week, and day-to-night rotation.

(2) On-site scheduled shifts for a period to exceed twenty-four (24) hours are not acceptable under most circumstances.

(3) The following criteria shall be met for shifts scheduled more than twelve (12) hours:

(a) medical personnel are not required to routinely perform any duties beyond those associated with the transport services;

(b) medical personnel are provided with access to and permission for uninterrupted rest after daily medical personnel duties are met;

(c) the physical base of operations includes an appropriate place for uninterrupted rest;

(d) medical personnel shall have the right to call "time out" and be granted a reasonable rest period if the team member (or fellow team member) determines that he or she is unfit or unsafe to continue duty, no matter the shift length;

(e) there shall be no adverse personnel action or undue pressure to continue in a "time-out" circumstance;

(f) licensed air ambulance management shall monitor transport volumes and personnel's use of a "time out" policy;

(g) licensed air ambulance providers shall utilize a fatigue risk management tool that is widely recognized in the industry; and

(h) shifts extended over several days may be scheduled to address long commutes at programs with low volumes.

(4) The licensed air ambulance provider shall clearly demonstrate and document it meets this above criteria for shifts over twelve (12) hours.

(5) Provide at least (10) hours of rest in each twenty-four (24) hour period.

(6) If the location of the base is remote and one-way commutes are more than two (2) hours, transportation time shall be considered.

(7) Licensed air ambulance providers shall utilize a fatigue risk management tool that is widely recognized in the industry.

(8) Scheduling of on-call shifts shall be evaluated to address fatigue in a written policy based on monitoring of duty times by managers, quality management tracking, and fatigue risk management.

(9) The license air ambulance provider shall establish safety and infection control protocol that comply with the Occupational Safety and Health Administration (OSHA) Standards.

(10) The licensed air ambulance provider shall have an appropriate dress code that addresses mission specific hazards as well as jewelry, hair, and other personal items that may possibly be used by medical personnel that may interfere with patient care.

R426-10-2600. Air Ambulance Service Medical Director Qualifications.

(1) A licensed air ambulance provider's medical director who oversees the practice of the emergency medical services during patient transport shall be familiar with Utah state medical standards, practices, and licensing requirements.

(2) A licensed air ambulance provider's medical director shall be a Utah licensed physician in good standing to supervise the medical care provided in an air medical environment.

(3) The medical director shall also:

(a) be board certified or board-eligible in EMS, emergency medicine, or other appropriate critical care specialty that services the patient population involved;

(b) have experience in the care of patients consistent with the licensing and mission profile of the air ambulance provider's service;

(c) designate other medical physician specialists for direction outside medical director's area of practice as appropriate to the licensed air ambulance provider's service mission profile;

(d) have access to medical specialists for consultation regarding patients whose illness and care needs are outside the medical director's area of practice;

(e) have a current DEA registration; and

(f) have current credentials achieved through active participation in patient care and continuing medical education activities

appropriate for the role of a licensed air ambulance provider's medical director.

(4) The licensed air ambulance provider's medical director shall have familiarity in the following areas:

(a) care of patients in the air medical environment, including the impact of altitude and other patient stressors, in-flight assessment and care, monitoring capabilities, and limitations of the flight environment;

(b) hazardous materials recognition and response;

(c) management of disaster and mass casualty events;

(d) infection control and prevention;

(e) advanced resuscitation and care of adult, pediatric and neonatal patients with both traumatic and non-traumatic diagnoses;

(f) quality improvement theories and applications;

(g) principles of adult learning;

(h) capabilities and limitations of care in air ambulance;

(i) applicable federal, state, and local law, rules and protocols related to air ambulance providers and state trauma rule guidelines;

(j) air ambulance dispatch and communications; and

(k) ethical and legal issues related to air medical transport.

(5) The licensed air ambulance provider's medical director roles and responsibilities shall include:

(a) oversight of medical care provided by the air medical service provider;

(b) ensure competency and currency of all medical personnel;

(c) active engagement in the evaluation, credentialing, initial training, and continuing education of all personnel who provide patient care;

(d) development and approval of written patient care guidelines, policies and protocols, including, but not limited to, those addressing the adverse impact of altitude on patient physiology and stressors of transport; and

(e) active engagement in quality management, utilization review, and safety reviews.

R426-10-2700. Patient Compartment General Standards.

(1) A licensed air ambulance provider shall ensure that a permitted air ambulance has the following:

(a) a climate control system to prevent temperature variations that would adversely affect patient care;

(b) the air ambulance shall have an adequate interior lighting system so that patient care can be given and the patient's status monitored;

(c) for each place where a patient may be positioned, at least one electrical power outlet or other power source that is capable of operating all electrically powered medical equipment without compromising the operation of any electrical air ambulance equipment;

(e) a back-up source of electrical power or batteries capable of operating all electrically powered life-support equipment for at least one hour;

(f) an appropriate power source which is sufficient to meet the requirements of the complete specialized equipment package without compromising the operation of any electrical air ambulance equipment;

(g) an entry that allows for patient loading and unloading without excessive maneuvering and without compromising the

operation of monitoring systems, intravenous lines, or manual or mechanical ventilation;

(h) If an isolette is used during patient transport, the operator shall ensure that the isolette is able to be opened from its secured in-flight position in order to provide full access to the patient;

(i) adequate access and necessary space to maintain the patient's airway and to provide adequate ventilatory support by an attendant from the secured, seat-belted position within the air ambulance;

(j) a configuration that allows for rapid exit of personnel and patients that will not allow obstruction from stretchers and medical equipment;

(k) an interior of the air ambulance that is sanitary and in good working order during use;

(l) secure positioning of cardiac monitors, defibrillators, and external pacers so that displays are visible to medical personnel; and

(m) provision for medications that maintains temperatures within manufacturer recommendations. Glass containers shall not be used unless required by medication specifications and be properly vented.

(2) Each air ambulance operator shall ensure that all medical equipment is appropriate to the air medical service's scope and mission and maintained in working order according to the manufacturer's recommendations.

(3) All permitted air ambulances shall be equipped to provide patient care according to approved medical protocols.

KEY: emergency medical services, air

Date of Enactment or Last Substantive Amendment: 2018
Authorizing, and Implemented or Interpreted Law: 26-8a

**Health, Disease Control and
Prevention, Laboratory Services
R438-15
Newborn Screening**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 43256

FILED: 10/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment changes the timing of collection of the second specimen to between 7 and 16 days of age. Currently, this rule states that the second specimen shall be collected between 7 and 28 days of age.

SUMMARY OF THE RULE OR CHANGE: Currently, R438-15-8 states that the second newborn screening shall be collected between 7 to 28 days of age. The Newborn Screening program proposed a change in the timing of collection of the second screen to 7 to 16 days of age. Data presented to the Newborn Screening Advisory Committee (NSAC) demonstrated the clinical importance of collecting a

second screen sooner for certain disorders such as cystic fibrosis and congenital hypothyroidism. Shortening the collection window for the second newborn screen will help with meeting the goal for treatment by 21 days for these disorders. Additionally, this timeframe is in line with other 2-screen states that require second screens to be collected during an even shorter window (e.g. 8-14 days).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-30 and Section 26-10-6

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget because the collection time of the second screening does not have a fiscal impact on the state.
- ◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local governments because the collection time of the second screening does not have a fiscal impact on local governments.
- ◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses because the collection time of the second screening does not have a fiscal impact on small businesses. Clinics/health care providers may have to change their current workflows to assure timely collection of the second screen.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to other persons because the collection time of the second screening does not have a fiscal impact on other persons. Clinics/health care providers may have to change their current workflows to assure timely collection of the second screen.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated costs for compliance because the collection time of the second screening does not have a fiscal impact on affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Although businesses may have to change their current workflow, it is anticipated that no cost is associated with this change and compliance should not be an issue.

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, or by mail to PO Box 142109.

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/03/2018

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2018

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

This rule change is not expected to have any fiscal impacts on small or large businesses revenues or expenditures, because there are no additional fees associated with this amendment and most providers and

clinics currently collect the second newborn screen on average at 14 days of life.

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

R438. Disease Control and Prevention.

R438-15. Newborn Screening.

R438-15-1. Purpose and Authority.

(1) The purpose of this rule is to facilitate early detection, prompt referral, early treatment, and prevention of disability and mental retardation in infants with certain genetic and endocrine disorders.

(2) Authority for the Newborn Screening program and promulgation of rules to implement the program are found in Sections 26-1-6, 26-1-30 and 26-10-6.

R438-15-2. Definitions.

(1) "Abnormal test result" means a result that is outside of the normal range for a given test.

(2) "Appropriate specimen" means a blood specimen submitted on the Utah Newborn Screening form that conforms with the criteria in R438-15-9.

(3) "Blood spot" means a clinical specimen(s) submitted on the filter paper (specially manufactured absorbent specimen collection paper) of the Newborn Screening form using the heel stick method.

(4) "Department" means the Utah Department of Health.

(5) "Follow up" means the tracking of all newborns with an abnormal result, inadequate or unsatisfactory specimen or a quantity not sufficient specimen through to a normal result or confirmed diagnosis and referral.

(6) "Inadequate specimen" means a specimen determined by the Newborn Screening Laboratory to be unacceptable for testing.

(7) "Indeterminate result" means a result that requires another specimen to determine normal or abnormal status.

(8) "Institution" means a hospital, alternate birthing facility, or midwife service in Utah that provides maternity or nursery services or both.

(9) "Medical home/practitioner" means a person licensed by the Department of Commerce, Division of Occupational and Professional Licensing to practice medicine, naturopathy, or chiropractic or to be a nurse practitioner, as well as the licensed or unlicensed midwife who takes responsibility for delivery or the ongoing health care of a newborn.

(10) "Metabolic diseases" means those diseases screened by the Department which are caused by an inborn error of metabolism.

(11) "Newborn Screening form" means the Department's demographic form with attached Food and Drug Administration (FDA)-approved filter paper medical collection device.

(12) "Quantity not sufficient specimen" or "QNS specimen" means a specimen that has been partially tested but does not have enough blood available to complete the full testing.

(13) "Unsatisfactory specimen" means an inadequate specimen.

R438-15-3. Newborn Screening Advisory Committee.

(1) Newborn Screening Advisory Committee shall be composed of at least 9 members as follows:

(a) an individual with an advanced degree (MS/PhD/MD) in genetics or other relevant field, who will serve as Chair;

(b) a representative from the Utah Hospital Association;

(c) a community pediatrician;

(d) the Director of the Division of Disease Control and Prevention;

(e) an advocate or a consumer of a newborn screening services;

(f) clinical consultants for the Newborn Screening program;

(g) a representative from the Utah Public Health Laboratory

(h) a representative from the Newborn Screening Follow-up Program;

(i) a representative from the research community with knowledge about disorders considered for future addition to the newborn screening panel.

(2) The Department Executive Director shall approve committee membership with counsel from the advisory committee.

(3) The term of committee members shall be four years;

(a) members may serve up to three additional terms as requested;

(b) if a vacancy occurs in the committee membership for any reason, a replacement shall be appointed for the unexpired term in the same manner as the original appointment;

(c) a majority of the committee constitutes a quorum at any meeting. If a quorum is present, the action of the majority of members shall be the action of the advisory committee.

(4) The committee shall:

(a) advise the Department on policy issues related to newborn screening services;

(b) provide guidance to programs and functions within the Department having to do with newborn screening services and

(c) evaluate potential tests that could be added to newborn or population screening and make recommendations to the Department.

R438-15-4. Implementation.

(1) Each newborn in the state of Utah shall submit to the Newborn Screening testing, except as provided in Section R438-15-12.

(2) The Department of Health, after consulting with the Newborn Screening Advisory Committee, will determine the disorders on the Newborn Screening Panel, based on demonstrated effectiveness and available funding. Disorders for which the infant blood is screened are:

(a) Biotinidase Deficiency;

(b) Congenital Adrenal Hyperplasia;

(c) Congenital Hypothyroidism;

(d) Galactosemia;

(e) Hemoglobinopathy;

(f) Amino Acid Metabolism Disorders:

(i) Phenylketonuria (phenylalanine hydroxylase deficiency and variants);

(ii) Tyrosinemia type 1 (fumarylacetoacetate hydrolase deficiency);

(iii) Tyrosinemia type 2 (tyrosine amino transferase deficiency);

(iv) Tyrosinemia type 3 (4-OH-phenylpyruvate dioxygenase deficiency);

- (v) Maple Syrup Urine Disease (branched chain ketoacid dehydrogenase deficiency);
- (vi) Homocystinuria (cystathionine beta synthase deficiency);
- (vii) Citrullinemia (arginino succinic acid synthase deficiency);
- (viii) Argininosuccinic aciduria (argininosuccinic acid lyase deficiency);
- (ix) Argininemia (arginase deficiency);
- (x) Hyperprolinemia type 2 (pyroline-5-carboxylate dehydrogenase deficiency);
- (g) Fatty Acid Oxidation Disorders:
 - (i) Medium Chain Acyl CoA Dehydrogenase Deficiency;
 - (ii) Very Long Chain Acyl CoA Dehydrogenase Deficiency;
 - (iii) Short Chain Acyl CoA Dehydrogenase Deficiency;
 - (iv) Long Chain 3-OH Acyl CoA Dehydrogenase Deficiency;
 - (v) Short Chain 3-OH Acyl CoA Dehydrogenase Deficiency;
 - (vi) Primary carnitine deficiency (OCTN2 carnitine transporter defect);
 - (vii) Carnitine Palmitoyl Transferase I Deficiency;
 - (viii) Carnitine Palmitoyl Transferase 2 Deficiency;
 - (ix) Carnitine Acylcarnitine Translocase Deficiency;
 - (x) Multiple Acyl CoA Dehydrogenase Deficiency;
 - (h) Organic Acids Disorders:
 - (i) Propionic Acidemia (propionyl CoA carboxylase deficiency);
 - (ii) Methylmalonic acidemia (multiple enzymes);
 - (iii) Malonic Aciduria;
 - (iv) Isovaleric acidemia (isovaleryl CoA dehydrogenase deficiency);
 - (v) 2-Methylbutyryl CoA dehydrogenase deficiency;
 - (vi) Isobutyryl CoA dehydrogenase deficiency;
 - (vii) 2-Methyl-3-OH-butyryl-CoA dehydrogenase deficiency;
 - (viii) Glutaric acidemia type 1 (glutaryl CoA dehydrogenase deficiency);
 - (ix) 3-Methylcrotonyl CoA carboxylase deficiency;
 - (x) 3-Ketothiolase deficiency;
 - (xi) 3-Hydroxy-3-methyl glutaryl CoA lyase deficiency;
 - (xii) Holocarboxylase synthase (multiple carboxylases) deficiency;
 - (i) Cystic Fibrosis;
 - (j) Severe Combined Immunodeficiency syndrome; and
 - (k) Disorders of Creatine Metabolism and
 - (l) Spinal Muscular Atrophy

R438-15-5. Responsibility for Collection of the First Specimen.

- (1) If the newborn is born in an institution, the institution must collect and submit an appropriate specimen, unless the newborn is transferred to another institution prior to 48 hours of age.
- (2) If the newborn is born outside of an institution, the practitioner or other person primarily responsible for providing assistance to the mother at the birth must arrange for the collection and submission of an appropriate specimen.
- (3) If there is no other person in attendance of the birth, the parent or legal guardian must arrange for the collection and submission of an appropriate specimen.

- (4) If the newborn is transferred to another institution prior to 48 hours of age, the receiving health institution must collect and submit an appropriate specimen.

R438-15-6. Timing of Collection of First Specimen.

The first specimen shall be collected between 24 and 48 hours of the newborn's life. Except:

- (1) If the newborn is discharged from an institution before 48 hours of age, an appropriate specimen must be collected within four hours of discharge.

- (2) If the newborn is to receive a blood transfusion or dialysis, the appropriate specimen must be collected immediately before the procedure, except in emergency situations where time does not allow for collection of the specimen. If the newborn receives a blood transfusion or dialysis prior to collecting the appropriate specimen the following must be done:

- (a) Repeat the collection and submission of an appropriate specimen 7-10 days after last transfusion or dialysis for a second screening specimen;

- (b) Repeat the collection and submission of an appropriate specimen 120 days after last transfusion or dialysis for a first screening specimen.

R438-15-7. Parent Education.

The person who has responsibility under Section R438-15-5 shall inform the parent or legal guardian of the required collection and submission and the disorders screened. That person shall give the

second half of the Newborn Screening form to the parent or legal guardian with instructions on how to arrange for collection and submission of the second specimen.

R438-15-8. Timing of Collection of the Second Specimen.

A second specimen shall be collected between 7 and [28]16 days of age.

- (1) The parent or legal guardian shall arrange for the collection and submission of the appropriate second specimen through an institution, medical home/practitioner, or local health department.

- (2) If the newborn's first specimen was obtained prior to 24 hours of age, the second specimen shall be collected by fourteen days of age.

- (3) If the newborn is hospitalized beyond the seventh day of life, the institution shall arrange for the collection and submission of the appropriate second specimen.

R438-15-9. Criteria for Appropriate Specimen.

- (1) The institution or medical home/practitioner collecting the appropriate specimen must:

- (a) Use only a Newborn Screening form purchased from the Department. The fee for the Newborn Screening form is set by the Legislature in accordance with Section 26-1-6;

- (b) Correctly store the Newborn Screening form;

- (c) Not use the Newborn Screening form beyond the date of expiration;

- (d) Not alter the Newborn Screening form in any way;

- (e) Complete all information on the Newborn Screening form. If the infant is being adopted, the following may be omitted: infant's last name, birth mother's name, address, and telephone number.

Infant must have an identifying name, and a contact person must be listed;

- (f) Apply sufficient blood to the filter paper;
- (g) Not contaminate the filter paper with any foreign substance;
- (h) Not tear, perforate, scratch, or wrinkle the filter paper;
- (i) Apply blood evenly to one side of the filter paper and be sure it soaks through to the other side;
- (j) Apply blood to the filter paper in a manner that does not cause caking;
- (k) Collect the blood in such a way as to not cause serum or tissue fluids to separate from the blood;
- (l) Dry the specimen properly;
- (m) Not remove the filter paper from the Newborn Screening form.

(2) Submit the completed Newborn Screening form to the Utah Department of Health, Newborn Screening Laboratory, 4431 South 2700 West, Taylorsville, Utah 84119.

(a) The Newborn Screening form shall be placed in an envelope large enough to accommodate it without folding the form.

(b) If mailed, the Newborn Screening form shall be placed in the U.S. Postal system within 24 hours of the time the appropriate specimen was collected.

(c) If hand-delivered, the Newborn Screening form shall be delivered within 48 hours of the time the appropriate specimen was collected.

R438-15-10. Abnormal Result.

(1)(a) If the Department finds an abnormal result consistent with a disease state, the Department shall send written notice to the medical home/practitioner noted on the Newborn Screening form.

(b) If the Department finds an indeterminate result on the first screening, the Department shall determine whether to send a notice to the medical home/practitioner based on the results on the second screening specimen.

(2) The Department may require the medical home/practitioner to collect and submit additional specimens for screening or confirmatory testing. The Department shall pay for the initial confirmatory testing on the newborn requested by the Department. The Department may recommend additional diagnostic testing to the medical home/practitioner. The cost of additional testing recommended by the Department is not covered by the Department.

(3) The medical home/practitioner shall collect and submit specimens within the time frame and in the manner instructed by the Department.

(4) As instructed by the Department or the medical home/practitioner, the parent or legal guardian of a newborn identified with an abnormal test result shall promptly take the newborn to the Department or medical home/practitioner to have an appropriate specimen collected.

(5) The medical home/practitioner who makes the final diagnosis shall complete a diagnostic form and return it to the Department within 30 days of the notification letter from the Department.

R438-15-11. Inadequate or Unsatisfactory Specimen, or QNS Specimen.

If the Department finds an inadequate or unsatisfactory specimen, or QNS specimen, the Department shall inform the

institution or medical home/practitioner noted on the Newborn Screening form.

(1) The institution or medical home/practitioner that submitted the inadequate or unsatisfactory, or QNS specimen shall submit an appropriate specimen in accordance with Section R438-15-9. The responsible institution or medical home/practitioner shall collect and submit the new specimen within two days of notice, and the responsible institution or medical home/practitioner shall label the form for testing as directed by the Department.

(2) The parent or legal guardian of a newborn identified with an inadequate or unsatisfactory specimen or QNS specimen shall promptly take the newborn to the institution or medical home/practitioner to have an appropriate specimen collected.

R438-15-12. Testing Refusal.

A parent or legal guardian may refuse to allow the required testing for religious reasons only. The medical home/practitioner or institution shall file in the newborn's record documentation of refusal, reason, education of family about the disorders, and a signed waiver by both parents or legal guardian. The practitioner or institution shall submit a copy of the refusal to the Utah Department of Health, Newborn Screening Program, P.O. Box 144710, Salt Lake City, UT 84114-4710.

R438-15-13. Access to Medical Records.

(1) The Department shall have access to the medical records of a newborn in order to identify medical home/practitioner, reason appropriate specimen was not collected, or to collect missing demographic information.

(2) The institution shall enter the Newborn Screening form number, also known as the Birth Record Number, into the Vital Records database and the Newborn Hearing Screening database.

R438-15-14. Noncompliance by Parent or Legal Guardian.

If the medical home/practitioner or institution has information that leads it to believe that the parent or legal guardian is not complying with this rule, the medical home/practitioner or institution shall report such noncompliance as medical neglect to the Department.

R438-15-15. Confidentiality and Related Information.

(1) The Department initially releases test results to the institution of birth for first specimens and to the medical home/practitioner, as noted on the Newborn Screening form, for the second specimen.

(2) The Department notifies the medical home/practitioner noted on the Newborn Screening form as provided in Section R438-15-10(1) of any results that require follow up.

(3) The Department releases information to a medical home/practitioner or other health practitioner on a need to know basis. Release may be orally, by a hard copy of results or available electronically by authorized access.

(4) Upon request of the parent or guardian, the Department may release results as directed in the release.

(5) All requests for test results or records are governed by Utah Code Title 26, Chapter 3.

(6) The Department may release information in summary, statistical, or other forms that do not identify particular individuals.

(7) A testing laboratory that analyzes newborn screening samples for the Department may not release information or samples without the Department's express written direction.

R438-15-16. Blood Spots.

- (1) Blood spots become the property of the Department.
- (2) The Department includes in parent education materials information about the Department's policy on the retention and use of residual newborn blood spots.
- (3) The Department may use residual blood spots for newborn screening quality assessment activities.
- (4) The Department may release blood spots for research upon the following:
 - (a) The person proposing to conduct the research applies in writing to the Department for approval to perform the research. The application shall include a written protocol for the proposed research, the person's professional qualifications to perform the proposed research, and other information if needed and requested by the Department. When appropriate, the proposal will then be submitted to the Department's Internal Review Board for approval.
 - (b) The Department shall de-identify blood spots it releases unless it obtains informed consent of a parent or guardian to release identifiable samples.
 - (c) All research must be first approved by the Department's Internal Review Board.

R438-15-17. Retention of Blood Spots.

- (1) The Department retains blood spots for a minimum of 90 days.
- (2) Prior to disposal, the Department shall de-identify and autoclave the blood spots.

R438-15-18. Reporting of Disorders.

If a diagnosis is made for one of the disorders screened by the Department that was not identified by the Department, the medical home/practitioner shall report it to the Department.

R438-15-19. Statutory Penalties.

As required by Subsection 63G-3-201(5): Any medical home/practitioner or institution responsible for submission of a newborn screen that violates any provision of this rule may be assessed a civil money penalty as provided in Section 26-23-6.

KEY: health care, newborn screening

Date of Enactment or Last Substantive Amendment: ~~January 29,~~ **2018**

Authorizing, and Implemented or Interpreted Law: **26-1-6; 26-1-30; 26-10-6**

Human Services, Administration,
Administrative Services, Licensing
R501-8
Outdoor Youth Programs

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 43234
FILED: 10/04/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of these amendments are to add clarifying language within the administration of outdoor youth programs. Primarily adding a definition of "Outdoor Youth Program" and two items under Section R501-8-4 for compliance.

SUMMARY OF THE RULE OR CHANGE: These amendments add a definition for "Outdoor Youth Program" and also adds two items under Section R501-8-4 for compliance purposes, Rule R501-1, General Provisions, and Rule R501-14, Background Screenings.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-2-101 and Section 62A-7-104

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The state will not see a fiscal impact from these amendments. These amendments add clarifications within administration and compliance for outdoor youth programs, both changes are not anticipated to result in a fiscal impact.
- ◆ **LOCAL GOVERNMENTS:** Local governments will not be impacted by these amendments, as these amendments add clarifications regarding outdoor youth programs.
- ◆ **SMALL BUSINESSES:** There are 11 licensed outdoor youth programs operating in Utah. This rule is being updated at the provider group's request in order to better align the definition of "Outdoor Youth Program" with industry standards and billing practices. This definition change is simply clarifying in nature and does not constitute a fiscal impact to any involved parties.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Persons other than small businesses, businesses, or local government entities are not anticipated to be impacted by these changes, as they are mainly clarifying in nature.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated compliance costs for any persons. As noted above, these changes are clarifying in nature.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that these proposed amendments will not result in a fiscal impact to small or non-small businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
ADMINISTRATION, ADMINISTRATIVE SERVICES,
LICENSING
195 N 1950 W 1ST FLR

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Janice Weinman by phone at 385-321-5586, by FAX at 801-538-4553, or by Internet E-mail at jweinman@utah.gov
 ♦ Jonah Shaw by phone at 801-538-4219, by FAX at 801-538-3942, or by Internet E-mail at jshaw@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/03/2018

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2018

AUTHORIZED BY: Ann Williamson, Executive Director

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

Appendix 2: Regulatory Impact to Non-Small Businesses

There are 11 licensed Outdoor Youth programs operating in Utah. This rule is being updated at the provider group's request in order to better align the definition of Outdoor Youth with industry standards and billing practices. This definition change is simply clarifying in nature and does not constitute a fiscal impact to any involved parties. Office of Licensing Director, Brett Peterson has reviewed and approved this fiscal analysis.

R501. Human Services, Administration, Administrative Services, Licensing.

R501-8. Outdoor Youth Programs.

R501-8-3. Definitions.

(1) In addition to terms defined and used in Section 62A-101(20), Utah Code:

(a) "Consumer" means the minor being provided the service by the program, not the parent or contracting agent that has enrolled the minor in the program.

(b) "Field Office" means the office where all coordination of field operations take place.

(c) "Administrative Office" means the office where business operations, public relations, and the management procedures take place.

(d) "Outdoor Youth Program means a 24-hour intermediate outdoor group living environment with regular formal therapy including group, individual, and the inclusion of supportive family therapy."

R501-8-4. Administration.

(1) In addition to the following standards and procedures, all outdoor youth programs shall comply with R501-2, Core Standards, R501-1 General provisions and R501-14 Background Screenings.

(2) Records of enrollment of all consumers shall be on file at the field office at all times.

(3) Information provided to parents, community, and media shall be accurate and factual.

(4) Programs shall provide an educational component as determined by the Utah State Board of Education for consumers up to 18 years of age who have been removed from their educational opportunities for more than one month. The administrators of the program shall meet and cooperate with the local Board of Education.

(5) Programs which advertise as providing educational credit to consumers shall be approved by the Utah State Board of Education.

(6) The program shall have written procedures for handling any suspected incident of child abuse or Department of Human Services, hereinafter referred to as DHS, Provider Code of Conduct violation, including the following:

(a) a procedure for ensuring that the staff member involved does not work directly with the youth involved or any other youth in the program until the investigation is completed or formal charges filed and adjudicated,

(b) a procedure for ensuring that a director or member of the governing body involved in or suspected of abuse shall be relieved of their responsibility and authority over the policies and activities of the program, or any other youth program, as well as meet the sanctions as

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.

described in (a) above, until the investigation is completed or formal charges are filed and adjudicated, and

(c) a procedure for disciplining any staff member or director involved in an incident of child abuse or DHS Provider Code of Conduct violation, including termination of employment if found guilty of felony child abuse, or loss of position, including directorship if found guilty of misdemeanor child abuse.

(7) If any director or person in a management position is involved in or suspected of child abuse or neglect, the program shall submit to an extensive review by DHS or law enforcement officials to determine or establish the continued safe operation or possible termination of the program. The licensing review shall be completed within 72 hours.

(8) Failure to implement and comply with (6)(a) through (c), and (7), above will be grounds for immediate suspension or revocation of program license.

(9) Until charges of abuse, neglect or licensing violations are resolved, no license shall be issued to any program with owners, silent owners, or any staff management personnel that were prior owners or staff management personnel in a program against which the above charges were alleged.

(10) If charges result in a criminal conviction or civil or administrative findings that allegations were true, no license shall be issued to any program with owners, silent owners, or staff management personnel from the prior program.

KEY: licensing, human services, youth

Date of Enactment or Last Substantive Amendment: ~~January 17, 2003~~ **2018**

Notice of Continuation: October 4, 2017

Authorizing, and Implemented or Interpreted Law: 62A-2-101 et seq.

**Human Services, Administration,
Administrative Services, Licensing
R501-21
Outpatient Treatment Programs**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43237

FILED: 10/04/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These amendments add clarifying language for a Licensed Mental Health Therapist to complete domestic violence treatment evaluations for each offender, the Licensed Mental Health Therapist is already required by rule to be on staff as the clinician in these settings, but these changes add further individualized treatment.

SUMMARY OF THE RULE OR CHANGE: These changes improve the outline for a Licensed Mental Health Therapist that is required to complete domestic violence treatment evaluations for each offender to include individualized recommendations for the offender's treatment. It also reduces the minimum of domestic violence treatment sessions from 12 to 4.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-2-106

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** It is not anticipated that there should be a fiscal impact to the state budget. This rule change is clarifying in nature, and only changes minor items in the domestic violence treatment process, primarily with LMHTs (Licensed Mental Health Therapist).

◆ **LOCAL GOVERNMENTS:** This change is directly related to LMHTs and clarifying in nature and does not constitute a fiscal impact to any local governments.

◆ **SMALL BUSINESSES:** There are 520 outpatient treatment programs operating in Utah. Of those, 102 indicate that they provide domestic violence treatment. These businesses will not experience a fiscal impact on revenues or expenditures associated with these proposed changes because the LMHT is already required by rule to be on staff as the clinician in these settings.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** It is not anticipated that any other persons will be impacted by these rule changes. These changes are focused on LMHTs and the process for domestic violence treatment.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs should not affect any persons, these changes facilitate a stronger role for the LMHT who is already required by rule to be on staff as the clinician in these settings.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that these proposed changes will not result in a fiscal impact to small or non-small businesses.

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

HUMAN SERVICES
ADMINISTRATION, ADMINISTRATIVE SERVICES,
LICENSING
195 N 1950 W 1ST FLR
SALT LAKE CITY, UT 84116
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Janice Weinman by phone at 385-321-5586, by FAX at 801-538-4553, or by Internet E-mail at jweinman@utah.gov
- ◆ Jonah Shaw by phone at 801-538-4219, by FAX at 801-538-3942, or by Internet E-mail at jshaw@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/03/2018

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2018

AUTHORIZED BY: Ann Williamson, Executive Director

Appendix 2: Regulatory Impact to Non-Small Businesses

There are 520 Outpatient Treatment programs operating in Utah. Of those 102 indicate that they provide domestic violence treatment. These businesses will not experience a fiscal impact on revenues or expenditures associated with this proposed change because the LMHT (Licensed Mental Health Therapist) is already required by rule to be on staff as the clinician in these settings. All other changes to the rule were clarifying in nature and do not constitute a fiscal impact to any involved parties.

R501. Human Services, Administration, Administrative Services, Licensing.

R501-21. Outpatient Treatment Programs.

R501-21-1. Authority.

(1) Pursuant to Section Title 62A Chapter 2, the Office of Licensing shall license outpatient treatment programs according to the following rules.

R501-21-2. Purpose.

(1) Outpatient treatment programs shall serve consumers who require less structure than offered in day treatment or residential treatment programs.

R501-21-3. Definition.

- (1) "Outpatient Treatment" is defined in 62A-2-101.
- (2) "Outpatient Treatment Program" means two or more individuals, at least one of whom provides outpatient treatment, and also meets one or more of the following criteria:
 - (a) allows agents, contractors, persons with a financial interest, staff, volunteers, or individuals who are not excluded under R501-21-3-2 to either:
 - (i) provide direct client services, including case management, transportation, assessment, screening, education, or peer support services. Direct client services do not include office tasks unrelated to client treatment, such as: billing, scheduling, standard correspondence and payroll; or
 - (ii) manage or direct program operations, including intake, admissions or discharge, setting of fees, or hiring of staff.
 - (b) offers outpatient treatment services to satisfy criminal court requirements.
 - (c) is required by DHS contract to be licensed for outpatient treatment.
 - (d) provides services requiring DUI Education Certification, or Justice Certification by the Division of Substance Abuse and Mental Health as authorized in 62A-15-103 and described in R523-4 and R523-11.

(e) refers clients to services that present a conflict of interest or otherwise provide an opportunity for exploitation or fraud by the referring provider. Services may include: laboratory services, private probation, housing, employment, transportation or travel.

(3) The following individuals are excluded from subsection (2) above:

- (a) individuals who are exempt from individual professional licensure under Utah Code 58-1-307;
- (b) individuals who are licensed, certified, or authorized under Utah Code 58, Chapters 60, 61, 67, 68; and
- (c) entities that are excluded under 62A-2-110.

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
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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.

R501-21-4. Administration and Direct Services.

(1) In addition to the following rules, all outpatient treatment programs shall comply with R501-1 General Provisions and R501-14 Background Screening Rules.

(2) Programs shall have current program information readily available to the Office and the public, including a description of:

- (a) program services;
 - (b) the client population served;
 - (c) program requirements and expectations;
 - (d) information regarding any non-clinical services offered;
 - (e) costs, fees, and expenses that may be assessed, including any non-refundable costs, fees or expenses; and
 - (f) complaint reporting and resolution processes.
- (3) The Program shall:
- (a) provide outpatient and/or intensive outpatient treatment services not to exceed nineteen hours per week, as clinically recommended and documented;
 - (b) identify and provide to the Office the organizational structure of the program including:
 - (i) names and titles of owners, directors and individuals responsible for implementing all aspects of the program, and
 - (ii) a job description, duties and qualifications for each job title;
 - (c) identify a director or qualified designee who shall be immediately available at all times that the program is in operation;
 - (d) ensure at least one CPR/First Aid trained or certified staff member is available onsite~~[present]~~ at all times with clients present;
 - (e) disclose any potential conflicts of interest to the Office;
 - (f) ensure that staff are licensed or certified in good standing as required and that unlicensed individuals providing direct client services shall do so only in accordance with the Mental Health Professional Practices Act;
 - (g) train and monitor staff compliance regarding:
 - (i) program policy and procedures;
 - (ii) the needs of the program's consumers;
 - (iii) Office of Licensing rule 501-21 and annual training on the Licensing Code of Conduct and client rights as outlined in R501-1-~~[+2]~~11;
 - (iv) emergency procedures;
 - (h) create and maintain personnel files for each staff member to include:
 - (i) applicable qualifications, experience, certifications and licenses;
 - (ii) approved and current Office of Licensing background screening except as excluded in 501-14-17; and
 - (iii) training records with date completed, topic and employee signature(s) verifying completion.
 - (i) comply with Office rules and all local, state and federal laws to include maintaining a current business license, fire inspection and health clearance as applicable;
 - (j) maintain proof of financial viability of the program;
 - (k) maintain general liability insurance, professional liability insurance that covers all program staff, vehicle insurance for transport of clients, fire insurance and any additional insurance required to cover all program activities; and

(l) maintain proof of completion of the National Mental Health Services Survey (NMHSS) annually for each site~~[if]~~ providing mental health services; and

(m) ensure that all programs and individuals involved with the prescription, administration or dispensing of controlled substances shall do so per state and federal law, including maintenance of DEA registration numbers for:

- (i) all prescribing physicians; and
 - (ii) the specific site where the controlled substances are being prescribed, as required.
- (4) The program shall develop, implement and comply with policies and procedures sufficient to ensure the health and safety and meet the needs of the client population served. Policies and procedures shall address:
- (a) client eligibility;
 - (b) intake and discharge process;
 - (c) client rights as outlined in R501-1-12;
 - (d) staff and client grievance procedures;
 - (e) behavior management;
 - (f) medication management;
 - (g) critical incident reporting as outlined in R501-1-2-~~[6]~~9 and R501-1-~~[+0]~~9-2d;
 - (h) emergency procedures;
 - (i) transportation of clients to include requirement of insurance, valid driver license, driver and client safety and vehicle maintenance;
 - (j) firearms;
 - (k) client safety including any unique circumstances regarding physical facility, supervision, community safety and mixing populations; and
 - (l) provision of client meals, administration of required medications, maximum group sizes, and sufficient physical environment providing for the comfort of clients when clients are present for six or more consecutive hours.
- (5) Programs shall maintain client files to include the following:
- (a) client name, home address, email address if available, phone numbers, date of birth and gender;
 - (b) legal guardian and emergency contact names, address, email address and phone numbers;
 - (c) all information that could affect the health, safety or well-being of the client including all medications, allergies, chronic conditions or communicable diseases;
 - (d) intake assessment;
 - (e) treatment plan signed by the clinical professional or service plan for non-clinical services;
 - (f) detailed documentation of all clinical and non-clinical services provided with date and signature of staff completing each entry;
 - (g) signed fee disclosure statement including Medicaid number, insurance information and identification of any other entities that are billed for the client's services;
 - (h) client or guardian signed consent or court order of commitment to services in lieu of signed consent, for all treatment and non-clinical services; and
 - (i) grievance and complaint documentation.
 - (j) discharge documentation
- (6) Programs shall document a plan detailing how all program, staff, and client files shall be maintained and remain

available for the Office and other legally authorized access, for seven years, regardless of whether or not the program remains licensed.

(7) The program shall ensure that assessment, treatment and service planning practices are clinically appropriate, updated as needed, timely, individualized, and involve the participation of the client or guardian.

(8) Programs shall maintain documentation of all critical incidents; critical incident reports shall contain:

- (a) time of incident;
- (b) summary of incident;
- (c) individuals involved; and
- (d) program response to the incident.

R501-21-5. Physical Facility.

(1) Space shall be adequate to meet service needs and ensure client confidentiality and comfort.

(2) The program shall maintain potentially hazardous items on-site lawfully, responsibly and with consideration of the safety and risk level of the population(s) served.

(3) All furniture and equipment shall be maintained in a clean and safe condition.

(4) Programs offering supplemental services or activities in addition to outpatient treatment shall:

- (a) remain publically transparent in the use of the equipment, practices and purposes;
- (b) ensure the health and safety of the consumer;
- (c) gain informed consent for participation in supplemental services or activities; and
- (d) provide verification of all trainings or certifications as required for the operation and use of any supplemental equipment.

(5) The program shall post the following documents where they are clearly visible by clients, staff, and visitors:

- (a) Civil Rights and anti-discrimination laws;
- (b) program license;
- (c) current or pending Notices of Agency Action;
- (d) abuse and neglect reporting laws; and
- (e) client rights and grievance process.

(6) The program site shall provide access to a toilet and lavatory sink in a manner that ensures basic privacy, and shall be:

- (a) stocked with toilet paper, soap, and paper towels/dryer; and
- (b) maintained in good operating order and kept in a clean and safe condition.

(7) The program shall ensure that the physical environment is safe for consumers and staff and that the appearance and cleanliness of the building and grounds are maintained.

R501-21-6. Substance Use Disorder Treatment Programs.

(1) All substance use disorder treatment programs shall develop and implement a plan on how to support opioid overdose reversal.

(2) Maintain proof of completion of the National Survey of Substance Abuse Treatment Services (NSSATS) annually.

(3) Medication-assisted treatment (MAT) in substance use disorder programs shall:

- (a) maintain a program-wide counselor to MAT consumer ratio of 1:50;
- (b) assure all consumers see a licensed practitioner that is authorized to prescribe controlled substances at least once yearly;

(c) show proof of completion of federally required physician training for physicians prescribing buprenorphine;

(d) admit consumers to the program and prescribe, administer or dispense medications only after the completion of a face-to-face visit with a licensed practitioner having authority to prescribe controlled substances who confirms opioid dependence. A licensed practitioner having authority to prescribe controlled substances must approve every subsequent dose increase prior to the change;

(e) require all consumers admitted to the program to participate in random drug testing. Drug testing will be performed by the program a minimum of two times per month for the first three months of treatment, and monthly thereafter; except for a consumer whose documented lack of progress shall require more frequent drug testing for a longer period of time;

(f) require that consumers participate in at least one counseling session per week for the first 90 days. Upon documented successful completion of this phase of treatment, consumers shall be required to participate in counseling sessions at least twice monthly for the next six months. Upon documented successful completion of nine months of treatment, consumers shall be seen by a licensed counselor at least monthly thereafter until discharge; and

(g) require one hour of prescribing practitioner time at the program site each month for every ten MAT consumers enrolled.

(4) MAT Programs prescribing, administering or dispensing Methadone (Opioid Treatment Programs) shall:

(a) maintain Substance Abuse and Mental Health Services Administration (SAMHSA) certification and accreditation as an opioid treatment program.

(b) comply with DSAMH Rule R523-10 Governing Methadone and other opioid treatment service providers;

(c) employ a:

(i) licensed physician who is an American Society of Addiction Medicine certified physician; or

(ii) prescribing licensed practitioner who can document specific training in current industry standards regarding methadone treatment for opioid addictions; or

(iii) prescribing licensed practitioner who can document specific training or experience in methadone treatment for opioid addictions; and

(d) provide one nurse to dispense or administer medications for every 150 Methadone consumers dosing on an average daily basis.

(5) Certified DUI Education Programs

(a) Only programs certified with the Division of Substance Abuse and Mental Health (DSAMH) to provide Prime for Life education in accordance with and R523-11 shall provide court ordered DUI education.

(b) Certified DUI education programs shall:

(i) complete and maintain a substance use screening for each participant prior to providing the education course;

(A) screenings may be shared between providers with client written consent;

(ii) provide a workbook to each participant to keep upon completion of the course;

(iii) ensure at least 16 hours of course education; and

(iv) provide separate classes for adults and youth.

(c) Any violations of this rule section will be reported to DSAMH for evaluation of certification.

(6) Justice Reform Initiative (JRI) Certified Programs shall operate in compliance with DSAMH rules 523-3 and 523-4.

(a) JRI certified programs shall maintain a criminogenic screen/risk assessment for each justice involved client and separate clients into treatment groups according to level of risk assessed.

(b) Providers shall complete screenings that assess both substance abuse and mental health comorbidity.

(c) JRI programs shall treat, or refer to other DHS licensed programs that have obtained a justice certification from the DSAMH to treat the array of disorders noted in screenings.

(d) Any violations of this rule section shall be reported to DSAMH for evaluation of certification.

R501-21-7. Domestic Violence.

(1) Domestic Violence (DV) treatment programs shall comply with generally accepted and current practices in domestic violence treatment, and shall meet the following requirements:

(a) maintain and document cooperative working relationships with domestic violence shelters, treatment programs, referring agencies, custodial parents when the consumer is a minor, and local domestic violence coalitions;

(i) treatment sessions for children and victims shall offer a minimum of ten sessions for each consumer, not including intake or orientation;

(b) if the consumer is a perpetrator, program contact with the victims, current partner, and the criminal justice referring agencies is also required, as appropriate;

(i) ~~treatment sessions for each perpetrator, not including orientation and assessment interviews shall be provided for at least one hour per week, for a minimum of 16 weeks.]~~In accordance with UCA50-60-102(5), a Licensed Mental Health Therapist shall complete a domestic violence treatment evaluation for each offender to include individualized recommendations for the offender's treatment.

(2) Staff to Consumer Ratio

(a) The staff to consumer ratio in adult treatment groups shall be one staff to eight consumers, for a one hour long group; or one staff to ten consumers for an hour and a half long group. The maximum group size shall not exceed 16.

(b) Child victim, or child witness groups shall have a ratio of one staff to eight children, when the consumers are under 12 years of age; and a ratio of one staff to ten children when the consumers are 12 years of age and older.

(3) Client Intake and Safety

(a) When any consumer enters a treatment program, the staff shall conduct an in-depth, face-to-face interview and assessment to determine the consumer's clinical profile and treatment needs. The evaluation in R501-23-7 shall count for this assessment when the consumer is an offender.

(b) For perpetrator consumers, additional information shall be obtained from the police incident report, perpetrator's criminal history, prior treatment providers, ~~and~~ the victim, or victim advocate.

(c) When appropriate, additional information for child consumers shall be obtained from parents, prior treatment providers, schools, and Child Protective Services.

(d) When any of the above cannot be obtained, the reason shall be documented.

(e) The assessment shall include the following:

(i) a profile of the frequency, severity, and duration of the domestic violence behavior, which includes a summary of psychological violence;

(ii) documentation of any homicidal, suicidal ideation and intentions, as well as abusive behavior towards children;

(iii) a clinical diagnosis and a referral for evaluation to determine the need for medication, if indicated;

(iv) documentation of safety planning when the consumer is an adult victim, child victim, or child witness; and that they have contact with the perpetrator;

(A) for victims who choose not to become treatment consumers, safety planning shall be addressed when they are contacted; and

(v) documentation that appropriate measures have been taken to protect children from harm.

(4) Treatment Procedures

(a) Consumers deemed appropriate for a domestic violence treatment program shall have an individualized treatment plan, which addresses all relevant treatment issues.

(b) Consumers who are not deemed appropriate for domestic violence programs shall be referred to the appropriate resource, with the reasons for referral documented, and notification given to the referring agency.

(c) Domestic violence counseling shall be provided concurrently with, or after other necessary treatment, when appropriate.

(d) Conjoint or group therapy sessions with victims and perpetrators together, or with both co-perpetrators, shall not be provided until a comprehensive assessment has been completed to determine that the violence has stopped, and that conjoint treatment is appropriate.

(e) The perpetrator must complete a minimum of ~~+~~4 domestic violence treatment sessions, unless otherwise noted in the offender evaluation recommendations prior to the provider implementing conjoint therapy.

(f) A written procedure shall be implemented to facilitate the following, in an efficient and timely manner:

(i) entry of the court ordered defendant into treatment;

(ii) notification of consumer compliance, participation, or completion;

(iii) disposition of non-compliant consumers;

(iv) notification of the recurrence of violence; and

(v) notification of factors which may exacerbate an individual's potential for violence.

(g) The program shall comply with the "Duty to Warn," Section 78B-3-502.

(h) The program shall document specialized training in domestic violence assessment and treatment practices, including 24 hours of Utah Association for Domestic Violence Treatment (UADVT) pre-service training, within the last two years; and 16 hours annual training thereafter for all individuals providing treatment service.

(i) Clinical supervision for treatment staff that are not clinically licensed shall consist of a minimum of one hour per week to discuss clinical dynamics of cases.

(5) Training

(a) Training that is documented and approved by the designated Utah DHS DV Specialist Regarding assessment and treatment practices for treating:

(i) DV victims; and

(ii) DV perpetrators.

(6) Programs must disclose all current DHS contracts and actions against the contract to the Office.

(7) Programs must disclose all current Accreditations and actions against accredited status to the Office.

R501-21-8 Compliance.

(1) A licensee that is in operation on the effective date of this rule, shall be given [9]30 days to achieve compliance with this rule.

KEY: human services, licensing, outpatient treatment programs
Date of Enactment or Last Substantive Amendment: [March 24, 2017]2018
Notice of Continuation: April 1, 2015
Authorizing, and Implemented or Interpreted Law: 62A-2-101 et seq.

Lieutenant Governor, Elections
R623-5
Municipal Alternate Voting Methods
Pilot Project

NOTICE OF PROPOSED RULE

(New Rule)
 DAR FILE NO.: 43275
 FILED: 10/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: H.B. 35, passed during the 2018 General Session, mandate the Director of Elections to write rules.

SUMMARY OF THE RULE OR CHANGE: Requires counting judges to follow statute 20A-4-603.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 20A-4-101(2)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This proposed rule is not expected to have any fiscal impacts on state revenues or expenditures, because the rule requirements are instructional only.
- ◆ **LOCAL GOVERNMENTS:** This proposed rule is not expected to have any fiscal impacts on local government revenues or expenditures, because the rule requirements are instructional only.
- ◆ **SMALL BUSINESSES:** This proposed rule is not expected to have any fiscal impacts on small businesses revenues or expenditures, because the rule requirements are instructional only.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This proposed rule is not expected to have any fiscal impacts on persons other than small businesses, businesses, or local

government entities revenues or expenditures, because the rule requirements are instructional only.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This proposed rule is not expected to have any fiscal impacts on any revenues or expenditures, because the rule requirements are instructional only.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule is not expected to have any fiscal impacts on any revenues or expenditures, because the rule requirements are instructional only.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 LIEUTENANT GOVERNOR
 ELECTIONS
 ROOM 220 UTAH STATE CAPITOL
 350 N STATE STREET
 SALT LAKE CITY, UT 84114
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Derek Brenchley by phone at 801-538-1041, or by Internet E-mail at dbrenchley@utah.gov
 ◆ Jennifer Storie by phone at 801-538-1746, or by Internet E-mail at jenstorie@utah.gov
 ◆ Justin Lee by phone at 801-538-1129, or by Internet E-mail at justinlee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/03/2018

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
 ◆ 11/12/2018 04:00 PM, Lt. Governor's Office

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2018

AUTHORIZED BY: Justin Lee, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$0	\$0	\$0
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Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses
 This proposed rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures, because this rule's requirements are instructional only.

The head of Department of Elections, Justin Lee, has reviewed and approved this fiscal analysis. Justin Lee, Director of Elections.

R623. Lieutenant Governor, Elections.
R623-5. Municipal Alternate Voting Methods Pilot Project.
R623-5-1. Authority.

This rule is required by Chapter 4 of Title 63G, the Utah Administrative Procedures Act, and is enacted under the authority of Chapter 3 of Title 63G, the Utah Administrative Rulemaking Act.

R623-5-2. Definitions.
"Counting Judge" means a poll worker designated to count the ballots during election day.

R623-5-3. Purpose.
Pursuant to Utah Code Section 20a-4-1 this rule provides procedures for counting judges to follow procedures outlined in 20A-4-603.

R623-5-4. Instant Run Off Voting Counting Procedures.
Counting judges shall follow the procedures outlined in Section 20A-4-603.

KEY: runoff, voting, counting
Date of Enactment or Last Substantive Amendment: 2018
Authorizing, and Implemented or Interpreted Law: 20A-4-101(2)

Natural Resources, Wildlife Resources
R657-13
Taking Fish and Crayfish

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 43230
 FILED: 10/04/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) fish and crayfish management program.

SUMMARY OF THE RULE OR CHANGE: This rule revision: 1) allows for the use of corn as bait; 2) eliminates the requirement of a reciprocal fishing permit when fishing at Lake Powell; 3) allows for the use of a color variant of fathead minnows to be identified as bait species; and 4) removes the license restriction to require those under 12 years of age to purchase a setline permit.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-14-18 and Section 23-14-19

- ANTICIPATED COST OR SAVINGS TO:**
- ◆ **THE STATE BUDGET:** DWR has determined that these amendments will create a loss in revenue for DWR. Roughly 4,500 to 5,000 licenses are purchased each year to fish at Lake Powell the loss of these licenses will result in an average loss of \$39,000 per year. In addition, 10 to 12 set line permits are purchased each year by anglers under 12 years of age. This change will result in a \$220 to \$280 loss each year.
 - ◆ **LOCAL GOVERNMENTS:** These amendments are not expected to have any impact on local governments' revenues or expenditures because the permit fees no longer being collected for reciprocal permits or setline permits purchased by those under 12 are state funds and not local funds.
 - ◆ **SMALL BUSINESSES:** These amendments are not expected to have any impact on small businesses' revenues or expenditures because the permit fees no longer being collected for reciprocal permits or setline permits purchased by those under 12 are state funds and do not directly affect small businesses.
 - ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These amendments remove the requirement to purchase an

additional permit to fish on Lake Powell, as well as an additional setline permit for those under 12 years of age, this will create an estimated \$39,000 savings for anglers. Each angler would save between \$5 and \$75 dollars depending on the type of Utah Non-resident license they would have purchased. These amendments do not remove the requirement to have an Arizona license to fish Lake Powell.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR has determined that these amendments could create a savings impact to individuals who participate in fishing at Lake Powell or are anglers under 12 in Utah.

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

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 NATURAL RESOURCES
 WILDLIFE RESOURCES
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/03/2018

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2018

AUTHORIZED BY: Mike Fowlks, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$39,000	\$39,000	\$39,000
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$39,000	\$39,000	\$39,000

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	\$39,000	\$39,000	\$39,000
Total Fiscal Benefits:	\$39,000	\$39,000	\$39,000
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 they currently do not benefit from the sale of fishing licenses. Any increase or decrease in license sales is not applicable to any private business non-small or small.

The head of department of Natural Resources, Michael Styler, has reviewed and approved this fiscal analysis.

R657. Natural Resources, Wildlife Resources.

R657-13. Taking Fish and Crayfish.

R657-13-1. Purpose and Authority.

(1) Under authority of Sections 23-14-18 and 23-14-19 of the Utah Code, the Wildlife Board has established this rule for taking fish and crayfish.

(2) Specific dates, areas, methods of take, requirements and other administrative details which may change annually and are pertinent are published in the proclamation of the Wildlife Board for taking fish and crayfish.

R657-13-2. Definitions.

- (1) Terms used in this rule are defined in Section 23-13-2.
- (2) In addition:
 - (a) "Aggregate" means the combined total of two or more species of fish or two or more size classes of fish which are covered by a limit distinction.
 - (b) "Angling" means fishing with a rod, pole, tipup, handline, or trollboard that has a single line with legal hooks, baits, or lures attached to it, and is held in the hands of, or within sight (not to exceed 100 feet) of, the person fishing.

(c)(i) "Artificial fly" means a fly made by the method known as fly tying.

(ii) "Artificial fly" does not mean a weighted jig, lure, spinner, attractor blade, or bait.

(d) "Artificial lure" means a device made of rubber, wood, metal, glass, fiber, feathers, hair, or plastic with a hook or hooks attached. Artificial lures, including artificial flies, do not include fish eggs or other chemically treated or processed natural baits or any natural or human-made food, or any lures that have been treated with a natural or artificial fish attractant or feeding stimulant.

(e) "Daily limit" means the maximum limit, in number or amount, of protected aquatic wildlife that one person may legally take during one day.

(f) "Bait" means a digestible substance, including corn, worms, cheese, salmon eggs, marshmallows, or manufactured baits including human-made items that are chemically treated with food stuffs, chemical fish attractants or feeding stimulants.

(g) "Camp" means, for the purposes of this rule, any place providing temporary overnight accommodation for anglers including a camper, campground, tent, trailer, cabin, houseboat, boat, or hotel.

(h) "Chumming" means dislodging or depositing in the water any substance not attached to a hook, line, or trap, which may attract fish.

(i) "Commercially prepared and chemically treated baitfish" means any fish species or fish parts which have been processed using a chemical or physical preservation technique other than freezing including irradiation, salting, cooking, or oiling and are marketed, sold or traded for financial gain as bait.

(j) "Dipnet" means a small bag net with a handle that is used to scoop fish or crayfish from the water.

(k) "Filleting" means the processing of fish for human consumption typically done by cutting away flesh from bones, skin, and body.

(l) "Fishing contest" means any organized event or gathering where anglers are awarded prizes, points or money for their catch.

(m) "Float tube" means an inflatable floating device less than 48 inches in any dimension, capable of supporting one person.

(n) "Free Shafting" means to release a pointed shaft that is not tethered or attached by physical means to the diver in an attempt to take fish while engaged in underwater spearfishing.

(o) "Gaff" means a spear or hook, with or without a handle, used for holding or lifting fish.

(p) "Game fish" means Bonneville cisco; bluegill; bullhead; channel catfish; crappie; green sunfish; largemouth bass; northern pike; Sacramento perch; smallmouth bass; striped bass, trout (rainbow, albino, cutthroat, brown, golden, brook, lake/mackinaw, kokanee salmon, and grayling or any hybrid of the foregoing); tiger muskellunge; walleye; white bass; whitefish; wiper; and yellow perch.

(q) "Handline" means a piece of line held in the hand and not attached to a pole used for taking fish or crayfish.

(r) "Immediately Released" means that the fish should be quickly unhooked and released back into the water where caught. Fish that must be immediately released cannot be held on a stringer, or in a live well or any other container or restraining device.

(s) "Lake" means the standing water level existing at any time within a lake basin. Unless posted otherwise, a stream flowing inside or within the high water mark is not considered part of the lake.

(t) "Length measurement" means the greatest length between the tip of the head or snout and the tip of the caudal (tail) fin when the fin rays are squeezed together. Measurement is taken in a straight line and not over the curve of the body.

(u) "Liftnet" means a small net that is drawn vertically through the water column to take fish or crayfish.

(v) "Motor" means an electric or internal combustion engine.

(w) "Nongame fish" means species of fish not listed as game fish.

(x) "Permanent residence" means, for the purposes of this rule only, the domicile an individual claims pursuant to Utah Code 23-13-2(13).

(y) "Possession limit" means, for purposes of this rule only, two daily limits, including fish in a cooler, camper, tent, freezer, livewell or any other place of storage, excluding fish stored in an individual's permanent residence.

(z) "Protected aquatic wildlife" means, for purposes of this rule only, all species of fish, crustaceans, or amphibians.

(aa) "Reservoir" means the standing water level existing at any time within a reservoir basin. Unless posted otherwise, a stream flowing inside or within the high water mark is not considered part of the reservoir.

(bb) "Seine" means a small mesh net with a weighted line on the bottom and float line on the top that is drawn through the water. This type of net is used to enclose fish when its ends are brought together.

(cc) "Setline" means a line anchored to a non-moving object and not attached to a fishing pole.

(dd) "Single hook" means a hook or multiple hooks having a common shank.

(ee) "Snagging" or "gaffing" means to take a fish in a manner that the fish does not take the hook voluntarily into its mouth.

(ff) "Spear" means a long-shafted, sharply pointed, hand held instrument with or without barbs used to spear fish from above the surface of the water.

(gg) "Tributary" means a stream flowing into a larger stream, lake, or reservoir.

(hh)(i) "Trout" means species of the family Salmonidae, including rainbow, albino, cutthroat, brown, golden, brook, tiger, lake (mackinaw), splake, kokanee salmon, and grayling or any hybrid of the foregoing.

(ii) "Trout" does not include whitefish or Bonneville cisco.

(ii) "Underwater spearfishing" means fishing by a person swimming, snorkeling, or diving and using a mechanical device held in the hand, which uses a rubber band, spring, pneumatic power, or other device to propel a pointed shaft to take fish from under the surface of the water.

R657-13-5. Interstate Waters ~~And~~and Reciprocal Fishing Permits.

(1) ~~[Bear Lake]When fishing interstate waters, an individual must:~~

~~[(a) The holder of a valid Utah or Idaho fishing or combination license may fish within Bear Lake as follows:~~

~~—(i) an individual may fish with up to two poles on the Utah portion of Bear Lake; and~~

~~(ii) an individual must comply with Idaho regulations regarding fishing with more than one pole when fishing on the Idaho portion of Bear Lake. (a) obtain the necessary fishing licenses and permits, as provided below; and~~

~~(b) comply with angling regulations applicable to the state where they are fishing.~~

~~[(b) Only one daily limit may be taken in a single day even if licensed in both states.~~

~~(2) Reciprocal Fishing Permits (2) Bear Lake.~~

~~(a) [The purchase of a reciprocal fishing permit allows a person to fish across state boundaries of interstate waters. A person possessing a valid Utah or Idaho fishing or combination license, whether resident or nonresident, may fish both the Utah and Idaho portions of the Lake in accordance with the angling regulations applicable to the state where they are fishing.~~

~~(b) [Reciprocal fishing permits are offered for Lake Powell and Flaming Gorge Reservoir (See Subsections (3) and (4)). Only one daily limit may be taken in a single day, even if licensed in both states.~~

~~(3) Lake Powell Reservoir.~~

~~(a) A person possessing a valid Utah or Arizona fishing or combination license, whether resident or nonresident, may fish both the Utah and Arizona portions of the Reservoir in accordance with the angling regulations applicable to the state where they are fishing.~~

~~(b) Only one daily limit may be taken in a single day, even if licensed in both states.~~

~~(4) Flaming Gorge Reservoir.~~

~~(a) A Utah resident possessing a valid Utah fishing or combination license and a Wyoming reciprocal fishing permit for Flaming Gorge Reservoir may fish the Wyoming portions of the Reservoir as prescribed in Wyoming angling regulations.~~

~~[(e)i] Utah residents may obtain reciprocal fishing permits for Flaming Gorge Reservoir by contacting the [state of Arizona for Lake Powell and the state of Wyoming for Flaming Gorge.] Wyoming Game and Fish Department.~~

~~(b) A person possessing a valid, resident or nonresident, Wyoming fishing or combination license and a Utah reciprocal fishing permit for Flaming Gorge Reservoir may fish the Utah portions of the Reservoir as prescribed in Utah angling regulations.~~

~~[(d)i] [Nonresidents may obtain] A Utah reciprocal fishing [permits] permit for Flaming Gorge Reservoir may be obtained through the division's web site, [from online] authorized license agents [and division], or regional offices.~~

~~[(e)ii] The Utah reciprocal fishing permit must be:~~

~~(i) A used in conjunction with a valid [unexpired], Resident or nonresident Wyoming fishing or combination license [from a reciprocating state]; and~~

~~(ii) B signed by the holder as the holder's name appears on the [valid unexpired] Wyoming fishing or combination license [from the reciprocating state].~~

~~[(f)c] [Reciprocal] A Utah reciprocal fishing [permits are] permit is valid for 365 days from the date of purchase.~~

~~[(g) Anglers are subject to the laws and rules of the state in which they are fishing.]~~

~~[(h)d] Only one daily limit may be taken in a single day even if licensed in both states.~~

~~(3) Lake Powell Reservoir~~

~~(a) Any person qualifying as an Arizona resident and having in their possession a valid resident Arizona fishing license and a Utah~~

~~reciprocal fishing permit for Lake Powell can fish within the Utah boundaries of Lake Powell.~~

~~(b) Any person who is not a resident of Utah or Arizona must purchase the appropriate nonresident licenses for Utah and Arizona to fish both sides of Lake Powell.~~

~~(c) Any person possessing a valid Utah fishing license is permitted to fish anywhere on Lake Powell, including the Arizona portion of the reservoir.~~

~~(d) A person possessing a valid Arizona fishing license shall be required to purchase a valid Utah reciprocal permit to fish the Utah waters of Lake Powell.~~

~~(4) Flaming Gorge Reservoir~~

~~Any person possessing a valid Wyoming fishing license and a Utah reciprocal fishing permit for Flaming Gorge is permitted to fish within the Utah waters of Flaming Gorge Reservoir.]~~

R657-13-8. Setline Fishing.

(1) A person may use a setline to take fish only in the Bear River proper downstream from the Idaho state line, including Cutler Reservoir and outlet canals; Little Bear River below Valley View Highway (SR-30); Malad River; and Utah Lake.

(2) A person may use up to two lines for angling while setline fishing.

(3) No more than one setline per angler may be used and it may not contain more than 15 hooks.

(4)(a) A setline permit may be obtained through the division's web site, from license agents and division offices.

(b) A setline permit is required in addition to any valid Utah fishing or combination license.

(c) A setline permit is a 365 day permit valid only when used in conjunction with any unexpired Utah fishing or combination license.

(5) When fishing with a setline, the angler shall be within 100 yards of the surface or bank of the water being fished.

(6) A setline shall have one end attached to a nonmoving object, not attached to a fishing pole, and shall have attached a legible tag with the name, address, and setline permit number of the angler.

~~[(7) Anglers under 12 years of age must purchase a valid Utah one day, seven day or annual fishing or combination license and setline permit in order to use a setline.]~~

R657-13-12. Bait.

(1) Use or possession of corn while fishing is lawful, except as otherwise prohibited by the Wildlife Board in the Fishing Guidebook.

(1)2 Use or possession of [corn, hominy, or] live baitfish while fishing is unlawful, except as authorized by the Wildlife Board in the Fishing Guidebook.

(2)3 Use or possession of tiger salamanders (live or dead) while fishing is unlawful.

(3)4 Use or possession of any bait while fishing on waters designated artificial fly and lure only is unlawful.

(4)5 Use or possession of artificial baits which are commercially imbedded or covered with fish or fish parts while fishing is unlawful.

(5)6 Use or possession of bait in the form of fresh or frozen fish or fish parts while fishing is unlawful, except as provided below and in Subsections (7) and (8).

(a) Dead Bonneville cisco may be used as bait only in Bear Lake.

(b) Dead yellow perch may be used as bait only in: Big Sand Wash, Deer Creek, Echo, Fish Lake,[-,] Gunnison, Hyrum, Johnson, Jordanelle, Mantua, Mill Meadow, Newton, Pineview, Red Fleet, Rockport, Starvation, Utah Lake, Willard Bay and Yuba reservoirs.

(c) Dead white bass may be used as bait only in Utah Lake and the Jordan River.

(d) Dead shad, from Lake Powell, may be used as bait only in Lake Powell. Dead shad must not be removed from the Glen Canyon National Recreation Area.

(e) Dead striped bass, from Lake Powell, may be used as bait only in Lake Powell.

(f) Dead fresh or frozen salt water species including sardines and anchovies may be used as bait in any water where bait is permitted.

(g) Dead mountain sucker, white sucker, Utah sucker, reaside shiner, speckled dace, mottled sculpin, fat head minnow (all color variants including rosy red minnows), Utah chub, and common carp may be used as bait in any water where bait is permitted.

(h) Dead burbot, from Flaming Gorge Reservoir, may be used as bait only in Flaming Gorge Reservoir.

([6]7) Commercially prepared and chemically treated baitfish or their parts may be used as bait in any water where bait is permitted.

([7]8) The eggs of any species of fish caught in Utah, except prohibited fish, may be used in any water where bait is permitted. However, eggs may not be taken or used from fish that are being released.

([8]9) Use of live crayfish for bait is legal only on the water where the crayfish is captured. It is unlawful to transport live crayfish away from the water where captured.

([9]10) Manufactured, human-made items that may not be digestible, that are chemically treated with food stuffs, chemical fish attractants, or feeding stimulants may not be used on waters where bait is prohibited.

([10]11) On any water declared infested by the Wildlife Board with an aquatic invasive species, or that is subject to a closure order or control plan under R657-60, it shall be unlawful to transport any species of baitfish (live or dead) from the infested water for use as bait in any other water of the State. Baitfish are defined as those species listed in sections (5)(b), (5)(c), (5)(f) and (8).

KEY: fish, fishing, wildlife, wildlife law

Date of Enactment or Last Substantive Amendment: [~~December 8, 2016~~2018]

Notice of Continuation: September 28, 2017

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19; 23-19-1; 23-22-3

Tax Commission, Auditing
R865-19S-85
Sales and Use Tax Exemptions for
Certain Purchases by a Manufacturing
Facility Pursuant to Utah Code Ann.
Section 59-12-104

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43262

FILED: 10/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change is made to reflect statutory changes to the manufacturing sales and use tax exemption pursuant to S.B. 2001, passed during the 2018 Second Special Session.

SUMMARY OF THE RULE OR CHANGE: This proposed amendment adds "parts and materials" to the definition of "machinery and equipment" that qualifies for the manufacturing sales and use tax exemption.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-12-104

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This proposed amendment is not expected to have any fiscal impact on state government revenues or expenditures because any fiscal impact would have been addressed in the fiscal note for S.B. 2001 (2018).

◆ **LOCAL GOVERNMENTS:** This proposed amendment is not expected to have any fiscal impact on local governments' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note for S.B. 2001 (2018).

◆ **SMALL BUSINESSES:** This proposed amendment is not expected to have any fiscal impact on small businesses' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note for S.B. 2001 (2018).

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This proposed amendment is not expected to have a fiscal impact on the revenues or expenditures of other persons because any fiscal impact would have been addressed in the fiscal note for S.B. 2001 (2018).

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendment adds “parts and materials” to definition of “machinery and equipment” that qualifies for the manufacturing sales and use tax exemption. This proposed amendment is not expected to impose any compliance costs on affected persons because any regulatory burdens would have been addressed in the fiscal note of 2018 SB 2001.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impact this rule amendment may have on businesses would have been addressed in the fiscal note for S.B. 2001 (2018).

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 12/03/2018

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2018

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 impact on non-small business revenues or expenditures, because any fiscal impact would have been addressed in the fiscal note for S.B. 2001 (2018).

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-85. Sales and Use Tax Exemptions for Certain Purchases by a Manufacturing Facility Pursuant to Utah Code Ann. Section 59-12-104.

(1) Definitions:

(a) "Establishment" means an economic unit of operations, that is generally at a single physical location in Utah, where qualifying manufacturing processes are performed. If a business operates in more than one location (e.g., branch or satellite offices), each physical location is considered separately from any other locations operated by the same business.

(b) "Machinery, ~~and~~ equipment, parts, and materials" means:

(i) electronic or mechanical devices incorporated into a manufacturing process from the initial stage where actual processing begins, through the completion of the finished end product, and including final processing, finishing, or packaging of articles sold as tangible personal property. This definition includes automated material handling and storage devices when those devices are part of the integrated continuous production cycle; and

(ii) any accessory that is essential to a continuous manufacturing process. Accessories essential to a continuous manufacturing process include:

(A) bits, jigs, molds, or devices that control the operation of machinery and equipment; and

(B) gas, water, electricity, or other similar supply lines installed for the operation of the manufacturing equipment, but only if the primary use of the supply line is for the operation of the manufacturing equipment.

(c) "Manufacturer" means a person who functions within a manufacturing facility.

(2) The sales and use tax exemption for the purchase or lease of machinery,~~and~~ equipment, parts, and materials by a manufacturing facility applies only to purchases or leases of tangible personal property used in the actual manufacturing process.

(a) The exemption~~s do~~ does not apply to purchases of items of tangible personal property that become part of the real property in which the manufacturing operation is conducted.

(b) Purchases of qualifying machinery,~~and~~ equipment, parts, and materials are treated as purchases of tangible personal property under R865-19S-58, even if the item is affixed to real property upon installation.

(3) Machinery,~~and~~ equipment, parts, and materials used for a nonmanufacturing activity qualify for the exemption if the machinery,~~and~~ equipment, parts, and materials are primarily used in manufacturing activities. Examples of nonmanufacturing activities include:

(a) research and development;

(b) refrigerated or other storage of raw materials, component parts, or finished product; or

(c) shipment of the finished product.

(4) Where manufacturing activities and nonmanufacturing activities are performed at a single physical location, machinery,~~and~~ equipment, parts, and materials purchased for use in the manufacturing operation are eligible for the sales and use tax exemption if the manufacturing operation constitutes a separate and distinct manufacturing establishment.

(a) Each activity is treated as a separate and distinct establishment if:

(i) no single SIC code includes those activities combined; or

(ii) each activity comprises a separate legal entity.

(b) Machinery,~~and~~ equipment, parts, and materials used in both manufacturing activities and nonmanufacturing activities qualify for the exemption only if the machinery,~~and~~ equipment, parts, and materials are primarily used in manufacturing activities.

(5) The manufacturer shall retain records to support the claim that the machinery,~~and~~ equipment, parts, and materials are qualified for exemption from sales and use tax under the provisions of this rule and Section 59-12-104.

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, Auditing

R865-19S-121

Sales and Use Tax Exemptions for Certain Purchases by a Mining Facility Pursuant to Utah Code Ann. Section 59-12-104

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43263

FILED: 10/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of these rule changes is to reflect statutory changes pursuant to S.B. 2001 passed during the 2018 Second Special Session.

SUMMARY OF THE RULE OR CHANGE: These proposed amendments eliminate reference to machinery and equipment having an economic life of three or more years, and clarify that "parts and materials" are treated the same as machinery and equipment for the purpose of the exemption from sales and use tax.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-12-104

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** These proposed amendments are not expected to have any fiscal impact on state government revenues or expenditures because any fiscal impact would have been addressed in the fiscal note for S.B. 2001 (2018).

◆ **LOCAL GOVERNMENTS:** These proposed amendments are not expected to have any fiscal impact on local governments' revenues or expenditures because any fiscal impact would have been addressed in the fiscal note for S.B. 2001 (2018).

◆ **SMALL BUSINESSES:** These proposed amendments are not expected to have any fiscal impact on small businesses revenues or expenditures because any fiscal impact would have been addressed in the fiscal note for S.B. 2001 (2018).

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These proposed amendments are not expected to have any fiscal impact on the revenues or expenditures of other persons because any fiscal impact would have been addressed in the fiscal note for S.B. 2001 (2018).

COMPLIANCE COSTS FOR AFFECTED PERSONS: These proposed amendments eliminate reference to machinery and equipment having an economic life of three or more years, and clarify that "parts and materials" are treated the same as machinery and equipment for purposes of the exemption from sales and use tax. These proposed amendments are not expected to impose any compliance costs on affected persons because any regulatory burdens would have been addressed in the fiscal note for S.B. 2001 (2018).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impact this rule may have on businesses would have been addressed in the fiscal note for S.B. 2001 (2018).

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 12/03/2018

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2018

AUTHORIZED BY: Rebecca Rockwell, Commissioner

will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses
These rule changes are not expected to have any fiscal impact on non-small businesses revenues or expenditures, because any fiscal impact would have been addressed in the fiscal note for S.B. 2001 (2018).

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-121. Sales and Use Tax Exemptions for Certain Purchases by a Mining Facility Pursuant to Utah Code Ann. Section 59-12-104.

(1) ~~Definitions:~~
~~(a)~~ "Establishment" means a unit of operations, that is generally at a single physical location in Utah, where qualifying activities are performed. If a business operates in more than one location (e.g., branch or satellite offices), each physical location is considered separately from any other locations operated by the same business.

~~(b) "Machinery and equipment" means electronic or mechanical devices having an economic life of three or more years including any accessory that controls the operation of the machinery and equipment.~~

(2) The exemption ~~does~~ does not apply to purchases of items of tangible personal property that become part of the real property.

(3) Purchases of qualifying machinery ~~and~~ equipment, ~~parts, and materials~~ are treated as purchases of tangible personal property under R865-19S-58, even if the item is affixed to real property upon installation.

(4) Machinery ~~and~~ equipment, ~~parts, and materials~~ used for non-qualifying activities are eligible for the exemption if the machinery, ~~and~~ equipment, ~~parts, and materials~~ are primarily used in qualifying activities.

(5) The entity claiming the exemption shall retain records to support the claim that the machinery, ~~and~~ equipment, ~~parts, and materials~~ are qualified for exemption from sales and use tax under the provisions of this rule and Section 59-12-104.

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

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

Tax Commission, Auditing
R865-19S-122
Sales and Use Tax Exemptions for
Certain Purchases by a Web Search
Portal Establishment Pursuant to Utah
Code Ann. Section 59-12-104

NOTICE OF PROPOSED RULE

(Amendment)
 DAR FILE NO.: 43264
 FILED: 10/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These amendments to this rule reflect statutory changes pursuant to S.B. 2001 passed during the 2018 Second Special Session.

SUMMARY OF THE RULE OR CHANGE: These proposed amendment eliminate reference to machinery and equipment having an economic life of three or more years, and clarify that "parts and materials" are treated the same as machinery and equipment for purposes of the exemption from sales and use tax.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-12-104

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** These proposed amendments are not expected to have any fiscal impact on state government revenues or expenditures because any fiscal impact would have been addressed in the fiscal note for S.B. 2001 (2018).
- ◆ **LOCAL GOVERNMENTS:** These proposed amendments are not expected to have any fiscal impact on local governments revenues or expenditures because any fiscal impact would have been addressed in the fiscal note for S.B. 2001 (2018).
- ◆ **SMALL BUSINESSES:** These proposed amendments are not expected to have any fiscal impact on small businesses revenues or expenditures because any fiscal impact would have been addressed in the fiscal note for S.B. 2001 (2018).
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These proposed amendments are not expected to have any fiscal impact on the revenues or expenditures of other persons because any fiscal impact would have been addressed in the fiscal note for S.B. 2001 (2018).

COMPLIANCE COSTS FOR AFFECTED PERSONS: These proposed amendments eliminate reference to machinery and equipment having an economic life of three or more years, and clarify that "parts and materials" are treated the same as machinery and equipment for purposes of the exemption from sales and use tax. These proposed amendments are not

expected to impose any compliance costs on affected persons because any regulatory burdens would have been addressed in the fiscal note for S.B. 2001 (2018).

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impact this rule may have on businesses would have been addressed in the fiscal note for S.B. 2001 (2018).

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 12/03/2018

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2018

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
 These rule changes are not expected to have any fiscal impact on non-small businesses' revenues or expenditures, because any fiscal impact would have been addressed in the fiscal note for S.B. 2001 (2018).

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-122. Sales and Use Tax Exemptions for Certain Purchases by a Web Search Portal Establishment Pursuant to Utah Code Ann. Section 59-12-104.

(1) ~~Definitions:~~

~~(a) "Establishment" means a unit of operations, that is generally at a single physical location in Utah, where qualifying activities are performed. If a business operates in more than one location (e.g., branch or satellite offices), each physical location is considered separately from any other locations operated by the same business.~~

~~(b) "Machinery and equipment" means electronic or mechanical devices having an economic life of three or more years including any accessory that controls the operation of the machinery and equipment.~~

~~(c) "New or expanding establishment" means:~~

~~(i)(A) the creation of a new web search portal establishment in this state; or~~

~~(B) the expansion of an existing Utah web search portal establishment if the expanded establishment increases services or is substantially different in nature, character, or purpose from the existing Utah web search portal establishment.~~

~~(ii) The operator of a web search portal establishment who closes operations at one location in this state and reopens the same establishment at a new location does not qualify as a new or expanding establishment without demonstrating that the move meets the conditions set forth in Subsection (1)(c)(i).]~~

(2) The exemption for certain purchases by a web search portal establishment does not apply to purchases of items of tangible personal property that become part of the real property.

(3) Purchases of qualifying machinery, ~~and~~ equipment, parts, and materials are treated as purchases of tangible personal property under R865-19S-58, even if the item is affixed to real property upon installation.

(4) Machinery, ~~and~~ equipment, parts, and materials used for non-qualifying activities are eligible for the exemption if the

machinery, ~~and~~ equipment, parts, and materials are primarily used in qualifying activities.

(5) The entity claiming the exemption shall retain records to support the claim that the machinery, ~~and~~ equipment, parts, and materials are qualified for exemption from sales and use tax under the provisions of this rule and Section 59-12-104.

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-53
2018 Valuation Guides for Valuation of
Land Subject to the Farmland
Assessment Act Pursuant to Utah Code
Ann. Section 59-2-515

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 43261

FILED: 10/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These amendments annually update the agricultural productive values to be applied by county assessors to land qualifying for valuation and assessment under the Farmland Assessment Act. These values are recommended to the Commission by the State Farmland Evaluation Advisory Committee, which meets under the authority of Section 59-2-514.

SUMMARY OF THE RULE OR CHANGE: Section 59-2-515 authorizes the State Tax Commission to promulgate rules regarding the Property Tax Act, Part 5, Farmland Assessment Act. Section 59-2-514 authorizes the State Tax Commission to receive valuation recommendations from the State Farmland Advisory Committee for implementation as outlined in R884-24P-53. This rule sets the acreage value rates for 418 separate class-county combinations. This year it is proposed that one rate increase slightly, 356 rates decrease and 61 have no change.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-2-515

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The amount of savings or cost to state government is undetermined. The State receives tax revenue for assessing and collecting and for the Education Fund based on increased or decreased real and personal property valuation, including property assessed under the Farmland Assessment Act (FAA). Property valuation (taxable value) changes have been recommended by class and by county. This year it is proposed that one rate increase slightly, 356 rates decrease and 61 have no change. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class and a listing of property newly qualifying or no longer qualifying for FAA in the coming year. However, it is estimated that the overall change is minimal due to these amendments.

◆ **LOCAL GOVERNMENTS:** The amount of savings or cost to local governments is undetermined. Local governmental entities receive tax revenue based on increased or decreased property valuation, including property assessed under FAA. Property valuation changes have been recommended by class and by county. This year it is proposed that one rate increase slightly, 356 rates decrease and 61 have no change. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class and a listing of property newly qualifying or no longer qualifying for FAA in the coming year. However, it is estimated that the overall change is minimal due to these amendments. County assessors' offices statewide will be required to input the new value indicators into their computer systems to be applied against the acreage for individual properties. This input process is easily accomplished on an annual basis and represents no significant cost in time or money to the assessors' offices.

◆ **SMALL BUSINESSES:** The amount of savings or cost to small businesses is undetermined. Each property owner with property eligible for assessment under FAA may see a change in value, depending on property class and situs county. The effect on the property owner will depend on the mix of property types and situs. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class and a listing of property newly qualifying or no longer qualifying for FAA in the coming year. In addition, the cost will be further altered by changes to local property tax rates. However, it is estimated that the overall change due to these amendments are minimal.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The amount of savings or cost to other persons is undetermined. Each property owner with property eligible for assessment under FAA may see a change in value, depending on property class and situs county. The effect on the property owner will depend on the mix of property types and situs. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class and a listing of property newly qualifying or no longer qualifying for FAA in the coming year. In addition, the cost will be further altered by changes to local property tax rates. However, it is estimated that the overall change due to these amendments are minimal.

COMPLIANCE COSTS FOR AFFECTED PERSONS:

Compliance cost for affected persons ("person" means any individual, partnership, corporation, association, government entity, public or private organization of any character other than an agency): Each property owner with property eligible for assessment under FAA may see a change in value, depending on property class and situs county. The effect on the property owner will depend on the mix of property types and situs. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class and a listing of property newly qualifying or no longer qualifying for FAA in the coming year. In addition, the cost will be further altered by changes to local property tax rates. However, it is estimated that the overall change due to these amendments are minimal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:

These changes may affect property values that may result in a change of property tax amounts due.

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 12/03/2018

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2018

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

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. Each property owner with property eligible for assessment under FAA may see a change in value, depending on property class and situs county. The effect on an individual property owner will depend on the mix of property types and situs. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class and a listing of property newly qualifying or no longer qualifying for FAA in the coming year. In addition, the cost will be further altered by changes to local property tax rates. However, it is estimated that the overall change due to this amendment is minimal.

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-53. [2018]2019 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515.

(1) Each year the Property Tax Division shall update and publish schedules to determine the taxable value for land subject to the Farmland Assessment Act on a per acre basis.

(a) The schedules shall be based on the productivity of the various types of agricultural land as determined through crop budgets and net rents.

(b) Proposed schedules shall be transmitted by the Property Tax Division to county assessors for comment before adoption.

(c) County assessors may not deviate from the schedules.

(d) Not all types of agricultural land exist in every county. If no taxable value is shown for a particular county in one of the tables, that classification of agricultural land does not exist in that county.

(2) All property qualifying for agricultural use assessment pursuant to Section 59-2-503 shall be assessed on a per acre basis as follows:

(a) Irrigated farmland shall be assessed under the following classifications.

(i) Irrigated I. The following counties shall assess Irrigated I property based upon the per acre values listed below:

TABLE 1
Irrigated I

1) Box Elder	[758] 677
2) Cache	[654] 582
3) Carbon	[504] 451
4) Davis	[804] 719
5) Emery	[476] 427
6) Iron	[759] 683
7) Kane	[398] 357
8) Millard	[753] 674
9) Salt Lake	[680] 616
10) Utah	[715] 641
11) Washington	[620] 557
12) Weber	[769] 694

(ii) Irrigated II. The following counties shall assess Irrigated II property based upon the per acre values listed below:

TABLE 2
Irrigated II

1) Box Elder	[666] 595
2) Cache	[558] 497
3) Carbon	[399] 359
4) Davis	[708] 633
5) Duchesne	[465] 417
6) Emery	[383] 344
7) Grand	[367] 332
8) Iron	[665] 599
9) Juab	[424] 380
10) Kane	[306] 275
11) Millard	[661] 592
12) Salt Lake	[584] 529
13) Sanpete	[511] 460
14) Sevier	[538] 484
15) Summit	[438] 393
16) Tooele	[426] 381
17) Utah	[618] 554
18) Wasatch	[463] 416
19) Washington	[528] 475
20) Weber	[674] 608

(iii) Irrigated III. The following counties shall assess Irrigated III property based upon the per acre values listed below:

TABLE 3
Irrigated III

1) Beaver	[532] 514
2) Box Elder	[524] 468
3) Cache	[423] 376
4) Carbon	[265] 239
5) Davis	[569] 509
6) Duchesne	[326] 292
7) Emery	[241] 216
8) Garfield	[201] 181
9) Grand	[232] 210
10) Iron	[528] 475
11) Juab	[285] 256

12)	Kane	[169] <u>152</u>
13)	Millard	[523] <u>468</u>
14)	Morgan	[366] <u>328</u>
15)	Piute	[317] <u>285</u>
16)	Rich	[169] <u>152</u>
17)	Salt Lake	[445] <u>403</u>
18)	San Juan	[163] <u>146</u>
19)	Sanpete	[375] <u>338</u>
20)	Sevier	[400] <u>360</u>
21)	Summit	[299] <u>269</u>
22)	Tooele	[285] <u>255</u>
23)	Uintah	[353] <u>316</u>
24)	Utah	[474] <u>425</u>
25)	Wasatch	[322] <u>289</u>
26)	Washington	[388] <u>349</u>
27)	Wayne	[313] <u>281</u>
28)	Weber	[536] <u>483</u>

11)	Juab	[620] <u>586</u>
12)	Kane	[620] <u>586</u>
13)	Millard	[620] <u>586</u>
14)	Morgan	[620] <u>586</u>
15)	Piute	[620] <u>586</u>
16)	Salt Lake	[620] <u>586</u>
17)	San Juan	[620] <u>586</u>
18)	Sanpete	[620] <u>586</u>
19)	Sevier	[620] <u>586</u>
20)	Summit	[620] <u>586</u>
21)	Tooele	[620] <u>586</u>
22)	Uintah	[620] <u>586</u>
23)	Utah	[681] <u>644</u>
24)	Wasatch	[620] <u>586</u>
25)	Washington	[733] <u>693</u>
26)	Wayne	[620] <u>586</u>
27)	Weber	[676] <u>639</u>

(iv) Irrigated IV. The following counties shall assess Irrigated IV property based upon the per acre values listed below:

TABLE 4
Irrigated IV

1)	Beaver	[438] <u>424</u>
2)	Box Elder	[433] <u>387</u>
3)	Cache	[328] <u>292</u>
4)	Carbon	[170] <u>153</u>
5)	Daggett	[180] <u>162</u>
6)	Davis	[475] <u>425</u>
7)	Duchesne	[229] <u>205</u>
8)	Emery	[149] <u>134</u>
9)	Garfield	[108] <u>97</u>
10)	Grand	[140] <u>127</u>
11)	Iron	[432] <u>389</u>
12)	Juab	[189] <u>170</u>
13)	Kane	[76] <u>68</u>
14)	Millard	[425] <u>380</u>
15)	Morgan	[271] <u>243</u>
16)	Piute	[222] <u>199</u>
17)	Rich	[78] <u>70</u>
18)	Salt Lake	[344] <u>312</u>
19)	San Juan	[74] <u>66</u>
20)	Sanpete	[282] <u>254</u>
21)	Sevier	[307] <u>276</u>
22)	Summit	[206] <u>185</u>
23)	Tooele	[194] <u>174</u>
24)	Uintah	[261] <u>234</u>
25)	Utah	[381] <u>341</u>
26)	Wasatch	[229] <u>206</u>
27)	Washington	[292] <u>263</u>
28)	Wayne	[220] <u>198</u>
29)	Weber	[438] <u>395</u>

(b) Fruit orchards shall be assessed per acre based upon the following schedule:

TABLE 5
Fruit Orchards

1)	Beaver	[620] <u>586</u>
2)	Box Elder	[671] <u>634</u>
3)	Cache	[620] <u>586</u>
4)	Carbon	[620] <u>586</u>
5)	Davis	[676] <u>639</u>
6)	Duchesne	[620] <u>586</u>
7)	Emery	[620] <u>586</u>
8)	Garfield	[620] <u>586</u>
9)	Grand	[620] <u>586</u>
10)	Iron	[620] <u>586</u>

(c) Meadow IV property shall be assessed per acre based upon the following schedule:

TABLE 6
Meadow IV

1)	Beaver	[225] <u>218</u>
2)	Box Elder	[242] <u>216</u>
3)	Cache	[251] <u>223</u>
4)	Carbon	[125] <u>113</u>
5)	Daggett	[149] <u>134</u>
6)	Davis	[253] <u>226</u>
7)	Duchesne	[159] <u>143</u>
8)	Emery	[132] <u>118</u>
9)	Garfield	[99] <u>89</u>
10)	Grand	[127] <u>115</u>
11)	Iron	[250] <u>225</u>
12)	Juab	[145] <u>130</u>
13)	Kane	[104] <u>93</u>
14)	Millard	[185] <u>166</u>
15)	Morgan	[187] <u>168</u>
16)	Piute	[181] <u>163</u>
17)	Rich	[100] <u>90</u>
18)	Salt Lake	[218] <u>198</u>
19)	Sanpete	[185] <u>167</u>
20)	Sevier	[191] <u>172</u>
21)	Summit	[193] <u>173</u>
22)	Tooele	[177] <u>158</u>
23)	Uintah	[198] <u>177</u>
24)	Utah	[239] <u>214</u>
25)	Wasatch	[199] <u>179</u>
26)	Washington	[217] <u>195</u>
27)	Wayne	[164] <u>147</u>
28)	Weber	[287] <u>259</u>

(d) Dry land shall be classified as one of the following two categories and shall be assessed on a per acre basis as follows:

(i) Dry III. The following counties shall assess Dry III property based upon the per acre values listed below:

TABLE 7
Dry III

1)	Beaver	[49] <u>47</u>
2)	Box Elder	[88] <u>79</u>
3)	Cache	[112] <u>100</u>
4)	Carbon	[47] <u>42</u>
5)	Davis	[49] <u>44</u>
6)	Duchesne	[52] <u>47</u>
7)	Garfield	[46] <u>41</u>
8)	Grand	[47] <u>42</u>
9)	Iron	[47] <u>42</u>

10) Juab	[49] 44
11) Kane	[46] 41
12) Millard	[45] 40
13) Morgan	[61] 55
14) Rich	[46] 41
15) Salt Lake	[52] 47
16) San Juan	[50] 45
17) Sanpete	[52] 47
18) Summit	[46] 41
19) Tooele	[50] 45
20) Uintah	[52] 47
21) Utah	[48] 43
22) Wasatch	[46] 41
23) Washington	[46] 41
24) Weber	[75] 68

14) Millard	[73] 65
15) Morgan	[64] 57
16) Piute	[86] 77
17) Rich	[62] 56
18) Salt Lake	[67] 61
19) San Juan	[71] 63
20) Sanpete	[60] 54
21) Sevier	[62] 56
22) Summit	[69] 62
23) Tooele	[68] 61
24) Uintah	[77] 69
25) Utah	[63] 56
26) Wasatch	[50] 45
27) Washington	[62] 56
28) Wayne	[84] 75
29) Weber	[67] 60

(ii) Dry IV. The following counties shall assess Dry IV property based upon the per acre values listed below:

TABLE 8
Dry IV

1) Beaver	14
2) Box Elder	[56] 50
3) Cache	[79] 70
4) Carbon	[14] 13
5) Davis	[15] 13
6) Duchesne	[18] 16
7) Garfield	[14] 13
8) Grand	[14] 13
9) Iron	[14] 13
10) Juab	[15] 13
11) Kane	[14] 13
12) Millard	[13] 12
13) Morgan	[26] 23
14) Rich	[14] 13
15) Salt Lake	15
16) San Juan	[16] 17
17) Sanpete	[18] 16
18) Summit	[14] 13
19) Tooele	[14] 13
20) Uintah	[18] 16
21) Utah	[15] 13
22) Wasatch	[14] 13
23) Washington	[13] 12
24) Weber	[42] 38

(ii) Graze II. The following counties shall assess Graze II property based upon the per acre values listed below:

TABLE 10
GR II

1) Beaver	[21] 20
2) Box Elder	[22] 20
3) Cache	[21] 19
4) Carbon	[14] 13
5) Daggett	[13] 12
6) Davis	[18] 16
7) Duchesne	[18] 16
8) Emery	[20] 18
9) Garfield	[22] 20
10) Grand	[21] 19
11) Iron	[21] 19
12) Juab	[18] 16
13) Kane	[23] 21
14) Millard	[23] 21
15) Morgan	[20] 18
16) Piute	[25] 22
17) Rich	[19] 17
18) Salt Lake	[20] 18
19) San Juan	[23] 21
20) Sanpete	[17] 15
21) Sevier	[17] 15
22) Summit	[19] 17
23) Tooele	[19] 17
24) Uintah	[27] 24
25) Utah	[22] 20
26) Wasatch	[16] 14
27) Washington	[20] 18
28) Wayne	[27] 24
29) Weber	[19] 17

(e) Grazing land shall be classified as one of the following four categories and shall be assessed on a per acre basis as follows:

(i) Graze I. The following counties shall assess Graze I property based upon the per acre values listed below:

TABLE 9
GR I

1) Beaver	[67] 65
2) Box Elder	[71] 63
3) Cache	[67] 60
4) Carbon	[50] 45
5) Daggett	[50] 45
6) Davis	[58] 52
7) Duchesne	[66] 59
8) Emery	[68] 61
9) Garfield	[73] 66
10) Grand	[74] 67
11) Iron	[71] 64
12) Juab	[62] 56
13) Kane	[72] 65

(iii) Graze III. The following counties shall assess Graze III property based upon the per acre values below:

TABLE 11
GR III

1) Beaver	15
2) Box Elder	[16] 14
3) Cache	[14] 12
4) Carbon	[12] 11
5) Daggett	[11] 10
6) Davis	[12] 11
7) Duchesne	[13] 12
8) Emery	[13] 12
9) Garfield	[15] 13
10) Grand	[14] 13
11) Iron	[14] 13

12)	Juab	[13] 12
13)	Kane	[14] 13
14)	Millard	[15] 13
15)	Morgan	[12] 11
16)	Piute	[17] 15
17)	Rich	[12] 11
18)	Salt Lake	[14] 13
19)	San Juan	[16] 14
20)	Sanpete	[13] 12
21)	Sevier	[13] 12
22)	Summit	[13] 12
23)	Tooele	[13] 12
24)	Uintah	[18] 16
25)	Utah	[13] 12
26)	Wasatch	[12] 11
27)	Washington	[12] 11
28)	Wayne	[17] 15
29)	Weber	[13] 12

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

(iv) Graze IV. The following counties shall assess Graze IV property based upon the per acre values listed below:

TABLE 12
GR IV

1)	Beaver	5
2)	Box Elder	5
3)	Cache	5
4)	Carbon	5
5)	Daggett	5
6)	Davis	5
7)	Duchesne	5
8)	Emery	5
9)	Garfield	5
10)	Grand	5
11)	Iron	5
12)	Juab	5
13)	Kane	5
14)	Millard	5
15)	Morgan	5
16)	Piute	5
17)	Rich	5
18)	Salt Lake	5
19)	San Juan	5
20)	Sanpete	5
21)	Sevier	5
22)	Summit	5
23)	Tooele	5
24)	Uintah	5
25)	Utah	5
26)	Wasatch	5
27)	Washington	5
28)	Wayne	5
29)	Weber	5

(f) Land classified as nonproductive shall be assessed as follows on a per acre basis:

TABLE 13
Nonproductive Land

Nonproductive Land	
1) All Counties	5

KEY: taxation, personal property, property tax, appraisals
Date of Enactment or Last Substantive Amendment:
[November 30, 2017]2018

Transportation, Motor Carrier R909-2 Utah Size and Weight Rule

NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 43254
 FILED: 10/12/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to protect and preserve Utah's highway infrastructure, enhance safety, and facilitate commerce by regulating the movement of over dimensional and overweight vehicles and loads in Utah.

SUMMARY OF THE RULE OR CHANGE: These amendments to Rule R909-2 adopt new provisions/definitions revised by the FAST Act (updated August 9, 2018) for Automobile Transporter, and Tillerman/Steerman. These amendments update the maximum length for a Stinger-steered automobile transporter, and commercial delivery of light and medium duty trailers. Axle weights increased from 10,000 to 11,000 pounds for four tires per axle. Division personnel may only transfer a permit up to two times per vehicle. Overweight Non-Divisible and Overweight Divisible load permits are legal at 14 feet 6 inches high. Tow trucks at 165 feet or more will require a pilot escort vehicle. Tow trucks must be properly registered to purchase annual, semi-annual, or single trip permits if they exceed legal weight limitations. Tow trucks that exceed 120 feet in length are required to display one sign on the rear most towed vehicle. Rule R909-2 includes several grammatical revisions.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 41-1a-1206 and Section 41-1a-231 and Section 72-1-201 and Section 72-7-402 and Section 72-7-404 and Section 72-7-406 and Section 72-7-407 and Section 72-9-301 and Section 72-9-502

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The Department of Transportation (Department) does not anticipate that these proposed rule changes will have any measurable affect on the state's budget because it does not change the amount of work required to regulate the affected industries. The Department is already mandated by state and federal law to regulate motor carrier industries.

◆ **LOCAL GOVERNMENTS:** The Department estimates that local governments will not experience a fiscal impact related to these proposed amendments because this rule does not require anything of local governments. These proposed rule changes should not affect local governments in any way.

◆ **SMALL BUSINESSES:** Savings: Allowing axle weights from 10,000 to 11,000 pounds with four tires per axle. The savings is inestimable - one motor carrier moving six loads per day, can now carry 6,000 more pounds, reducing the number of loads for the same weight. This is a savings of trips, maintenance, and fuel. Low estimates could be a savings of thousands per company, and up to a savings of millions per year. Savings: Divisible load provisions/Night time restrictions/Travel provisions/Oversize Non-Divisible loads, Longer combination loads and Overweight Divisible loads have increased from 14 feet to 14 feet 6 inches. The savings is in-estimable. Savings: Tow truck proper registration and permitting will save a tow truck vehicle for being responsible for the permitting and registration requirements of the towed vehicle. The savings is in-estimable.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Savings: This amended rule will allow a tow truck to tow a disabled vehicle combination of a truck tractor, and two trailers in one move and not require a pilot escort until over 165 feet. There are about eight tow companies across the state that have vehicles equipped to tow this combination. The current rule requires that they transport the truck tractor, and one trailer, and then drop a trailer and move it separately. The cost for these types of tows now typically run about \$3,500. This amended rule would allow the tow company to charge about \$1,800 for the move, for the truck tractor and two trailers, and complete it in half the time. This is a savings of \$1,700 per tow for an individual, partnership, corporation, etc., that has broken down. It is estimated that these types of tows could occur about two times per week, for an average of eight per month per company, for each of the eight tow companies that use large tow vehicles Utah.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Costs: Companies using the Motor Carrier online system will now be limited to transferring a permit two times during the duration of the permit. Rule R909-2 has been amended due to the abuse of privileges by companies repeatedly transferring permits, rather than purchase a permit for each vehicle. Costs are in-estimable as the costs of permits vary. Transfers are only allowed on semi-annual and annual permits.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These proposed rule changes will likely have a positive fiscal

impact on businesses in the affected industries. Whether these proposed changes will have a fiscal impact on all businesses is indeterminable.

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

TRANSPORTATION
MOTOR CARRIER
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY, UT 84119-5998
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at cwnewman@utah.gov
- ◆ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at jimpalmer@utah.gov
- ◆ Linda Hull by phone at 801-965-4253, or by Internet E-mail at lhull@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/03/2018

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2018

AUTHORIZED BY: Carlos Braceras, 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	\$17,691.76 to \$19,973.48	\$0	\$0
Non-Small Businesses	\$535.16 to \$604.18	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$18,226.92 to \$20,577.66	\$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 Small and Non-Small Businesses

1) The Department of Transportation (Department) estimates the general freight trucking, motor vehicle towing, and road transport industries in Utah include the businesses most likely to experience a material fiscal impact resulting from these proposed amendments. This fiscal impact may be positive or negative, depending upon the specific business, or type of business impacted and how we define fiscal impact. These industries are comprised of establishments federal regulations define as motor carriers.

2) The Department of Workforce Services (DWS) Firm Find Data includes data about the industries regulated by this administrative rule, which includes 1,158 establishments identified by the NAICS industry codes 484110, 484121, 484122, 488410, and 488490.

3) Of these 1,158 firms, 34 are non-small businesses; 1,124 are small businesses, as defined by Subsection 63G-3-102(19). For a complete list of these 1,158 firms, contact the Department.

4) The Department's research suggests this proposed amendment will lead to compliance costs to the average impacted motor carrier, both small and non-small, from \$15.74 to \$17.77.

5) The basis for the Department's cost estimates is: The United States Department of Labor, Bureau of Labor Statistics, May 2017 State Occupational Employment and Wage Estimates for transportation and material moving occupations Utah places the medial hourly wage for workers in these industries at \$15.74, the mean wage at \$17.77.

6) The reason for this fiscal impact to these firms is: The Department estimates it will take the average transportation and material moving employee in one of the identified industries one hour to read and understand the proposed changes to this rule. The proposed rule change does not require firms to invest in anything or pay any new fee. The rule already regulates the identified industries. The only conceivable fiscal impact the Department can estimate is the time it takes for a person from each firm to read the proposed changes to the rule.

7) The Department estimates that neither it nor the State will experience a fiscal impact related to this proposed amendment because state and federal law already require it to regulate and inspect motor carrier commercial vehicles. This proposed amendment will not change the amount of work required to meet its responsibilities.

8) Carlos Braceras, executive director of the Department has reviewed and approved this fiscal analysis.

R909. Transportation, Motor Carrier.

R909-2. Utah Size and Weight Rule.

R909-2-1. Purpose and Applicability.

The purpose of this rule is to protect and preserve Utah's highway infrastructure, enhance safety, and facilitate commerce. All commercial motor vehicle operators, and motor carriers engaged in the movement of over dimensional and overweight vehicles and loads must comply with permit conditions as specified in the Utah Size and Weight rule. These conditions apply to all over dimensional vehicles and loads.

R909-2-2. Authority.

This rule is enacted under the authority of Sections 41-1a-231, 41-1a-1206, 72-1-201, 72-7-402, 72-7-404, 72-7-406, 72-7-407, 72-9-301, and 72-9-502.

R909-2-3. Definitions.

(1) "Appurtenance" as defined in CFR 23-658 and Section 72-7-402.

(2) "Articulated vehicle" consists of two or more vehicles that are connected by a joint that can pivot.

(3) "Automobile transporter" is any vehicle combination designed and used for the transport of assembled highway vehicles, including truck camper units. An automobile transporter shall not be prohibited from the transport of cargo or general freight on a backhaul, so long as it complies with weight limitations for a truck tractor and semitrailer combination.

~~_____~~(4)(3) "Bridge formula" is a bridge protection formula used by federal and state governments to regulate the amount of weight that can be put on each of a vehicle's axles, or the number of axles, and the distance between the axles or group of axles must be to legally carry a given weight.

(5)(4) "Cargo or cargo carrying length" means the total length of a combination of trailers or load measured from the foremost of the first trailer or load to the rearmost of the last trailer or load including all coupling devices.

(6)(5) "CSA" means the Compliance, Safety, Accountability program administered by the Federal Motor Carrier safety Administration, where they work together with state partners and industry to further reduce commercial motor vehicle crashes, fatalities, and injuries on our nation's highways.

~~_____~~(7)(6) "Commercial vehicle" is as defined in [CFR 390.5 and]Utah Code Section 72-9-102.

~~_____~~(7) ~~"Covered heavy-duty and recovery vehicle" means a vehicle that is transporting a disabled vehicle from the place where the vehicle became disabled to the nearest appropriate repair facility; and has a gross vehicle weight that is equal to or exceeds the gross vehicle weight of the disabled vehicle being transported.~~

~~_____~~(8) "Daylight" means one-half hour before sunrise and one-half hour after sunset.

(9) "Department" means the Utah Department of Transportation.

(10) "Divisible load" a load that can reasonably be dismantled or disassembled and does not meet the definition of non-divisible as defined in this section.

- (11) "Division" means the Motor Carrier Division.
- (12) "Drawbar" means the connection between two vehicles, measured from box to box or frame to frame or actual drawbar, one of which is towing or drawing the other on a highway.
- (13) "Dromedary unit" is a truck-tractor capable of carrying a load independent of a trailer. Units manufactured prior to December 1, 1982 are exempt as a truck-trailer.
- (14) "Emergency vehicle" means a vehicle designed to be used under emergency conditions: to transport personnel and equipment; and to support the suppression of fires and mitigation of other hazardous situations.
- (15) "Fixed axle" means an axle that is not steerable, self-steering or retractable.
- (16) "Flagger" is a person that is trained to direct traffic using signs or flags to aid the over-dimensional load or vehicles in the safe movement along the highway as designated on the over-dimensional load permit.
- (17) "Full trailer" a vehicle without motive power designed for carrying property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.
- (18) "High-risk motor carrier" is a carrier that is:
- above the threshold in the Crash or Fatigue or Unsafe BASIC that is greater than or equal to 85%, plus one other BASIC at or above the "all other" motor carrier threshold; or
 - a motor carrier with any four or more BASIC's at or above the "all other" motor carrier threshold.
- (19) "Highway" any public road, street, alley, lane, court, place, viaduct, tunnel, culvert, bridge, or structure laid out or erected for public use, or dedicated or abandoned to the public, or made public in an action for the partition of real property, including the entire area within the right-of-way.
- (20) "Implement of husbandry" means every vehicle designed or adapted or used exclusively for an agricultural operation and only incidentally operated or moved upon the highways.
- (21) "Incidental" means transportation that occurs occasionally or by chance[-] but does not exceed a distance of 20 miles.
- (22) "Interstate system" means any highway designated as an interstate or freeway. For the purpose of this rule: I-15, I-215, I-80, I-70, US 89 between I-84 and I-15 and SR 201 between I-15 and I-80 will be considered interstate.
- (23) "Laden" means carrying a load.
- (24) "Longer combination vehicle" or an LCV is a combination of truck, truck tractor, semi-trailer and trailers, which exceeds legal dimensions and operates on highways by permit for transporting divisible loads.
- (25) "Longer combination vehicle authority" means an authorization given to a specific company to exceed standard permitted length allowances for vehicle configuration on pre-approved routes.
- (26) "Manufactured home" a transportable factory[-] built housing unit constructed on or after June 15, 1976, in one or more sections, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.
- (27) "Manufactured mobile home" means a transportable factory[-] built housing unit built prior to June 15, 1976, in accordance with a state mobile home code, which existed prior to the Federal Manufactured Housing and Safety Standards Act.
- (28) "Motor carrier" as defined in Utah Code Section 72-9-102.
- (29) "MVR" means motor vehicle record.
- (30) "MUTCD" means Manual on Uniform Traffic Control Devices.
- (31) "Multi-trip" means two or more daily or a minimum of 10 weekly trips in the proximity of a port-of-entry.
- (32) "Natural gas vehicle" means the vehicle's engine is fueled primarily by natural gas.
- (33) "Non-divisible" any load or vehicle exceeding applicable length, width, or height or weight limits which, if separated into smaller loads or vehicles would:
- compromise the intended use of the load or vehicle;
 - destroy the value of the load or vehicle; or
 - require more than eight work hours to dismantle using appropriate equipment.
- (34) "Out-of-service" is a condition where a motor vehicle, because of mechanical condition or loading, is considered imminently hazardous and likely to cause an accident or breakdown; or where a driver violation renders a commercial vehicle operator unqualified to drive.
- (35) "Pole trailer" every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and is ordinarily used for transporting long or irregular shaped loads such as poles, pipes, or structural members generally capable of sustaining themselves as beams between the supporting connections.
- (36) "Port-of-entry by-pass permit" allows a motor carrier a temporary permit that would allow by-pass of a designated port of entry.
- (37) "Quad axle group" means a group of four consecutive fixed axles.
- (38) "Recreational vehicle" is a vehicle or vehicles that are driven solely as family or personal conveyances for non-commercial purposes.
- (39) "Retractable axle" is an axle which can be mechanically raised and lowered by the driver of the vehicle, but which may not have its weight-bearing capacity mechanically regulated.
- (40) "Rocky mountain doubles" a tractor and two trailers, consisting of a long and a short trailer.
- (41) "Saddle mount" means a truck or tractor towing other vehicles with the front axle of each towed vehicle mounted on top of the frame of the proceeding vehicle or vehicles.
- (42) "Secondary highway" is all other routes not designated as interstate or freeway. Two-lane, two-way highways are synonymous with secondary highways.
- (43) "Semi trailer" means every vehicle without motive power designed for carrying property and for being drawn by a motor vehicle and constructed so that some part of its weight and its load rests on or is carried by another vehicle.
- (44) "Special event" means the movement of an over-dimensional load or vehicle.
- (45) "Special mobile equipment" or an SME means a vehicle or vehicles exempt from registration that is not designed or used primarily for the transportation of persons or property; is not designed to operate in traffic; and is only incidentally operated or moved over the highways.

(46) "Special truck equipment" or [an]STE means a vehicle by nature of design that cannot meet the non-divisible weight allowances such as cement pump trucks, well boring trucks, or cranes with a lift capacity of five or more tons.

(47) "Spread axle" is two single axles that exceed 96 inches apart.

(48) "Tandem axle" means two axles spaced not less than 40 inches nor more than 96 inches apart and having at least one common point of weight suspension.

(49) "Tillerman/Steerman" is an individual who steers any axle of an articulated trailer.

(50[49]) "Towaway trailer transporter combination" means a combination of vehicles consisting of a trailer transporter towing unit and 2 trailers or semitrailers.

(51[9]) "Trailer transporter towing unit" means a power unit that is not used to carry property when operating in a towaway trailer transporter combination.

(52[+]) "Tridem axle" means any three consecutive axles whose extreme centers are not more than 144 inches apart, and are individually attached to or articulated from, or both, a common attachment to the vehicle including a connecting mechanism designed to equalize the load between axles.

(53[2]) "Triple trailer" means a tractor and three trailers of approximately equal length.

(54[3]) "Truck" means any self-propelled motor vehicle, except a truck tractor, designed or used for the transportation of property, laden or un-laden.

(55[4]) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load that is drawn.

(56[5]) "Trunnion axle" an axle configuration with two individual axles mounted in the same transverse plane, with four tires on each axle.

(57[6]) "Trunnion axle group" two or more consecutive trunnion axles that are attached to the vehicle by a weight equalizing suspension system and whose consecutive centers are more than 40 inches, but not more than 96 inches apart.

(58[7]) "Turnpike doubles" means a tractor and two trailers of equal length.

(59[8]) "UCR" means Unified Carrier registration.

(60[59]) "Un-laden" means a vehicle is not carrying a load.

(61[9]) "Variable load suspension axle" or VLS is an axle that can be adjusted mechanically to various weight bearing capacities and can also be mechanically raised and lowered.

(62[+]) "Vehicle" every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices used exclusively upon rails or tracks.

R909-2-4. Legal Size Vehicle Dimensions.

(1) Maximum legal vehicle dimensions, laden and un-laden, that may be operated without special permits on Utah Highways:

- (a) height: 14 feet
- (b) width: 8 feet 6 inches; and
- (c) length: See Table 1 Legal Size Vehicle Dimensions

TABLE 1

Legal Size Vehicle Dimensions

Vehicle	Maximum Length	Comments
Single motor vehicle	45 feet	Measured from bumper to bumper.
Semi-Trailer	53 feet	A trailer may not exceed 53 feet.
Double trailer combinations	61 feet	Measured from the front of the first trailer to the rear of the second trailer, excluding appurtenances. There is no overall length limitation on a truck tractor and double trailer combination when the trailers coupled together measure 61 feet or less.
[Stinger-steered	Less than 80 feet	Stinger-steered combinations are measured from bumper to bumper. Transporters may have front overhang of less than 4 feet and a rear overhang of less than 6 feet, with a maximum vehicle length limitation of less than 80 feet (excluding overhangs).]
Stinger-steered Automobile Transporter	80 feet or less	Stinger-steered Automobile transports are measured from bumper to bumper and may have a front overhang of 4 feet or less and a rear overhang of 6 feet or less, with a maximum vehicle length of 80 feet or less (excluding overhangs).
Saddle Mount	97 feet	This will allow a maximum of three saddle mount vehicles, one power unit and one full mount.
Truck trailer combination	65 feet	Measured from bumper to bumper.
Dromedary unit	65 feet	Truck tractor, unloaded box deck and trailer. A dromedary unit is considered a truck trailer configuration whether laden or un-laden.
	75 feet	Dromedary units transporting Class 1 Explosives or munitions related Security materials, as specified by the Department of Defense, are allowed up to 75 feet of overall length on the interstates. US highways and reasonable access routes without requiring a permit. Reasonable access means to the Interstate or US highway system.
All other combinations including recreational vehicles	65 feet	Measured from bumper to bumper.

Overhang	3 feet front 6 feet rear	Overhang may not carry any load extending more than 3 feet beyond the front of the power unit or more than 6 feet beyond the rear of the bed or body of the vehicle.
Drawbar	15 feet	The drawbar or other connection between any two vehicles, one of which is towing or drawing the other on a highway, may not exceed 15 feet in length from one vehicle to the other, measured from box to box or frame to frame, except in the case of a connection between any two vehicles transporting poles, pipe, machinery, or structural material that cannot be dismembered when transported upon a pole trailer.

Commercial delivery of light and medium duty trailers	Less than 82 feet	Consisting of a trailer transporter towing unit and 2 trailers or semitrailers with a total weight not to exceed 26,000 lbs; and in which the trailers or semitrailers carry no property and constitute inventory property of a manufacturer, distributor, or dealer of such trailers or semitrailers, may have an overall length limitation of less than 82 feet on a towaway trailer transporter combination.]
Commercial delivery of light and medium duty trailers	82 feet or less	Consisting of a trailer transporter towing unit and 2 trailers or semitrailers with a total weight medium duty not to exceed 26,000 lbs; and in trailers which the trailers or semitrailers carry no property and constitute inventory property of a manufacturer, distributor, or dealer of such trailers or semitrailers, may have an overall length limitation of 82 feet or less on a towaway trailer transporter combination.

R909-2-5. Legal Weight Limitations.

(1) The maximum gross and axle weight limitations are noted in Table 2 and may not be operated ~~in excess of~~ at more than:

TABLE 2

Maximum Gross and Axle Weight Limitations

Single Wheel	10,500 pounds
Single Axle	20,000 pounds
Tandem Axle	34,000 pounds
Tridem Axle	must comply with bridge formula
Gross Vehicle Weight	80,000 pounds

(2) An overweight permit must be obtained to authorize any exception to the maximum weight limitations listed in Table 2.

(3) The weight limitation in Table 2 does not apply to a covered heavy-duty tow and recovery vehicle.

(4) Emergency vehicles may exceed the weight limits (up to a maximum gross vehicle weight of 86,000 pounds) of less than - 24,000 pounds on a single steering axle; 33,500 pounds on a single

drive axle; 62,000 pounds on a tandem axle; or 52,000 pounds on a tandem rear drive steer axle.

(5) A natural gas vehicle may exceed any vehicle weight limit (up to a maximum gross vehicle weight of 82,000 pounds) by any amount that is equal to the difference between: the weight of the vehicle attributable to the natural gas tank and fueling system carried by that vehicle; and the weight of a comparable diesel tank and fueling system.

R909-2-6. Tire Load Provisions.

~~[(1) The use of narrow single tires, that are less than 14 inches wide, on any combination vehicle requiring an overweight or oversize permit shall not be allowed on single axles, except for steering axles, including self-steering VLS, or retractable axles, or wide base tires, that are 14 inches or greater.~~

~~(2) All axles having a weight in excess of 10,000 pounds shall be equipped with four tires per axle, or wide base single tires.]~~
(1) Except for steering axles, self-steering VLS and retractable axles, or wide based tires, that are 14 inches wide or greater as indicated by the manufacturer's sidewall rating, all axles weighing more than 11,000 pounds shall have at least four tires per axle.

(a) For example: A tridem axle group that is designed for equalized weight distribution, equipped with single tires less than 14 inches in width, will be allowed 33,000 pounds. A tandem axle group that is designed for equalized weight distribution, equipped with single tires less than 14 inches in width will be allowed 22,000 pounds. All axles in the group must be duals or super singles to be allowed maximum weight.

~~(2)~~(3) In circumstances where weight limitations are based on tire width, the manufacturer's size, as indicated on the sidewall will be used to determine maximum tire width:

(a) for non-permitted or legal vehicles, no tire shall exceed 600 pounds per inch of tire width as indicated on the sidewall;

(b) tire loading on vehicles requiring a ~~non-oversize~~ Divisible [or]oversize permit shall not exceed 500 pounds per inch of tire width for tires 11 inches wide or greater;

(c) tires that are greater than 11 inches but less than 14 inches shall have a weight limit not to exceed 5500 pounds;

~~(d)~~(e) tires less than 11 inches wide shall not exceed 450 pounds per inch of tire width; and

~~(e)~~(d) except as provided in R909-2-6, single axle loading shall not exceed 20,000 pounds, and tandem axle loading shall not exceed 34,000 pounds.

~~(4) Except for steering axles, self-steering VLS and retractable axles, or wide based tires, that are 14 inches wide or greater as indicated by the manufacturer's sidewall rating, all axles weighing more than 10,000 pounds shall have at least four tires per axle.~~

(a) For example: A tridem axle group that is designed for equalized weight distribution, equipped with single tires less than 14 inches in width, will be allowed 30,000 pounds. A tandem axle group that is designed for equalized weight distribution, equipped with single tires less than 14 inches in width will be allowed 20,000 pounds. All axles in the group must be duals or super singles to be allowed maximum weight.

~~(5) Dual or super single tires, that are 14 inches or greater, are required on all trailer axles.]~~

R909-2-7. Variable Load Axles.

- (1) Vehicles with variable load axles are limited as follows:
- (a) no more than three fixed axles shall be allowed in any group;
- (b) retractable or variable load suspension axles installed after January 1990 shall be self-steering on power units or when augmenting a tridem group on trailers;
- (i) Non-divisible loads may be exempt from these restrictions upon written approval from the division.
- (c) no axle in a group with a retractable or VLS axle shall exceed legal or bridge formula weight requirements, or the manufacturer's tire rating; and
- (d) Controls for raising or lowering retractable or VLS axles may be located in the cab of the power unit. The pressure regulator valve shall be positioned outside of the cab and be inaccessible from the driver's compartment.

R909-2-8. General Oversize or Overweight Provisions.

- (1) Except when entering on Northbound I-15 at the St. George Port of Entry, Westbound I-80 at the Echo Port of Entry, and Eastbound I-80 at the Wendover Port of Entry, the appropriate permit must be obtained prior to operating within the State of Utah.
- (2) Each oversize or overweight permit shall be carried in the vehicle or combination vehicles.
- (a) The permit may be in paper or electronic format.
- (3) The conditions that must be met to obtain an oversize or overweight permit are:
- (a) the motor carrier complies with the financial responsibility obligations;
- (b) the vehicle or vehicles must be properly registered;
- (c) the driver or drivers are properly licensed with appropriate endorsements;
- (d) the motor carrier complies with the Federal Motor Carrier Safety Regulations;
- (e) the motor carrier complies with the Hazardous Material Regulations; and
- (f) the motor carrier complies with the Unified Carrier Registration or UCR as required.
- (4) Exception. Length limitations do not apply to combinations of vehicles operated at night by a public utility when required for emergency repair of public service facilities or properties, or when operated with an oversize or overweight permit.
- (5) Liability of permittee. The applicant or permittee, as a condition for obtaining an oversize permit, shall assume all responsibility for crashes, including injury to any persons or damage to public or private property caused by their operations.
- (6) Indemnity clause. The applicant or permittee[;] must agree[s] to indemnify and hold harmless the department from any and all claims resulting directly or indirectly from the operation and transportation of vehicles or combination of vehicles operating under an oversize or overweight permit.

R909-2-9. Transfer or Replacement of Permits.

- (1) Division personnel may transfer permits from one vehicle to another up to two times per permit for a fee under the following conditions:
- (a) annual and semi-annual permits may be transferred to another unit within the same company;

- (b) the customer has sold or purchased a vehicle; [~~or~~]
- (c) lease changes from one company to another by providing evidence of permit ownership[;] or
- (d) the vehicle has become disabled.
- (2) A transfer permit will be issued with the same expiration date as the original permit.

R909-2-10. Permit Revocation, Suspension and Confiscation.

- (1) Violations of any permit that may result in the revocation, suspension or confiscation of the permit include, but are not limited to:
- (a) speeding [~~in excess of~~] or driving faster than the posted speed limit or the speed indicated on the permit;
- (b) lane travel;
- (c) weather;
- (d) load securement;
- (e) violations of the Federal Motor Carrier Safety Regulations; and
- (f) violations of the Hazardous Material Regulations.
- (2) Before a vehicle can be moved, it must be made legal, properly permitted and all [~~of~~] the out-of-service violations corrected.
- (3) Patterns of non-compliance at a carrier level may result in the following actions:
- (a) civil penalties;
- (b) suspension or revocation of permit privileges; or
- (c) an order to cease and desist operations.

R909-2-11. Weather Travel Restrictions.

- (1) No carrier shall operate a longer combination vehicle (LCV), a tractor trailer combination [~~in excess of~~] more than 81 feet cargo carrying length or a truck and two-trailer combination [~~in excess of~~] more than 92 feet measured bumper to bumper, when the following conditions exist:
- (a) wind [~~in excess of~~] more than 45 m.p.h.;
- (b) any accumulation of snow and ice on the roadway; or
- (c) visibility less than 1,000 feet.
- (2) No carrier shall operate an oversize vehicle or load [~~in excess of~~] more than 10 feet wide, 105 feet long, 10 feet front or rear overhang when the following conditions exist:
- (a) any accumulation of snow and ice on the roadway; or
- (b) visibility less than 1,000 feet.

R909-2-12. Curfew Congestion Restrictions.

- (1) Unless otherwise authorized, travel is prohibited for loads or vehicles [~~in excess of~~] more than 10 feet wide, 105 feet overall length, and 14 feet 6 inches in height, Monday thru Friday between 6 a.m. and 9 a.m. and between 3:30 p.m. and 6 p.m. mountain time on the following highways:
- (a) all highways south of Perry Willard Interchange, I-15, Exit #357;
- (b) all highways in Weber, Davis, and Salt Lake Counties;
- (c) all highways in Utah County north of I-15, Exit #261;
- (d) SR 68, North of mile post 16 in Utah County;
- (e) I-80 East side of Salt Lake County mile post 139 to mile post 101 on the West side of Salt Lake County; and
- (f) I-84 west of mile post 91.
- (2) The division may authorize exceptions to the curfew congestion restrictions based on mitigating circumstances.

R909-2-13. Holiday Travel Restrictions.

(1) Travel is prohibited for loads ~~[in excess of]~~ more than 10 feet wide, 105 feet overall length, and 14 feet 6 inches in height during the following holidays:

- (a) Christmas Day;
- (b) New Year's Day;
- (c) Memorial Day;
- (d) Independence Day;
- (e) Labor Day; and
- (f) Thanksgiving Day.

~~[(2) Monday holiday observance:~~

~~_____ (a) Holiday restrictions to begin at 2:00 p.m. the day before the holiday and extend to sunrise the day after the holiday.~~

~~_____](2[3]) Monday holidays and Monday observed holiday restrictions begin at 2:00 p.m. through midnight on the Friday prior to the holiday. Normal travel may resume from sunrise on Saturday through Sunday at midnight. Monday holiday restriction continues at 12:01 a.m. on Monday and ends Tuesday at sunrise.~~

~~(3[4]) The division may authorize exceptions to the holiday travel restriction based on mitigating circumstances.~~

~~(4[5]) The division may prohibit movement of oversize loads during days of anticipated high traffic volume such as those that occur during hunting seasons, other holidays, weather conditions, or special events.~~

R909-2-14. Night Time Restrictions.

(1) Loads exceeding the following dimensions are restricted to daylight hours except as provided in R909-2-15:

- (a) 14 feet 6 inches high;
- (b) 10 feet wide;
- (c) 105 feet in length; or
- (d) overhang ~~[in excess of]~~ of more than 10 feet.

R909-2-15. Night Time Travel Provisions.

(1) The movement of oversize loads at night will be allowed under the following conditions:

(a) loads may not exceed 12 feet wide on secondary highways, 14 feet wide on interstates, or 14 feet 6 inches high on all roadways;

(b) loads exceeding 10 feet wide, 105 feet overall length, or 10 feet front or rear overhang are required to have one certified pilot escort on interstate highways and two on all secondary highways;

(i) Exception. A tow truck towing vehicles with a total length of 120 feet or 10 feet wide may travel during hours of darkness and does not require a pilot escort.

(c) loads exceeding 92 feet overall length are required to have proper lighting every 25 feet, with amber lights to the front and sides of the load marking extreme width, and red to the rear; and

(d) night time travel authorization does not supersede adverse weather conditions.

(2) The division may authorize exceptions to the night time travel provisions based on mitigating circumstances.

R909-2-16. Oversize Divisible Load Provisions.

(1) An oversize permit may be issued for moving a combination of vehicles and loads exceeding the legal limits under the following conditions:

(a) the height of the combination or load does not exceed 14 feet 6 inches;

(b) the width of the combination or load does not exceed 8 feet 6 inches~~[-];~~

~~[(e) in combinations, a longer trailer shall precede the shorter trailer;~~

~~_____](c[d]) in multiple trailer combinations, a lighter trailer may not be placed in front of a heavier trailer when the weight difference is greater than 4000 pounds; and~~

~~(d[e]) drawbars exceeding 15 feet in length shall be marked with retro-reflective tape on half of the entire length of the drawbar on both the left and right side of the drawbar.~~

~~(i) The drawbar shall display an amber light [on] visible from both the right and left side of the drawbar located near the center of the drawbar.~~

R909-2-17. Oversize Non-Divisible Load Provisions.

(1) Permitted vehicles must comply with the following conditions:

(a) all vehicles and loads shall be reduced to the minimum practical dimensions;

(b) semi-annual and annual permits may be issued for dimensions up to, but not exceeding:

- (i) 14 feet 6 inches in height,
- (ii) 14 feet 6 inches in width, and
- (iii) 105 feet in length.

(2) Exceptions may be granted by the division for annual permitted loads ~~[in excess of]~~ that exceed the weights identified in this section, R909-2-17.

(3) Bulldozer blades, loader buckets or similar equipment exceeding 16 feet in width shall be removed for transport and may be hauled on the same load with the machinery after removal.

(4) Loads exceeding 17 feet in width on two-lane routes, 20 feet in width on interstates, or 17 feet 6 inches in height on all public highways may be allowed under the following terms and conditions:

(a) the permittee shall notify the division by submitting a permit application online, of the dimensions of the oversize vehicle or load and the proposed route to be used;

(b) the division will notify the department region or district permit official affected by the proposed route, and will obtain authorization for the move;

(c) permittee must request authorization through the online system at least 48 hours in advance of the movement;

(d) permit is not valid until the permittee has assumed the cost and responsibility to obtain utility company authorizations and clearances; and

(e) the permittee will assume all costs when a certified police escort or escorts are required.

(5) Tow trucks may purchase a semi-annual or annual non-divisible oversize permit up to 10 feet wide and 1[2]50 feet in length.

(a) Loads exceeding 10 feet wide and 1[2]50 feet long shall purchase a single trip permit.

R909-2-18. Oversize Non-Divisible Load Provisions Requiring Pilot Escort Vehicles.

(1) One pilot vehicle is required for vehicles or loads~~[-] which] that~~ exceed the following dimensional conditions:

(a) 12 feet in width on secondary highways for non-interstate, and 14 feet in width on divided highways for interstates;

(b) 105 feet in length on secondary highways and 120 feet in length on divided highways; ~~[and]~~

~~(c) tow trucks that measure 165 feet or more in length; and~~
~~(d[e]) overhangs [in excess of]of more than 20 feet shall~~ have a pilot escort vehicle positioned to the front for front overhangs and to the rear for rear overhangs.

(2) Two pilot escort vehicles are required for vehicles or loads which exceed the following dimensional conditions:

- (a) 14 feet in width on secondary highways;
- (b) 16 feet in width on divided highways;
- (i) mobile and manufactured homes with eaves greater than 12 inches shall be measured for overall width including eaves and pilot escort vehicles assigned as specified; or
- (c) 120 feet in length on secondary highways;
- (d) 16 feet in height on all highways; or
- (e) when otherwise required by the division.

R909-2-19. Oversize Non-Divisible Load Provisions Requiring Police Escorts.

(1) Police escorts are required for vehicles with loads which exceed:

- (a) 17 feet wide or 17 feet 6 inches high on secondary highways; or
- (b) 20 feet wide or 17 feet 6 inches high on all highways; or
- (c) All loads ~~[in excess of]~~more than 175 feet in length must have a minimum of one police escort;
- (d) All loads ~~[in excess of]~~more than 200 feet in length will require a minimum of two police escorts.

(2) The division may require police escorts based on extenuating circumstances.

R909-2-20. Oversize Non-Divisible Load Lighting, Signing and Flag Requirements.

- (1) Oversize non-divisible load lighting:
 - (a) warning lights required when headlights are necessary;
 - (b) front overhang ~~[in excess of]~~of more than three feet shall be marked with a steady, amber marker light and red flag;
 - (c) rear overhang exceeding four feet shall be marked with red clearance lights for night travel;
 - (d) vehicles with front or rear overhang exceeding 20 feet from the front or rear bumper of a vehicle, or from the center of the closest axle in the absence of a bumper, a rotating or flashing beacon visible from a minimum of 500 feet, and shall be displayed at a minimum height of four feet above ground;
 - (e) tow vehicle headlights shall be operated on low beam, day or night, as an additional warning to traffic; and
 - (f) night time travel, when authorized by the division may be permitted with marker lights indicating extreme width using amber lights front and center, and red lights to the rear.

(2) Oversize non-divisible load sign requirements. Non-divisible oversize loads exceeding 10 feet in width, 14 feet 6 inches in height and 105 feet in length shall display an "OVERSIZE LOAD" sign, to warn the motoring public that extra-large vehicles are in operation. Signs must:

- (a) be 7 feet by 18 inches;
- (b) have a yellow background with 10-~~[]~~inch-~~[]~~high black letters that are painted with 1 5/8 inches wide stroke to read: "OVERSIZE LOAD";
- (c) be impervious to moisture;

(d) have front signs mounted on front bumper or on top of vehicle cab with letters presented toward the front of the vehicle;

(e) have rear signs positioned at the rear most part of the Vehicle or load as feasible, ensuring in all cases that the load does not obstruct the view of the sign;

(f) if possible, have the bottom edge of the sign be positioned not more than 5 feet above the road surface;

(g) be mounted with adequate supporting anchorage, constructed, maintained, and displayed so that they are always clearly legible~~[at all times]~~;

(h) be covered, removed or placed face down when the vehicle is not engaged in an oversize movement; and

(i) oversize loads signs are not required on LCVs.

(3) Oversize non-divisible load flag requirements. Red or orange flags must be affixed on all extremities when:

(a) vehicle or load exceeds 10 feet in width;

(b) loads on a vehicle exceeding three feet to the front or four feet to the rear of the bed or body while in operation;

(c) flags shall be completely clean and not torn, faded, or worn out and shall be fastened ~~[so as]~~ to wave freely; and

(d) over dimensional flagging is not required on LCVs.

~~(4) Tow trucks that exceed 120 feet in length are required to:~~

~~(a) display one sign on rear most of towed vehicle.~~

~~(i) the sign must have a yellow background with 10 inch high black letters that are painted with 1 5/8 inches wide stroke to read: "IN-TOW LONG LOAD"; and~~

~~(ii) be 4 feet by 2 feet minimum.~~

R909-2-21. Convoys.

(1) The movement of more than one permitted vehicle is allowed provided prior authorization is obtained from the division with the following conditions:

(a) the number of permitted vehicles in the convoy shall not exceed two;

(b) loads may not exceed 12 feet wide or 150 feet overall length;

(c) distance between vehicles shall not be less than 500 feet or more than 700 feet;

(d) distance between convoys shall be a minimum of one mile;

(e) all convoys shall have a certified pilot escort in the front and rear with proper signs;

(f) police escorts or department personnel may be required;

(g) convoys must meet all lighting requirements;

(h) convoys are restricted to freeway and interstate systems; and

(i) approval for convoys or night time travel may be obtained by contacting the division, and exceptions may be granted by the division on a case by case basis.

R909-2-22. Trailers ~~[in excess of]~~More Than 53 to 57 Feet in Length.

Trailers exceeding 53 feet but not to exceed 57 feet may acquire a single trip, semiannual or annual permit. Trailers ~~[in excess of]~~more than 53 feet must have LCV authority to purchase semi-annual and annual permits.

R909-2-23. Longer Combination Vehicles.

(1) Motor Carriers operating longer combination vehicles or LCV's must apply and be approved to operate on designated routes on Utah's interstate system.

(2) Authorized motor carriers may operate interstate LCV's with a cargo or cargo carrying length as follows:

(a) a tractor trailer or tractor trailer combination [~~in excess of~~ more than 81 feet not to exceed 95 feet cargo or cargo carrying length; or

(b) a truck and two-trailer combination [~~in excess of~~ more than 92 feet not to exceed 95 feet in length, 14 feet 6 inches in height, or 8 feet 6 inches in width.

(3) LCV conditions for operation:

~~[(a) in combinations, a longer trailer shall precede the shorter trailer;~~

~~_____]~~[a]~~[b]~~ non-divisible dimensions with a width greater than 8 feet 6 inches or height greater than 14 feet 6 inches, may not be transported on LCV's; and

~~[b]~~[e] acceptable travel conditions exist in accordance with hazardous conditions for loads [~~in excess of~~ more than 81 feet cargo or cargo carrying length.

(4) A truck and single trailer exceeding legal length may be permitted up to 88 feet, ~~and~~ but requires LCV authority when exceeding 88 feet up to 92 feet.

(5) A dromedary unit when exceeding legal length may be permitted up to 88 feet.

(6) LCV's and double trailers exceeding 81 feet cargo carrying length may not operate on secondary highways other than those pre-approved by the division.

R909-2-24. Overweight Divisible Load Provisions.

(1) An overweight divisible load permit may be issued for moving a combination of vehicles and loads exceeding the legal limits under the following conditions:

(a) The vehicle or combination of vehicles is properly registered for 78,001 to 80,000 pounds;

(b) The width of the vehicle does not exceed 8 feet 6 inches wide or 14 feet 6 inches high;

(c) All axles weighing more than 11[~~0~~],000 pounds are required to have at least four tires per axle except for steering axles, self-steering variable load suspension or retractable axles, or wide base single tires, that are 14 inches or greater as indicated by the manufacturer's sidewall rating.

(2) Overweight divisible load options are:

(a) dual tires on all axles;

(b) super wide single tires that are 14 inches wide or greater;

(c) not to exceed 11[~~0~~],000 pounds per axle;

(d) the axle, groups of axles, and GVW do not exceed the bridge formula $W = 500(LN/(N-1) + 12N+36)$; and

(e) all axles in the group must be duals or super singles to be allowed maximum authorized weight.

(3) The combination unit will conform to the bridge formula and the legal axle and gross vehicle weight limits.

(4) A divisible load permit may not be used to transport a non-divisible load.

(a) Exception. An overweight non-divisible load may operate with a divisible overweight permit provided the axle, gross and bridge limitations do not exceed those specified on the permit.

R909-2-25. Overweight Non-Divisible Load Provisions.

(1) Permitted vehicles must comply with the following conditions:

(a) all vehicles and loads shall be reduced to the minimum practical dimensions; and

(b) the vehicle or combination of vehicles is properly registered for 78,001 to 80,000 pounds or the total gross weight of the vehicle.

(2) Actual weight must comply with the bridge table formula $\sim 1.47 \times 500 (LN/N-1 + 12N + 36)$.

(3) A permit for a non-divisible load may not be used to transport a divisible load.

(4) Vehicles with a gross vehicle weight of less than 125,000 may be permitted on a single trip, semiannual trip, or annual trip basis as described in Table 3:

TABLE 3

Single Trip, Semi-Annual Permits allowed up to:

Single Axle	29,000 pounds
Tandem Axle	50,000 pounds
Tridem Axle	61,750 pounds
Trunnion Axle	60,000 pounds
Gross Weight	125,000 pounds

~~[(5) Tow trucks may purchase a semi-annual, or annual non-divisible overweight permit as specified in Table 3.~~

~~_____]~~(a) Tow truck loads exceeding the maximum limits in Table 3 shall purchase a single trip permit. (5) Tow trucks must be properly registered to purchase annual, semi-annual or single trip permits if they exceed legal weight limitations.

(a) The properly registered and/or permitted weight of the towed vehicle is not calculated in the tow trucks towed vehicles gross combined weight.

(b) Tow trucks must be properly registered and permitted for weight of tow truck and any additional weight placed upon it.

(c) If the towed weight is not properly registered and/or permitted, the towing vehicle will be responsible for the permitting and registration requirements of the towed vehicle.

(6) Vehicles transporting milk products may exceed the gross weight limit of 80,000 pounds or the maximum weight allowed by the Federal Bridge Formula. This requires an appropriate non-divisible permit issued by the Department.

(a) Milk products being carried using multiple trailers will be required to abide by divisible requirements and do not get the non-divisible exception.

R909-2-26. Overweight Non-Divisible Loads Exceeding 125,000 Pounds Gross or Axle Weights.

(1) Loads exceeding 125,000 pounds gross, or axle weights in R909-2-24, may only purchase single trip permits.

(2) Axle, bridge, and gross weight allowances will be determined based on the non-divisible bridge table formula $\sim 1.47 \times 500 (LN/N-1 + 12N + 36)$ or in accordance with the bridge table.

(3) 9 feet wide axles are allowed 7.5% more weight than 9 feet wide axles.

(4) 10 feet wide axles are allowed 15% more weight than 8 feet wide axles.

(5) When using an axle equipped with eight tires, rather than four, add 10% to the weight authorized for an 8-foot-wide axle group.

(6) All tires shall ~~[be in compliance]~~ comply with the manufacturer's tire load rating as indicated on the tire side wall.

(7) All STE operations must have a ~~[n]~~ STE profile sheet when the axle limitations specified in Table 3 or bridge table are exceeded.

R909-2-27. Mobile and Manufactured Homes.

(1) Mobile and manufactured homes exceeding 14 feet 6 inches to 16 feet in wall-to-wall width, transported on their own running gear, may be issued a single trip permit under the following conditions:

(a) all trailer axles shall be equipped with operational brakes; and

(b) axle and suspensions shall not exceed manufacturer's capacity rating.

(2) Paneling requirements of the open sides of a mobile manufactured home:

(a) a rigid material of 0.5-millimeter plastic sheathing backed by a rigid grillwork not exceeding squares of four feet to prevent billowing must fully enclose the open sides of the units in transit.

(3) Rear mounted stop and turn signal lights shall be a minimum 6 inches in diameter with a type 35 red reflector lens.

(a) The lens shall be mounted not more than 18 inches from the outer edge of the unit and not less than 15 inches or more than 8 feet above the road surface.

(b) Houses, buildings, and structures not manufactured or built to be transported, will not require tail, brake, or signal lights mounted on the structures as certified pilot and police escort vehicles provide sufficient warning of the intent to brake, turn or stop.

(4) Two safety chains shall be used, one each on the right and left sides but separate from the coupling mechanism connecting the tow vehicle and the mobile and manufactured home while in transit.

(5) Tow Vehicles. Tow vehicles shall comply with the following minimum requirements:

(a) conventional or cab-forward configuration shall have a minimum wheelbase of 120 inches;

(b) cab-over engine tow vehicles shall have a minimum wheelbase of 89 inches;

(c) have a minimum of four rear tires; and

(d) mirrors on each side of the tow vehicle shall be arranged so that the driver can see the entire length of both sides of the towed unit.

(6) Trailer brake requirements:

(a) mobile manufactured homes ~~[in excess of]~~ more than 8 feet 6 inches wide, up to 12 feet wide and equipped with one axle, must have operational brakes; and

(b) a minimum of two axles equipped with operative brake assemblies is required on each mobile manufactured home unit ~~[in excess of]~~ more than 12 feet wide.

R909-2-28. Pilot Escort Requirements and Certification Program.

(1) Pilot escort driver requirements. Individuals who operate a pilot escort vehicle must meet the following requirements:

(a) must be a minimum of 18 years of age;

(b) must possess a valid driver's license for the state jurisdiction in which the driver resides;

(c) must obtain a certification card by an authorized qualified certification program as outlined in this section, and shall have it in their possession at all times while in pilot escort operations;

(d) within 30 days pilot escort drivers must provide a current Motor Vehicle Record (MVR) certification to the qualified certification program at the time of the course;

(e) no passengers under 16 years of age are allowed in pilot escort vehicles during movement of oversize loads;

(f) a pilot escort driver may not perform as a tillerman/steerman while performing pilot escort operations; and

(g) a pilot escort driver must meet the requirements of 49 CFR 391.11 if using a vehicle for escort operations ~~[in excess of]~~ that weighs more than 10,000 lbs.

(2) Driver certification process.

(a) Drivers domiciled in Utah must complete a Utah pilot escort certification course authorized by the division. A list of authorized instructors may be obtained by contacting (801) 965-4892.

(b) Pilot escort drivers domiciled outside of Utah may operate as a certified pilot escort driver with another state's certification credential, provided the course meets the minimum requirements outlined in the Pilot Escort Training Manual - Best Practices Guidelines as endorsed by the Specialized Carriers and Rigging Association, Federal Highway Administration, and the Commercial Vehicle Safety Alliance.

(c) The department may enter into a reciprocal agreement with other states provided they can demonstrate that course materials are comprehensive and meet minimum requirements outlined by the department.

(i) A current listing of reciprocity states may be obtained by contacting the division at 801-965-4892.

(d) The pilot escort driver's initial certification expires four years from the date issued, and it is the responsibility of the driver to maintain certification.

(i) One additional four-year certification may be obtained through a mail-in or on-line re-certification process provided by a qualified pilot escort training entity.

(3) Suspensions and revocations.

(a) Pilot escort drivers may have their certification denied, suspended, or revoked by the division if it is determined that a disqualifying offense has occurred within the previous four years.

(b) Drivers convicted of serious traffic violations such as excessive speed, reckless driving and driving maneuvers reserved for emergency vehicles, driving under the influence of alcohol or controlled substances may have their certification denied, suspended, or revoked by the division.

(c) The division may suspend for first offenses up to one year. Subsequent offenses may result in permanent revocation of driver certification.

(d) When a driver is denied pilot escort driving privileges for reasons other than the conditions set forth in this rule, the individual may file an appeal.

(i) The appeals shall be handled by a steering committee created by the division.

(e) The steering committee shall have the powers granted to the deputy director in R907-1-3 for appeals from other division administrative actions. This committee's decision, if adopted by the

director of the division, will be considered a final agency order under Administrative Procedures in R907-1.

(4) Pilot escort vehicle standards.

(a) Pilot escort vehicles may be either a passenger vehicle or a two-axle truck with a 95 inch minimum wheelbase and a maximum gross vehicle weight of 12,000 lbs and properly registered and licensed as required under Utah Code Sections 41-1a-201 and 41-1a-401.

(b) Equipment shall not reduce visibility or mobility of pilot escort vehicle while in operation.

(c) Trailers may not be towed at any time while in pilot escort operations.

(d) Pilot escort vehicles shall be equipped with a two-way radio capable of transmitting and receiving voice messages over a minimum distance of one-half mile.

(i) Radio communications must be compatible with accompanying pilot escort vehicles, utility company vehicles, permitted vehicle operator and police escort, when necessary.

(ii) When operating with police escorts a CB radio is required.

(e) Pilot escort vehicles may not carry a load.

(5) Pilot escort vehicle signing requirements. Sign requirements on pilot escort vehicles are as follows:

(a) pilot escort vehicles must display an "OVERSIZE LOAD" sign, which must be mounted on the top of the pilot escort vehicle;

(b) signs must be a minimum of 5 feet wide by 10 inches high visible surface space, with a solid yellow background and 8-~~[-]~~ inch-~~[-]~~ high by 1-~~[-]~~ inch wide black letters. Solid is defined as when being viewed from the front or rear at a 90-degree angle, no light can transmit through;

(c) the sign for the front pilot escort vehicle shall be displayed so it is always~~[as to be]~~ clearly legible and readable by oncoming traffic~~[at all times]~~; and

(d) the rear pilot escort vehicle shall display its sign so it is~~[as to be]~~ readable by traffic overtaking from the rear and clearly legible at all times.

(6) Pilot escort vehicle lighting requirements. Two methods of lighting are authorized by the division. Requirements are as follows:

(a) two AAMVA approved amber flashing lights mounted with one on each side of the required sign. These shall be a minimum of six inches in diameter with a capacity of 60 flashes per minute with warning lights illuminated at all times during operation;

(b) an AAMVA approved amber rotating, oscillating, or flashing beacon or light bar mounted on top of the pilot escort vehicle. This beacon light bar must be unobstructed and visible for 360 degrees with warning lights illuminated at all times during operation; and

(c) incandescent, strobe or diode lights may be used provided they meet the above criteria.

(7) Pilot escort vehicle equipment requirements. Pilot escort vehicles shall be equipped with the following safety items:

(a) standard 18-inc~~[H]~~h or 24-inch red and white "STOP" and black and orange "SLOW" paddle signs. For nighttime travel moves, signs must be reflective in accordance with MUTCD standards;

(b) nine reflective triangles or 18-inch reflective orange traffic cones, not to replace or be replaced by items (c) or (d);

(c) eight red-burning flares, glow sticks or equivalent illumination device approved by the division;

(d) three orange 18-~~[-]~~inch-~~[-]~~high cones;

(e) a flashlight with a minimum 1 1/2-~~[-]~~inch lens diameter, with extra batteries or charger. An emergency type shake or crank flashlight will not be allowed;

(f) 6-inch minimum length red or orange cone or traffic wand for use when directing traffic;

(g) an orange hardhat and class 2 safety vest for personnel involved in pilot escort operations. Class 3 safety vests are required for nighttime travel moves;

(h) a height-measuring pole made of a non-conductive, non-destructive, flexible or frangible material, only required when escorting a load exceeding 16 feet in height;

(i) a fire extinguisher;

(j) a first aid kit that is clearly marked;

(k) one spare "OVERSIZE LOAD" sign, 7 feet by 18 inches;

(l) one serviceable spare tire, tire jack and lug wrench;

(m) a handheld two-~~[-]~~way simplex radio or other compatible form of communication for operations outside pilot escort vehicles; and

(n) vehicles shall not have unauthorized equipment on the vehicle such as those generally reserved for law enforcement personnel.

(8) Police escort vehicle equipment and safety requirements. Police escort vehicles shall be equipped with the following safety items:

(a) all officers must have a CB radio to communicate with the pilot and transport vehicles;

(b) officers shall complete a Utah Law Enforcement Check List and Reporting Criteria Form;

(c) officers shall verify that all pilot escorts are in possession of current pilot escort inspections, or they shall complete an inspection prior to load movement;

(d) police vehicles must be clearly marked with emergency lighting visible 360 degrees; and

(e) officers shall be in uniform while conducting police escort moves.

(9) Insurance for pilot escort vehicles.

(a) Driver shall possess a current certificate of insurance or endorsement which indicates that the operator, or the operator's employer, has in full force and effect not less than \$750,000 combined single limit coverage for bodily injury and property damage as a result of the operation of the escort vehicle, the escort vehicle operator, or both causing the bodily injury and property damage arising out of an act or omission by the pilot escort vehicle operator of the escort duties required by the regulations. Such insurance or endorsement, as applicable, must always be maintained ~~[at all times]~~ during the term of the pilot escort certification.

(b) Pilot escort vehicles shall have a minimum amount of \$750,000 liability. This is not a cumulative amount.

(10) Pre-trip planning and coordination requirements. A coordination and planning meeting shall be held prior to load movement. The drivers carrying or pulling the oversize loads, the pilot escort vehicle drivers, law enforcement officers, department personnel, and public utility company representatives shall attend as required. When police escorts are present, a Utah Law Enforcement Check List and Reporting Criteria Form must be completed. This meeting shall include discussion and coordination on the conduct of the move, including at least the following topics:

(a) the person designated as being in charge such as a department representative or a law enforcement officer;

(b) all documentation for authorized routing and permit conditions is distributed to all appropriate individuals involved in the move;

(c) communication and signals coordination;

(d) permitted dimensions will be verified with measurement of load dimensions; and

(e) copies of permit and routing documents shall be provided to all parties involved with the permitted load movement.

(11) Permitted vehicle restrictions on certain highways. Certified pilot escort operators must refer to highway restrictions specified in the secondary highway restrictions prior to all load movements.

(12) Flagging requirements. During the movement of an over-dimensional load or vehicle, the pilot escort driver, in the performance of the flagging duties required by R909-2-28, may control and direct traffic to stop, slow or proceed in any situations where it is deemed necessary to protect the motoring public from the hazards associated with the movement of the over-dimensional load or vehicle. The pilot escort driver, acting as a flagger, may aid the over-dimensional load or vehicle in the safe movement along the highway designated on the over-dimensional load permit and shall:

(a) assume the proper flagger position outside the pilot escort vehicle, and as a minimum standard, have in use the necessary safety equipment as defined in 6E.1 of the MUTCD;

(b) use "STOP" and "SLOW" paddles or a 24-inch red or florescent orange or red square flag to indicate emergency situations, and other equipment as described in 6E.1 of the MUTCD; and

(c) comply with the flagging procedures and requirements as set forth in the MUTCD and the Utah Department of Transportation Flagger Training Handbook.

R909-2-29. Requirements for Pilot Escort Qualified Training and Certification Programs.

(1) Application process. Application to become a third-party pilot escort trainer or instructor shall be made on a form furnished by the division, and shall include the following:

(a) name and address of entity;

(b) list of instructors;

(c) resumes of each instructor outlining related experience in the pilot escort, heavy haul, academia, or commercial vehicle enforcement fields;

(d) a copy of entity's business license;

(e) sample of digital image certification card that will be issued to students upon completion of the course;

(f) sample of "Flagger" certification card that will be issued to students upon completion of the course;

(g) procedural guidelines that outline security measures implemented to safeguard student's personal information; and

(h) copies of all course curriculum and testing materials.

Course materials will be reviewed and approved by the division to ensure that all requirements are met.

(2) Course curriculum requirements. An extensive course curriculum description and information can be obtained by contacting the ~~division~~ UDOT Motor Carrier Division Customer Service/Superload team at (801) 965-4892. Course curriculum to certify pilot escort drivers to operate in Utah must cover the following topics:

(a) division rules governing over-size load movements;

(b) pilot escort operations;

(c) flagging maneuvers for over dimensional loads;

(d) oversize or overweight load movement, coordination, planning and communication requirements and best practices;

(e) pilot escort vehicle positioning and situational training;

(f) rail grade crossing safety;

(g) routing techniques, including pre-trip surveys; and

(h) insurance coverage requirements and liability issues.

(3) Testing procedures.

Testing materials shall be submitted to the division for approval. Tests should be structured with a minimum of 40 questions per exam. A minimum of two different examinations shall be submitted and used randomly during the instruction of the course and structured as follows:

(a) 12 Fill in the blank;

(b) 12 Multiple choice;

(c) 12 true and false questions;

(d) one to six questions dealing with safety equipment;

(e) one to four questions dealing with the duties of pilot escort drivers;

(f) one to six questions dealing with maintenance of equipment; and

(g) one to six questions dealing with items that must be collected in a route survey.

(4) Grading of examinations. Entity must provide an explanation of how the test will be administered.

(5) Students must pass with an 80% score to be certified.

(6) Students receiving less than 80% score will be allowed to attend one additional class without additional cost except for reimbursement of any additional materials and postage costs.

(7) When a contract is terminated with the third-[-]party pilot and escort trainer, it will be the responsibility of the entity to provide an electronic database to the division, of all students that have completed the course.

(8) Applicant Recertification Procedures.

(a) Entity shall provide means in which an individual may be re-certified either by mail or the internet.

(b) Entity shall submit written procedures documenting the process for the examination that will allow the applicant recertification. The examination shall not be a duplicate of the examination used during the initial certification process and should be constructed as to educate the student on updates pertaining to pilot escort certification and legal requirements.

(c) Re-certification tests shall be structured as outlined in R-909-2-29.

(d) Applicant's receiving less than 80% score will be allowed to retake the certification exam one additional time at no additional class without additional cost except for reimbursement of any additional materials and postage costs.

(e) Students receiving less than 80% score will be allowed to attend one additional class or certify by mail or online without additional cost except for reimbursement of any additional materials and postage costs.

(9) Training costs. Costs associated with providing classroom instruction, materials, testing and credentialing will be the responsibility of the authorized training entity.

(a) These costs may be passed on to the students for certification in the form of tuition determined by the training entity based on business model and expenses.

(b) Cost proposal and course fees must be submitted to the division for approval as part of the application process.

(10) Suspensions and revocations of pilot escort training entities.

(a) The division may suspend or revoke the entity's ability to provide services if the entity fails to meet conditions and requirements set forth in [R]R909-2-29.

(b) If an entity has its authority to provide services revoked or suspended, the entity may appeal the decision.

(i) The appeals shall be handled by a steering committee created by the division.

(ii) The steering committee shall have the powers granted to the department's deputy director for appeals from other division administrative actions.

(iii) This committee's decision, if adopted by the director of the division, will be considered a final agency order under the Utah Administrative Procedures Act.

(11) The division has the right to review:

(a) rates;

(b) fees;

(c) procedures; and

(d) the certification process established by the entity whenever the division deems it necessary to ensure compliance with this rule.

(12) Record retention and data management requirements. Authorized pilot escort qualified training and certification entities or institutions shall maintain the following certification and recertification records for a period of eight years:

(a) student's name, address, and contact information;

(b) driver's license number, original MVR and original proof of insurance information from insurance provider;

(c) copy of each student's written exam;

(d) digital copy of certification flagger card, including photo;

(e) training and expiration dates on all students;

(f) re-certification and expiration dates; and

(g) list of instructors, proctors, administrators, and a copy of their resumes and date of classroom instruction and recertification dates providing services.

(13) Records may be scanned and kept electronically provided entity has necessary data backup and retrieval procedures.

(a) The division has the right to review any records retained and may observe the instruction given both in the classroom and through the re-certification process whenever the division deems it necessary to insure compliance with this rule.

(b) The loss, mutilation or destruction of any records which an entity is required to maintain, must be immediately reported by the entity by affidavit stating the date such records were lost, mutilated, or destroyed, and the circumstances involving such loss, mutilation, or destruction.

(c) All records must be retained by the entity for eight years, [with the exception of] except for the computerized file, which is to be kept permanently, during which time the entity shall be subject to inspection by the division during reasonable business hours. ~~If in the event that~~ the entity goes out-of-business, the permanent record shall be submitted by the entity to the division.

(d) It is the responsibility of the entity to provide a list of applicants that have successfully re-certified along with the corresponding grade to the division at the end of each quarter of each calendar year.

(e) All records, including computerized records, must be provided to the division when requested for [the purpose of] an audit or review of the entities records. Failure to provide all records as requested by the division is a violation of this rule.

(f) Entities shall maintain accurate, up to date records.

R909-2-30. Farmers, Implements of Husbandry and Agricultural Operations.

(1) Vehicle combinations for hay truck operations may transport two rolls or bales of hay side by side when:

(a) the two rolls or bales are 10 feet or less in combined width;

(b) the load is being operated with a valid non-divisible oversize permit;

(c) oversize loads exceeding 8 feet 6 inches may not be transported on double trailers exceeding 61 feet cargo or cargo carrying length;

(d) the load must meet all other divisible load requirements in R909-2-24; and

(e) loads are properly secured.

(2) Implements of husbandry moved by a farmer, rancher, or his employees in connection with an agricultural operation must comply with:

(a) every farm tractor and towed farm equipment, towed or self-propelled implements of husbandry, designed for operation at speeds not more than ~~in excess of~~ 25 miles per hours, ~~shall at all times~~ must always be equipped with a slow-[-]moving vehicle emblem mounted on the rear; and

(b) every farm tractor and every self-propelled implement of husbandry manufactured or assembled after January 1970 shall be equipped with vehicular hazard warning lights visible from a distance [of] not less than 1,000 feet to the front and rear in normal sunlight, which shall be displayed whenever any such vehicle is operated upon a highway.

R909-2-31. Snow Plow Operations.

(1) Blades ~~in excess of~~ more than 8 feet 6 inches must be equipped with a yellow, rotating beacon warning light.

(2) Snow plows with up to 12 feet wide blades may operate without oversize permits, when they ~~are in compliance~~ comply with:

(a) lights which provide adequate illumination when the blade is in either the up, or down position;

(b) signaling lights shall not be obscured; and

(c) blades must be angled so that the minimum width is exposed to oncoming traffic during periods of travel between jobs.

R909-2-32. Parade Floats.

(1) Parade floats are not required to obtain an overweight or oversize permit, but they must meet the following requirements:

(a) all floats must have sufficient proof of insurance;

(b) all floats must carry the necessary safety equipment for the safe operation of the vehicle during movement;

(c) the float driver must have a clear 360-[-]degree visibility;

(d) movement to and from parades should be made only during daylight hours unless the vehicle is adequately lighted and there is minimal congestion; and

(e) floats ~~in excess of~~ more than 14 feet 6 inches in height, must be routed by the division.

R909-2-33. Transportation of Utility Poles.

(1) Utility poles may be transported up to 120 feet in overall length, including overhangs, with single trip, semi-annual or annual permit in accordance with:

- (a) oversize load restrictions;
- (b) pilot escort requirements;
- (c) travel restrictions; and
- (d) signing and lighting requirements.

(2) Permits are issued to the trailer transporting the poles using the trailer registration information.

(a) Upon company request, the permit may be issued to the truck or truck tractor.

(b) Utility poles exceeding 120 feet shall purchase a single trip, non-divisible oversize permit.

R909-2-34. Special Mobile Equipment.

(1) Special mobile equipment or SME refers to vehicles:

(a) not designed or used primarily for the transportation of persons or property;

(b) not designed to operate in traffic; and

(c) only incidentally operated or moved over the highways.

(2) Special mobile equipment exempt from registration includes:

(a) farm tractors; and

(b) off road motorized construction or maintenance equipment including backhoes, bulldozers, compactors, graders, loaders, road rollers, tractors, trenchers, and ditch digging apparatus.

(3) Heavy equipment designed for off-highway uses such as scrapers, loaders, off highway cranes, and rock trucks, but not tracked vehicles may be issued single trip permits to operate under their own power, on approved routes other than interstate highways, as follows:

(a) the distance traveled shall not generally exceed 20 miles;

(b) only daylight operations are authorized, and all oversize restrictions apply;

(c) weights must comply with the bridge formula for non-divisible loads;

(d) single axles equipped with single tires shall not be authorized to exceed 40,000 pounds;

(e) a minimum of one pilot escort vehicle is required; and

(f) special mobile equipment shall be routed by the division.

(4) Special mobile equipment or SME affidavit. All persons who operate or cause to operate an SME exempt from registration shall submit a completed special mobile equipment affidavit to the division.

(a) To be deemed complete, an affidavit must be on the form provided by the division and all required fields filled in. Affidavits will be available at all ports of entry. Affidavits shall be turned into a port of entry.

(b) Special mobile equipment exempt from registration shall carry a copy of the approved affidavit in the vehicle at all times;

(c) Vehicles that are not special mobile equipment shall register with the Utah State Tax Commission prior to operating the vehicle on a public highway.

(d) Upon receipt of a denial of special mobile equipment, if the owner or operator wishes to appeal the decision of the division, a petition may be filed with the department, within 30 days.

(i) A response to an appeal from the department will be made in writing within 30 days.

R909-2-35. Special Truck Equipment.

(1) The following vehicle configurations are considered special truck equipment:

(a) concrete pumper trucks;

(b) cranes or trucks performing crane service with a crane lift capacity of five tons or more; and

(c) well boring trucks.

(2) Vehicles classified as special truck equipment may be issued an oversize or overweight permit when exceeding legal dimensions.

(a) An approved profile sheet for special truck equipment shall be carried in the vehicle with the permit, when the axle limitations specified in R909-2-5 Table 2 or actual bridge or gross are exceeded.

(3) Vehicles classified as special truck equipment are eligible for a 50 % registration fee reduction.

R909-2-36. Port-of-Entry By-Pass Permit Provisions.

(1) A temporary by-pass permit may be issued to accommodate the multi-trip[-] highway transportation needs to motor carriers who meet the following criteria[-]:

(a) Motor carriers shall meet the "Multi-trip" definition to receive and maintain by-pass privileges.

(i) A motor carrier may receive an exception from this requirement on a case-by-case basis, if the motor carrier is able to demonstrate that denial of a by-pass permit will cause a hardship if the vehicle ~~has to~~ must be diverted to a port-of-entry.

(b) The basis for qualification to participate in the by-pass program is based in part on the carrier's safety history as shown in the Federal Motor Carrier Safety Administration's Safety Measurement System.

(i) A carrier with a CSA basic scores equal to or greater than the intervention thresholds noted in Table 4 for General, HM and Passenger, plus one other BASIC at or above the motor carrier threshold is not eligible to participate in the by-pass program.

(ii) A carrier is not eligible for a by-pass permit when the carrier meets the definition of a High-Risk Motor Carrier in Table 4.

TABLE 4

High Risk Motor Carrier Criteria

BASIC	General	HM	Passenger
Unsafe Driving	65%	60%	50%
Fatigue Driving (HOS)	65%	60%	50%
Driver Fitness	80%	75%	65%
Controlled Substances and Alcohol	80%	75%	65%
Vehicle Maintenance	80%	75%	65%
Cargo-Related	80%	75%	65%
Crash Indicator	65%	60%	50%

(c) A carrier may become eligible for a by-pass permit after a focused or comprehensive review indicates that the carrier is in compliance.

(d) As a condition of receiving a by-pass permit, a motor carrier is subject to audits, safety assessments, and inspections as the division considers necessary ~~[in order]~~ to carry out state and federal law.

(e) Vehicles that obtain by-pass privileges must have a weight ticket, from a scale certified by the Department of Agriculture, available for inspection by law enforcement. Scale tickets must be electronically printed and shall specify the time, date, unit-specific information, and destination.

(2) By-pass applications shall be submitted to the division.

(a) By-pass privilege carriers must re-apply yearly.

(b) Subcontractors operating under their own authority must apply for by-pass privileges independently.

(c) Carriers who lease vehicles from a subcontractor must ensure that the established by-pass criterion is met to maintain privileges.

(d) By-pass permit privileges are valid from the approval date and expire at the end of the application year on December 31.

(e) Applications must show routing information including point of origin, destination, and routine routes traveled.

(3) Approved vehicles within a motor carrier's fleet will be issued a by-pass decal, specific to each individual vehicle, and will receive a by-pass certificate that shall be carried in the vehicle.

(4) By-pass privileges may be granted to carriers traversing multiple ports of entry within the same route.

(5) Authorized by-pass routes are allowed for the following Port of Entries:

(a) Daniels Port of Entry on SR 40 with empty vehicles, traveling eastbound only;

(b) Kanab Port of Entry on Highway 89 from Kanab's Main Street to the Kanab Port of Entry, while traveling on Hwy 389 between Las Vegas, Nevada and Page, Arizona, and all vehicles must clear the St. George Port of Entry;

(c) Perry Port of Entry may be by-passed and travel on Highway 89 between Brigham City and Ogden; and

(d) Monticello Port of Entry may be by-passed on US-191 with empty vehicles only.

(6) By-pass privileges may be revoked or ~~[temporarily]~~ suspended should a carrier fail to meet the safety standards as set forth in the:

(a) Compliance, Safety, Accountability (CSA) program of the Federal Motor Carrier Safety Administration;

(b) Federal Motor Carrier Safety Regulations;

(c) size and weight limitations;

(d) by-pass zone routes; and

(e) out-of-service criteria.

(7) When an application for a by-pass permit is denied the motor carrier may file an appeal.

(a) The appeal shall be handled by the division hearing officer.

(8) The division will notify local law enforcement agencies of those carriers meeting the criteria for by-pass privileges.

R909-2-37. Annual Review of Permit Regulations and Conditions.

(1) During the regularly scheduled Motor Carrier Advisory Board meeting in April of each year, the board will review permit conditions and regulations as needed. The board is not required to review each of these items every year.

(2) This meeting will provide a forum for interested parties to provide evidence in support of regulation or permit condition modification.

(3) All interested parties must notify the division of these issues by March 1st of each year to ensure placement on the agenda.

(4) Any approved changes to permit conditions or regulations will be incorporated into this rule.

KEY: permits, safety regulations, size and weight, trucks

Date of Enactment or Last Substantive Amendment: ~~[October 10, 2017]~~ **2018**

Notice of Continuation: June 16, 2014

Authorizing, and Implemented or Interpreted Law: 72-1-201; 72-7-406; 72-9-303; 41-1a-102; 41-1a-231; 41-1a-1206; 72-7-402; 72-7-404; 72-7-407; 72-9-301; 72-9-502

Transportation, Operations, Traffic and Safety

R920-30

State Safety Oversight

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 43255

FILED: 10/12/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this proposed amendment is to incorporate by reference the Federal Transit Administration standards for State Safety Oversight, and to satisfy requirements of S.B. 136, passed during the 2018 General Session of the Legislature. This rule is authorized or required by 49 U.S.C. 5330, 49 CFR 659, 49 CFR 674, and Sections 72-1-201, 72-1-208, and 72-1-214.

SUMMARY OF THE RULE OR CHANGE: This proposed change to Rule R920-30 repeals the text of the existing rule and replaces it with new text. The text of the current rule is intended to adopt various different sections of 49 CFR Part 674 to establish the standards for State Safety Oversight required by the Federal Transit Administration. The text of the reenacted rule incorporates 49 CFR Part 674 by reference and includes specific provisions required by the Utah Legislature during the 2018 regular session in S.B. 136 sixth substitute to establish the standards for State Safety Oversight. The text of the reenacted rule R920-30 establishes the standard of the state of Utah oversight required to implement the provisions of 49 U.S.C. 5329(e), 49 U.S.C. 5330, and 49 CFR Part 674, Rail Fixed Guideway Systems, State Safety Oversight. It applies to the Utah Transit

Authority (UTA), the large public transit district operating rail fixed guideway systems in the state of Utah. The Department of Transportation (Department) exercises jurisdiction over

safety of equipment and operations of the UTA pursuant to Section 72-1-214. In addition, pursuant to 49 CFR Part 674, the Department has authority to investigate any allegation of noncompliance with the Public Transportation Agency Safety Plan. Pursuant to 49 CFR Part 674, the Department is responsible for establishing minimum standards for rail safety practices and procedures to be used by the UTA. The Department's program standard is consistent with the National Public Transportation Safety Plan, the Public Transportation Safety Certification Training Program, and the rules for Public Transportation Agency Safety Plans. The Department also must oversee the execution of these practices and procedures to ensure compliance with the provisions of 49 CFR Part 674. This proposed amendment satisfies those requirements.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 49 CFR 659 and 49 CFR 674 and 49 U.S.C. Sec. 5330 and Section 72-1-201 and Section 72-1-208 and Section 72-1-214

TITLE OF MATERIALS INCORPORATED BY REFERENCE:
 ♦ Adds The Federal Transit Administration, State Safety Oversight, Final Rule, published by Federal Government Printing Office, 03/16/2016

ANTICIPATED COST OR SAVINGS TO:
 ♦ **THE STATE BUDGET:** The Department estimates that neither it nor the state will experience a fiscal impact related to this proposed amendment because it has been acting as the state safety oversight agency for rail fixed guideway public transportation safety for several years.
 ♦ **LOCAL GOVERNMENTS:** The Department estimates this proposed amendment will not cause any fiscal impact to local governments in Utah. It applies to the Utah Transit Authority (UTA), which is the large public transit district operating rail fixed guideway systems in Utah and no other person or government.
 ♦ **SMALL BUSINESSES:** The Department estimates this proposed amendment will not cause any fiscal impact to small businesses in Utah. It applies to the Utah Transit Authority (UTA), which is the large public transit district operating rail fixed guideway systems in Utah and no other person or government.
 ♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Department estimates this proposed amendment will not cause any fiscal impact to persons other than businesses and local governments in Utah. It applies to the Utah Transit Authority (UTA), which is the large public transit district operating rail fixed guideway systems in Utah and no other person or government.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There may be compliance costs for the UTA, the only entity affected by this rule. However, those compliance costs are presently inestimable.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will not cause any fiscal impact to businesses in Utah.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 TRANSPORTATION
 OPERATIONS, TRAFFIC AND SAFETY
 CALVIN L RAMPTON COMPLEX
 4501 S 2700 W
 SALT LAKE CITY, UT 84119-5998
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at cwnewman@utah.gov
 ♦ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at jimpalmer@utah.gov
 ♦ Josh Dangel, or by Internet E-mail at jdangel@utah.gov
 ♦ Linda Hull by phone at 801-965-4253, or by Internet E-mail at lhull@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/03/2018

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2018

AUTHORIZED BY: Carlos Braceras, 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 Small and Non-Small Businesses

1) This rule is authorized or required by 49 USC 5330; 49 CFR 659; 49 CFR 674; Sections 72-1-201, 72-1-208, and 72-1-214. The Department of Transportation (Department) proposes this amendment to satisfy requirements of state and federal law about establishing the Department as the state safety oversight agency for rail fixed guideway public transportation safety pursuant to Section 72-1-214.

2) The Department estimates that this proposed new language will not cause any fiscal impact to any industry or private business in Utah.

3) The Department estimates that neither it nor the state will experience a fiscal impact related to this proposed amendment because it has been acting as the state safety oversight agency for rail fixed guideway public transportation safety for several years. The proposed new language does not change that.

4) Carlos Braceras, executive director of the Department has reviewed and approved this fiscal analysis.

R920. Transportation, Operations, Traffic and Safety.

R920-30. State Safety Oversight.

[R920-30-1. Purpose and Authority.

The purpose of this rule is to adopt the Federal Transit Administration standards for State Safety Oversight. This rule is authorized by Sections 72-1-201, 72-1-208, and 72-1-214.

R920-30-2. Adoption of Federal Regulation.

The Federal Transit Administration, State Safety Oversight, Final Rule, Title 49 CFR Part 674 (eff. April 15, 2016) as it applies to the management of the State Safety Oversight Program, is incorporated by reference.

R920-30-3. Subpart A -- General Provisions.

- A. Section 674.1 Purpose.
- B. Section 674.3 Applicability.
- C. Section 674.5 Policy.
- D. Section 674.7 Definitions.
- E. Section 674.9 Transition from Previous Requirements for State Safety Oversight.

R920-30-4. Subpart B -- Role of the State.

- A. Section 674.11 State Safety Oversight Program.
- B. Section 674.13 Designation of Oversight Agency.

- C. Section 674.15 Designation of Oversight Agency for Multi-State System.
- D. Section 674.17 Use of Federal Financial Assistance.
- E. Section 674.19 Certification of a State Safety Oversight Program.
- F. Section 674.21 Withholding of Federal Financial Assistance for Noncompliance.
- G. Section 674.23 Confidentiality of Information.

R920-30-5. Subpart C -- State Safety Oversight Agencies.

- A. Section 674.25 Role of the State Safety Oversight Agency.
- B. Section 674.27 State Safety Oversight Program Standards.
- C. Section 674.29 Public Transportation Agency Safety Plans: ?General Requirements.
- D. Section 674.31 Triennial Audits: ?General Requirements.
- E. Section 674.33 Notifications of Accidents.
- F. Section 674.35 Investigations.
- G. Section 674.37 Corrective Action Plans.
- H. Section 674.39 State Safety Oversight Agency Annual Reporting to Fta.
- I. Section 674.41 Conflicts of Interest.]

R920-30-1. Regulatory Authority.

The purpose of this rule is to incorporate by reference the Federal Transit Administration standards for State Safety Oversight (04/15/2016). This rule is authorized or required by 49 U.S.C. 5330; 49 CFR 659; 49 CFR 674; Utah Code Sections 72-1-201, 72-1-208, and 72-1-214.

R920-30-2. Purpose and Scope.

(1) This rule, R920-30, establishes the standard of the State of Utah oversight required to implement the provisions of 49 U.S.C. 5329(e), 49 U.S.C. 5330, and 49 CFR Part 674, Rail Fixed Guideway Systems, State Safety Oversight.

(2) This rule applies to the Utah Transit Authority ("UTA"), the public transportation agency operating rail fixed guideway systems in the State of Utah.

(3) The Utah Department of Transportation (the "Department") exercises jurisdiction over safety of equipment and operations of the UTA pursuant to Utah Code Section 72-1-214. In addition, pursuant to 49 CFR Part 674, the Department has authority to investigate any allegation of noncompliance with the Public Transportation Agency Safety Plan.

(4) Pursuant to 49 CFR Part 674, the Department is responsible for establishing minimum standards for rail safety practices and procedures to be used by the UTA. The Department's program standard is consistent with the National Public Transportation Safety Plan, the Public Transportation Safety Certification Training Program, and the rules for Public Transportation Agency Safety Plans. The Department also must oversee the execution of these practices and procedures to ensure compliance with the provisions of 49 CFR Part 674.

(5) Where revisions to this rule, R920-30, are necessary, the Department will conduct a rulemaking proceeding, in accordance with the Utah Administrative Rulemaking Act, Utah Code Sections 63G-3-101-702.

(6) The Department and the UTA must operate as legally and financially independent entities.

(7) The Department does not and must not employ any individual who is also responsible for administering or providing services to the UTA.

(8) The Department will submit an annual report summarizing the oversight activities related to the UTA of the safety of the rail fixed guideway system to the Federal Transit Administration and the Governor as required by 49 CFR Part 674.

R920-30-3. Public Transportation Agency Safety Plan.

(1) The UTA shall develop and implement a written Public Transportation Agency Safety Plan (PTASP) that conforms to the requirements of 49 CFR Part 673, Public Transportation Agency Safety Plan within two calendar years after publication of 49 CFR Part 673.

(2) Prior to the development and implementation of its PTASP, the UTA shall continue to maintain, update, and implement its written System Safety Program Plan (SSPP) pursuant to 49 CFR Part 659 (April 29, 2005), which is incorporated by reference.

(3) The UTA shall submit the SSPP or PTASP to the Department for review and approval prior to its implementation. The SSPP or PTASP should be submitted in electronic format via email to the Department. Supporting procedures and referenced materials may be submitted in hard copy, by fax, mail, email, or in-hand delivery.

(4) The UTA shall submit an updated SSPP or PTASP, and any accompanying procedures, for Department review and approval on or before February 1st of each year. If no updates are required, the UTA shall so notify the Department in writing before February 1st of each year.

(5) Should the UTA update the SSPP or PTASP outside the annual review cycle, either upon its own initiative or upon the written request of the Department for modifications to the SSPP or PTASP, the UTA shall submit a revised SSPP or PTASP to the Department. The SSPP or PTASP should be submitted in electronic format via email to the Department within 30 calendar days of the event requiring the changes. Supporting procedures and referenced materials may be submitted in hard copy, by fax, mail, email, or in-hand delivery.

R920-30-4. Incorporation by Reference of Federal Regulation.

The Federal Transit Administration, State Safety Oversight, Final Rule, Title 49 CFR Part 674 (eff. April 15, 2016) as it applies to the management of the State Safety Oversight Program, is incorporated by reference as the minimum standard for state safety oversight of rail fixed guideway systems in Utah.

KEY: state safety oversight, transit, safety

Date of Enactment or Last Substantive Amendment: [~~October 10, 2017~~2018

Authorizing, and Implemented or Interpreted Law: 72-1-201; 72-1-208; 72-1-214

End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a **PROPOSED RULE** in the *Utah State Bulletin*, it may receive comment that requires the **PROPOSED RULE** to be altered before it goes into effect. A **CHANGE IN PROPOSED RULE** allows an agency to respond to comments it receives.

As with a **PROPOSED RULE**, a **CHANGE IN PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **CHANGE IN PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends December 3, 2018.

Following the **RULE ANALYSIS**, the text of the **CHANGE IN PROPOSED RULE** is usually printed. The text shows only those changes made since the **PROPOSED RULE** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (example). Deletions made to the rule appear struck out with brackets surrounding them (~~example~~). A row of dots in the text between paragraphs (.) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **CHANGE IN PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of rules that are too long to print is available from the agency or from the Office of Administrative Rules.

From the end of the 30-day waiting period through March 1, 2019, an agency may notify the Office of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses.

CHANGES IN PROPOSED RULES are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

The Changes in Proposed Rules Begin on the Following Page

Commerce, Real Estate
R162-2e-205
Division Service Fees -- AMC Registry
Fee

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 43123
 FILED: 10/05/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this proposed rule amendment is to provide notice and information to appraisal management companies (AMCs) registered in Utah that the Division of Real Estate (Division) will be collecting and transmitting to the Appraisal Subcommittee the federal AMC registry fee.

SUMMARY OF THE RULE OR CHANGE: The AMC registry fee is a new federal fee established by the Appraisal Subcommittee which is collected by each state's AMC regulatory agency. In Utah, the regulatory agency is the Division. The Division will collect the AMC registry fee from AMCs and transmit the fees to the Appraisal Subcommittee. (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the August 15, 2018, issue of the Utah State Bulletin, on page 10. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 61-2e-103 and Section 61-2e-205

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** The Division has the staff and budget in place to administer this proposed amendment. After conducting a thorough analysis, it was determined that these proposed rule amendments will not result in a fiscal impact, affect those resources, or result in any additional cost or savings to the state budget.
- ◆ **LOCAL GOVERNMENTS:** Local governments are not required to comply with or enforce the Appraisal Management Company Registration and Regulation Rules. After conducting a thorough analysis, it was determined that these proposed rule amendments will not result in a fiscal impact to local governments.
- ◆ **SMALL BUSINESSES:** The only small businesses that are AMCs registered in Utah or are operated as a subsidiary of a federally regulated financial institution are subject to payment

of the AMC registry fee. After conducting a thorough analysis, it was determined that these proposed rule amendments will not result in a fiscal impact to small businesses, except for the affected AMCs. The compliance cost for AMCs affected by these proposed rule amendments are estimated under compliance costs for affected persons below.

- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Only AMCs registered in Utah or that operate in Utah as a subsidiary of a federally regulated financial institution are subject to payment of the AMC registry fee. After conducting a thorough analysis, it was determined that these proposed rule amendments will not result in a fiscal impact to persons other than small businesses, businesses, or local government entities, except for the affected AMCs. The compliance cost for AMCs affected by these proposed rule amendments are estimated under compliance costs for affected persons below.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These proposed amendments provide for the collection and transmittal of the AMC registry fee. The AMC registry fee is a new federal requirement for AMCs registered in Utah or operating in Utah as a subsidiary of a federally regulated financial institution. The Division only collects the fee and transmits it to the Appraisal Subcommittee. After conducting a thorough analysis, it was determined that the AMC registry fee will result in a combined fiscal impact to affected AMCs of \$80,000 per year.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The purpose of these proposed rule amendments are to provide notice and information to AMCs registered in Utah that the Division will be collecting and transmitting to the Appraisal Subcommittee the federal AMC registry fee. The AMC registry fee is a new federal fee established by the Appraisal Subcommittee which is collected by each state AMC regulatory agency. In Utah the regulatory agency is the Division. Only small businesses that are AMCs registered in Utah or are operated as a subsidiary of a federally regulated financial institution are subject to payment of the AMC registry fee. After conducting a thorough analysis, it was determined that the AMC registry fee will result in a combined fiscal impact to affected AMCs of \$80,000 per year. There are an estimated 34 non-small businesses in the AMC industry (NAICS 531320) operating in Utah. These businesses account for an estimated 25% of the total number of AMC registry fees required to be paid to the Appraisal Subcommittee per year. The Appraisal Subcommittee has established the current amount of the fee to be \$25 per appraiser who has performed an appraisal for the AMC in connection with a covered transaction during the previous year. It is estimated that the registry fee associated with this rule will be ongoing.

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

COMMERCE
 REAL ESTATE
 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:
 ♦ Justin Barney by phone at 801-530-6603, or by Internet E-mail at justinbarney@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/03/2018

THIS RULE MAY BECOME EFFECTIVE ON: 12/10/2018

AUTHORIZED BY: Jonathan Stewart, Director

Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$<80,000>	\$<80,000>	\$<80,000>

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

There are an estimated 34 non-small businesses in the AMC industry (NAICS 531320) operating in Utah. These businesses account for an estimated 25% of the total number of AMC registry fees required to be paid to the Appraisal Subcommittee per year. The Appraisal Subcommittee has established the current amount of the fee to be \$25 per appraiser who has performed an appraisal for the AMC in connection with a covered transaction during the previous year. It is estimated that the registry fee associated with this rule will be ongoing.

The Executive Director of the Commerce Department, Francine A. Giani, 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	\$60,000	\$60,000	\$60,000
Non-Small Businesses	\$20,000	\$20,000	\$20,000
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$80,000	\$80,000	\$80,000
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

R162. Commerce, Real Estate.

R162-2e. Appraisal Management Company Administrative Rules.

R162-2e-205. Division Service Fees -- AMC Registry Fee.

(1) The division shall collect and transmit to the Appraisal Subcommittee an AMC registry fee from:

- (a) an AMC registered under the Appraisal Management Company Registration and Regulation Act; or
- (b) an AMC that operates as a subsidiary of a federally regulated financial institution.

(2) The amount of the AMC registry fee shall be as follows:

- (a) for an AMC that has been in existence for more than one year, the amount collected shall be the established AMC registry fee multiplied by the number of appraisers who have performed an appraisal in connection with a ~~covered~~[residential-~~loan~~] transaction for the AMC in Utah during the previous year; and
- (b) for an AMC that has not been in existence for more than one year, the amount collected shall be the established AMC registry fee multiplied by the number of appraisers who have performed an appraisal in connection with a ~~covered~~[residential-~~loan~~] transaction for the AMC in Utah since the AMC commenced doing business.

KEY: administrative proceedings, appraisal management company (AMC), conduct, AMC registry fee

Date of Enactment or Last Substantive Amendment: 2018

Notice of Continuation: April 17, 2015

Authorizing, and Implemented or Interpreted Law: 61-2e-102(4); 61-2e-103; 61-2e-307; 61-2e-305; 61-2e-402(1)

Environmental Quality, Air Quality
R307-110-17
Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits

NOTICE OF CHANGE IN PROPOSED RULE
 DAR FILE NO.: 42976
 FILED: 10/15/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended to change the effective date to match the anticipated Air Quality Board approval date of amendments to Section IX, Part H, of the Utah State Implementation Plan (SIP).

SUMMARY OF THE RULE OR CHANGE: This change in proposed rule amends the from 09/05/2018 to 01/02/2019. (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the July 1, 2018, issue of the Utah State Bulletin, on page 34. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

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

MATERIALS INCORPORATED BY REFERENCE:
 ♦ Updates Utah State Implementation Plan, Emission Limits and Operating Practices, Section IX, Part H, published by Division of Air Quality, 01/02/2018

ANTICIPATED COST OR SAVINGS TO:
 ♦ **THE STATE BUDGET:** Annual stack testing requirements added to Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits, of the Utah State Implementation Plan will add a recurring annual cost increase of \$50,000 to one state institution.
 ♦ **LOCAL GOVERNMENTS:** There are no changes from the original rule proposal.
 ♦ **SMALL BUSINESSES:** There are no changes from the original rule proposal.
 ♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated fiscal impact to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The costs associated with annual stack testing of nine point sources will result in a recurring annual cost totalling \$465,000. Detailed descriptions of cost are listed in individual TSD reports for each source, found at: <https://deq.utah.gov/legacy/pollutants/p/particulate-matter/pm25/serious-area-state-implementation-plans/control-strategies.htm>.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The businesses listed in Part H will have to comply with the requirements of the SIP. The costs associated with Part H will mostly be made up of equipment modifications necessary to comply with the TSD BACT analysis. These costs will vary depending on the size of the source and what equipment is needed. The requirements in Part H need to be enforceable and meet the standard of BACT.

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 11/30/2018

THIS RULE MAY BECOME EFFECTIVE ON: 01/03/2019

AUTHORIZED BY: Bryce Bird, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$50,000	\$50,000	\$50,000
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$415,000	\$415,000	\$415,000
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$465,000	\$465,000	\$465,000

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:	-\$465,000	-\$465,000	-\$465,000

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses
 There are ten companies operating in Utah that will incur costs necessary to comply with the amendments to the Utah

State Implementation Plan, Emission Limits and Operating Practices, Section IX, Part H. (NAICS 213112, NAICS 322121, NAICS 324110, NAICS 325188, NAICS 326199, NAICS 335991, NAICS423510, NAICS 611310) These businesses will experience a fiscal cost associated with an annual stack testing requirement that will result in a recurring \$50,000 cost to the State and a recurring \$415,000 cost to non-small businesses.

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

****"Non-small business" means a business employing 50 or more persons; "small business" means a business employing fewer than 50 persons.**

R307. Environmental Quality, Air Quality.
R307-110. General Requirements: State Implementation Plan.
R307-110-17. Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits.

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits and Operating Practices, as most recently amended by the Utah Air Quality Board on ~~September 5~~ January 2, 2018, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

KEY: air pollution, PM10, PM2.5, ozone
Date of Enactment or Last Substantive Amendment: ~~2018~~2019
Notice of Continuation: January 27, 2017
Authorizing, and Implemented or Interpreted Law: 19-2-104

End of the Notices of Changes in Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a **120-DAY (EMERGENCY) RULE** when it finds that regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **PROPOSED RULE**, a **120-DAY RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **120-DAY RULE** including the name of a contact person, justification for filing a **120-DAY RULE**, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **120-DAY RULE** is printed. New text is underlined (example) and text to be deleted is struck out with brackets surrounding the deleted text ([example]). An emergency rule that is new is entirely underlined. Likewise, an emergency rule that repeals an existing rule shows the text completely struck out. A row of dots in the text (.) indicates that unaffected text was removed to conserve space.

A **120-DAY RULE** is effective when filed with the Office of Administrative Rules, or on a later date designated by the agency. A **120-DAY RULE** is effective for 120 days or until it is superseded by a permanent rule. Because of its temporary nature, a **120-DAY RULE** is not codified as part of the *Utah Administrative Code*.

The law does not require a public comment period for **120-DAY RULES**. However, when an agency files a **120-DAY RULE**, it may file a **PROPOSED RULE** at the same time, to make the requirements permanent.

Emergency or **120-DAY RULES** are governed by Section 63G-3-304, and Section R15-4-8.

Administrative Services, Risk Management

R37-4

Adjusted Utah Governmental Immunity Act Limitations on Judgments

NOTICE OF 120-DAY (EMERGENCY) RULE

DAR FILE NO.: 43236

FILED: 10/04/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being revised to continue the implementation of recent legislative amendments (S.B. 98 from the 2017 General Session) to Section 63G-7-605.

SUMMARY OF THE RULE OR CHANGE: This amendment will maintain the increase the limitations of judgments against governmental entities or employees as follows: a) the per person limit for personal injury will increase from \$717,100 to \$745,200; b) the aggregate per occurrence limit will increase from \$2,455,900 to \$2,552,000; and c) the per occurrence property damage limit will increase from \$286,900 to

\$295,000. (EDITOR'S NOTE: A corresponding proposed amendment is under Filing No. 43235 in this issue, November 1, 2018, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63G-7-604 and Section 63G-7-605

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.

JUSTIFICATION: The emergency rule, created to comply with Section 63G-7-605 and published in the June 15, 2018 Bulletin, will expire on 10/29/2018. This emergency rule is needed to retain the limitation of judgment revisions until the filed permanent rule amendments can be rendered effective.

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This amended rule will increase financial exposure to the State Risk Fund which insures all state agencies, public institutions of higher education, school districts, and many of the charter schools. That increased exposure will be reflected in the form of higher payments to plaintiffs for significant liability claims and will likely have the effect of increased liability premiums to be appropriated from the general fund; however, because the impact will be based upon the nature and severity of future claims, it is impossible

to project the anticipated costs of these revisions to the state budget.

◆ **LOCAL GOVERNMENTS:** This amended rule will increase financial exposure to all political subdivisions of the state. That increased exposure will be reflected in the form of higher payments to plaintiffs for significant liability claims and will likely have the effect of increased liability premiums; however, because the impact will be based upon the nature and severity of future claims, it is impossible to project the anticipated costs of these revisions to local government.

◆ **SMALL BUSINESSES:** This amended rule will impact small business owners that experience personal injuries or property damage from government entities in that they may receive increased damage awards and settlements; however, this impact is impossible to project with any certainty because it is based upon the nature and severity of future claims.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amended rule will impact persons that experience personal injuries or property damage from government entities in that they may receive increased damage awards and settlements; however, this impact is impossible to project with any certainty because it is based upon the nature and severity of future claims. As indicated in the state budget and local government responses above, all governmental entities within the state of Utah are subject to these judgment limit increases, irrespective of their size.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Compliance costs will only be experienced by governmental entities in the state of Utah and will only be experienced if they or their employees cause injury or damage to third parties. It is impossible to project compliance costs for all affected governmental entities because they will be based upon the nature and severity of future claims.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Tani Downing has reviewed and approved the above fiscal impact analysis on businesses.

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

ADMINISTRATIVE SERVICES
RISK MANAGEMENT
ROOM 5120 STATE OFFICE BLDG
450 N STATE ST
SALT LAKE CITY, UT 84114-1201
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Brian Nelson by phone at 801-538-9576, by FAX at 801-538-9597, or by Internet E-mail at benelson@utah.gov
- ◆ Darin Dennis by phone at 801-538-9572, or by Internet E-mail at darindennis@utah.gov

EFFECTIVE: 10/29/2018

AUTHORIZED BY: Brian Nelson, 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

The revised rule will positively impact non-small businesses that experience personal injuries or property damage from government entities in that they may receive increased damage awards and settlements; however, this impact is impossible to project with any certainty, because it is based upon the nature and severity of future claims.

Tani Downing, Executive Director of the Department of Administrative Services, has reviewed and approved this fiscal analysis.

R37. Administrative Services, Risk Management.**R37-4. Adjusted Utah Governmental Immunity Act Limitations on Judgments.****R37-4-1. Authority and Calculation Process.**

Pursuant to UCA 63G-7-60[4]5(4) the Risk Manager hereby establishes ~~[a—]new~~ limitations of judgments, based upon the adjustments communicated by the Legislative Fiscal Analyst.

~~[—]Accordingly, the Risk Manager has calculated the consumer price index (CPI) for calendar years 2013 and 2015 using the standards provided in Sections 1(f)(4) and 1 (f)(5) of the Internal Revenue Code. Section 1(f)(4) has defined the CPI for any calendar year to mean the average of the consumer price index as of the close of the 12-month period ending on August 31 of such calendar year. Section 1(f)(5) has defined "consumer price index" to mean the index used for all urban consumers published by the Department of Labor. By applying these standards, the consumer price index for the calendar year 2013 is calculated to be 232.02 and the index for 2015 is 236.75. The percentage difference between the 2013 index and the 2015 index was then computed to be 2.0%.~~

R37-4-2. New Limitation of Judgment Amounts.

~~[As a result of the above required calculations, t]~~The new limitation of judgment amounts currently required by UCA 63G-7-604(3)(+) ~~[has been]are~~ increased as follows, pursuant to UCA 63G-7-605, and ~~[is]are~~ effective July 1, 2018~~[6]~~ for claims occurring on or after that date:

1) The limit for damages for personal injury against a governmental entity, or an employee who a governmental entity has a duty to indemnify, is ~~[\$717,100]~~\$745,200 for one person in any one occurrence, and ~~[\$2,455,900]~~\$2,552,000 aggregate amount of individual awards that be may awarded in relation to a single occurrence; and

2) The limit for property damages (excluding damages awarded as compensation when a governmental entity has taken or damaged private property for public use without just compensation) against a governmental entity, or an employee whom a governmental entity has a duty to indemnify is ~~[\$286,900]~~\$295,000 in any one occurrence.

R37-4-3. Limitations of Judgments by Calendar Date.

The limitations on judgments are established by the date of the occurrence. The dates and dollar amounts are as follows:

1) Incident(s) occurring before July 1, 2001 - \$250,000 for one person in an occurrence, \$500,000 aggregate for two or more persons in an occurrence; and \$100,000 for property damage for any one occurrence~~[as explained in R37-4-2(2)].~~

2) Incident(s) occurring on or after July 1, 2001 - \$500,000 for one person in an occurrence, \$1,000,000 aggregate for two or more persons in an occurrence; and \$200,000 for property damage for any one occurrence~~[as explained in R37-4-2(2)].~~

3) Incident(s) occurring on or after July 1, 2002 - \$532,500 for one person in an occurrence, \$1,065,000 aggregate for two or more persons in an occurrence; and \$213,000 for property damage for any one occurrence~~[as explained in R37-4-2(2)].~~

4) Incident(s) occurring on or after July 1, 2004 - \$553,500 for one person in an occurrence, \$1,107,000 aggregate for two or more persons in an occurrence, and \$221,400 for property damage for any one occurrence~~[as explained in R37-4-2(2)].~~

5) Incident(s) occurring on or after July 1, 2006 - \$583,900 for one person in an occurrence, \$1,167,900 aggregate for two or more persons in an occurrence, and \$233,600 for property damage for any one occurrence~~[as explained in R37-4-2(2)].~~

6) Incident(s) occurring on or after July 1, 2007 - \$583,900 for one person in an occurrence, \$2,000,000 aggregate for two or more persons in an occurrence, and \$233,600 for property damage for any one occurrence~~[as explained in R37-4-2(2)].~~

7) Incident(s) occurring on or after July 1, 2008 - \$620,700 for one person in an occurrence, \$2,126,000 aggregate for two or more persons in an occurrence, and \$248,300 for property damage for any one occurrence~~[as explained in R37-4-2(2)].~~

8) Incident(s) occurring on or after July 1, 2010 - \$648,700 for one person in an occurrence, \$2,221,700 aggregate for two or more persons in an occurrence, and \$259,500 for property damage for any one occurrence~~[as explained in R37-4-2(2)].~~

9) Incident(s) occurring on or after July 1, 2012 - \$674,000 for one person in an occurrence, \$2,308,400 aggregate for two or more persons in an occurrence, and \$269,700 for property damage for any one occurrence~~[as explained in R37-4-2(2)].~~

10) Incident(s) occurring on or after July 1, 2014 - \$703,000 for one person in an occurrence, \$2,407,700 aggregate for two or more persons in an occurrence, and \$281,300 for property damage for any one occurrence~~[as explained in R37-4-2(2)].~~

11) Incident(s) occurring on or after July 1, 2016 - \$717,100 for one person in an occurrence, \$2,455,900 aggregate for two or more persons in an occurrence, and \$286,900 for property damage for any one occurrence~~[as explained in R37-4-2(2)].~~

12) Incident(s) occurring on or after July 1, 2018 - \$745,200 for one person in an occurrence, \$2,552,000 aggregate for two or more persons in an occurrence, and \$295,000 for property damage for any one occurrence as explained in R37-4-2(2).

KEY: limitation on judgments, risk management, Governmental Immunity Act caps

Date of Enactment or Last Substantive Amendment: October 29, 2018

Notice of Continuation: May 5, 2017

Authorizing, and Implemented or Interpreted Law: 63G-7-604(4)

End of the Notices of 120-Day (Emergency) Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at <http://www.rules.utah.gov/publicat/code.htm>. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

REVIEWS are governed by Section 63G-3-305.

Commerce, Occupational and Professional Licensing **R156-42a** Occupational Therapy Practice Act Rule

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 43247
FILED: 10/09/2018

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 58, Chapter 42a provides for the licensure and regulation of occupational therapists and occupational therapy assistants. Subsection 58-1-106(1)(a) provides that the Division of Occupational and Professional Licensing (Division) may adopt and enforce rules to administer Title 58. Subsection 58-42a-201(3) provides that the Board of Occupational Therapy's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that one of the duties of each board is to recommend appropriate rules to the Division Director. This rule was enacted to clarify the provisions of Title 58, Chapter 42a with respect to occupational therapists and occupational therapy assistants .

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since this rule was last reviewed in January 2014, the Division received the following written comments in which a public rule hearing relating to proposed

amendments filed in OAR File No. 42381 was requested to be scheduled: January 9, 2018 letter from Kristen Neville, American Occupational Therapy Association; January 10, 2018 email from Travis Chamberlain, a licensed occupational therapist; and January 15, 2018 email from Florentina Mueller-Planitz, Utah Occupational Therapy Association. As a result of these written comments, the Division scheduled and held a rule hearing on February 5, 2018 before the Division regarding the proposed amendments. The Division also received an April 6, 2014 email from Randy Curry commenting on proposed rule amendments filed in OAR File No. 38313, and also an April 3, 2014 email from Trent Brown commenting on proposed rule amendments filed in OAR File No. 38313. The written comments were reviewed by the Division and Board of Occupational Therapy and the proposed amendments filed in OAR File No. 38313 were made effective on April 21, 2014. No other written comments have been received by the Division with respect to this rule than those listed above.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 42a, with respect to occupational therapists and occupational therapy assistants. This rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements, and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession.

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.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jeff Busjahn by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at jbusjahn@utah.gov

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: Mark Steinagel, Director

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

EFFECTIVE: 10/09/2018

EFFECTIVE: 10/05/2018

**Education, Administration
R277-437
Student Enrollment Options**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 43240
FILED: 10/05/2018

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 53G-6-405 directs the Utah State Board of Education (Board) to provide a formula, by rule, for resident students to attend school districts under 53G-6-401. The purpose of this rule is: a) to establish necessary definitions; b) to establish a formula for the residual per pupil expenditure for school districts to reimburse each other for full and part-time nonresident students; c) to summarize school, school district, and state responsibilities under Section 53G-6-401; and d) to provide a standard statewide open enrollment form required under Subsection 53G-6-402(4)(b)(ii).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it directs the Board to provide a formula, by rule, for resident students to attend school districts under Section 53G-6-401. Therefore, this rule should be continued.

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

**Education, Administration
R277-620
Suicide Prevention Programs**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 43239
FILED: 10/05/2018

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 53E-3-401(4) allows the Utah State Board of Education (Board) to adopt rules in accordance with its responsibilities. The purposes of this rule is: a) to provide for collaboration with the Department of Health and Department of Human Services to establish, oversee, and provide model policies and programs for LEAs, and training for parents, about youth suicide prevention programs; b) to require LEAs to have and update youth protection policies; and c) to direct LEAs to send notice to parents and protect the confidentiality of the required parent notification record regarding bullying and suicide incidents.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because it provides collaboration with the Department of Health and Department of Human Services to establish, oversee, and provide model policies and programs for an LEA, and training for parents, about youth suicide prevention programs. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Angela Stallings by phone at 801-538-7550, 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: 10/05/2018

Environmental Quality, Air Quality **R307-361** Architectural Coatings

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 43238
FILED: 10/04/2018

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule was enacted under Subsection 19-2-104(1)(a). Subsection 19-2-104(1)(a) authorizes the Air Quality Board to promulgate rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air pollutants that may be emitted by an air pollutant source." Rule R307-361 reduces VOC emissions emitted from architectural coatings by establishing best available control technology (BACT) requirements, as well as clarifying regulatory requirements to the industry.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments in opposition or support of this rule since adoption.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-361 is needed to establish BACT controls in architectural coatings emitting VOCs, which are

precursors to the formation of PM2.5. Rule R307-361 is a component of Utah's State Implementation Plan (SIP), and cannot be removed from the SIP without EPA approval. Therefore, this rule should be continued.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 10/04/2018

Financial Institutions, Administration **R331-25**

Rule Governing Debt Cancellation and Debt Suspension Agreements Issued by Depository Institutions, Who Are Under the Jurisdiction of the Department of Financial Institutions

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 43248
FILED: 10/11/2018

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: Subsection 7-1-324(2) authorizes any member of a class of depository institution, that is subject to the jurisdiction of the Department of Financial Institutions (Department), to issue a debt cancellation or a debt suspension agreement pursuant to a rule issued by the commissioner.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No supporting or opposing written comments have been received by the agency concerning this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule regulates depository institutions authorized to issue a debt cancellation or a debt suspension agreement. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 FINANCIAL INSTITUTIONS
 ADMINISTRATION ROOM 201
 324 S STATE ST
 SALT LAKE CITY, UT 84111-2393
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Paul Allred by phone at 801-538-8854, by FAX at 801-538-8894, or by Internet E-mail at pallred@utah.gov

AUTHORIZED BY: Edward Leary, Commissioner

EFFECTIVE: 10/11/2018

in the rest of the R426 rule series. The Utah Department of Transportation has considered the opposing comments and is in the process of re-amending the opposed definition.

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 to PO Box 142004.

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 10/09/2018

**Health, Family Health and Preparedness, Emergency Medical Services
 R426-1
 General Definitions**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 43242
 FILED: 10/09/2018

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 enacted under Title 26-8a. These definitions are needed to supplement existing statutory definitions for subsequent language used in related rules in the R426 series.

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, except those received during the previous amendment for one definition, have been received. That definition is currently being amended back to prior language.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The definitions are critical for the terms used

**Health, Family Health and Preparedness, Emergency Medical Services
 R426-2
 Emergency Medical Services Provider Designations for Pre-Hospital Providers, Critical Incident Stress Management and Quality Assurance Reviews**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 43243
 FILED: 10/09/2018

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 enacted under Title 26-8a. These designations are needed for first responders in the emergency medical system. These allow immediate medical information, scene support for patient care, emotional support for first responders, and a formal requirement for quality assurance processes.

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, except those received during the previous amendment for a medical dispatch center requirement, have been received. That requirement is currently being amended back to prior language.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: These designations are critical for immediate patient care, the emotional well-being of first responders, and the quality assurance process to improve patient care. The Utah Department of Health has considered past opposing comments and is in the process of re-amending the opposed language.

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

HEALTH
 FAMILY HEALTH AND PREPAREDNESS,
 EMERGENCY MEDICAL SERVICES
 3760 S HIGHLAND DR
 SALT LAKE CITY, UT 84106
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Guy Dansie by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at gdansie@utah.gov, or mail to PO Box 142004.

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 10/09/2018

**Health, Family Health and
 Preparedness, Emergency Medical
 Services
 R426-3
 Licensure**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**

DAR FILE NO.: 43244
 FILED: 10/09/2018

**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 enacted under Title 26-8a. Licensure for EMS providers, including ambulance

services, are needed for first responders and patient transport in the emergency medical system. Licensure allows immediate medical scene response for patient care, and a regulated system for ambulance quality and access.

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, except those received during the previous amendment for ambulance agreements in over-lapping service areas, have been received. That rule was replaced by an emergency rule which will soon be replaced with an amended 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 licensure of paramedic services, and all ambulance types, is critical for immediate patient care and patient transport in an efficient system. The Utah Department of Health (UDOH) has considered past opposing comments and replaced disputed language with an emergency rule. UDOH is in the process of re-amending the opposed language.

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

HEALTH
 FAMILY HEALTH AND PREPAREDNESS,
 EMERGENCY MEDICAL SERVICES
 3760 S HIGHLAND DR
 SALT LAKE CITY, UT 84106
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Guy Dansie by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at gdansie@utah.gov, or mail to PO Box 142004.

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 10/09/2018

**Health, Family Health and
 Preparedness, Emergency Medical
 Services
 R426-4
 Operations**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**

DAR FILE NO.: 43245
 FILED: 10/09/2018

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 enacted under Title 26-8a. Operations for EMS providers, including licensed and designated services, are needed for role descriptions, responsibilities, and standards for first responders and patient transport in the emergency medical system.

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 negative written comments were received during previous amendments for the past five years. This rule has been amended to improve practices for better patient care and to allow more efficiency in the emergency medical system.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule provides a standardized approach for best practices to all licensed and designated EMS providers. No comments have been received in opposition to this rule.

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 to PO Box 142004.

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 10/09/2018

**Health, Family Health and
 Preparedness, Emergency Medical
 Services
 R426-9
 Trauma and EMS System Facility
 Designations**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 43246
 FILED: 10/09/2018

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 enacted under Title 26-8a. Trauma and EMS system facility designations are vital to the tiered approach for the EMS hospital systems. The use of a tiered approach ensures proper medical care for the array of patient needs. It allows the most effective and efficient use of hospital services in support of trauma patients, cardiac patients, stroke patients, and rural patients.

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 negative written comments were received during previous amendments for the past five years. This rule has been amended to improve practices for better patient care and to allow more efficiency in the emergency medical system.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule provides a standardized approach for best practices for patient destinations. No comments have been received in opposition to this rule.

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 to PO Box 142004.

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 10/09/2018

Human Services, Child and Family Services
R512-41

Qualifying Adoptive Families and Adoption Placement

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 43269
FILED: 10/15/2018

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 62A-4a-102 authorizes the Division of Child and Family Services (Division) to establish rules in order to provide programs and services that support the strengthening of family values, including defining the requirements used to qualify adoptive parent(s) and the criteria for adoption placement used by the Division.

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 during and since the last five-year review of 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: Continuation of this rule is necessary in order for the Division to continue to qualify adoptive parent(s) and placements.

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Carol Miller by phone at 801-557-1772, by FAX at 801-538-3993, or by Internet E-mail at carolmiller@utah.gov
- ◆ Jonah Shaw by phone at 801-538-4219, by FAX at 801-538-3942, or by Internet E-mail at jshaw@utah.gov

AUTHORIZED BY: Diane Moore, Director

EFFECTIVE: 10/15/2018

Human Services, Child and Family Services
R512-75

Rules Governing Adjudication of Consumer Complaints

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 43270
FILED: 10/15/2018

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 62A-4a-102 authorizes the Division of Child and Family Services (Division) to establish rules in order to provide programs and services that support the strengthening of family values, including defining consumer complaint procedures.

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 during and since the last five-year review of 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: Continuation of this rule is necessary in order for the Division to continue to provide for the prompt and equitable resolution of consumer complaints.

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

HUMAN SERVICES
CHILD AND FAMILY SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Carol Miller by phone at 801-557-1772, by FAX at 801-538-3993, or by Internet E-mail at carolmiller@utah.gov
- ◆ Jonah Shaw by phone at 801-538-4219, by FAX at 801-538-3942, or by Internet E-mail at jshaw@utah.gov

AUTHORIZED BY: Diane Moore, Director

EFFECTIVE: 10/15/2018

Natural Resources, Wildlife Resources
R657-61

Valuation of Real Property Interests for
 Purposes of Acquisition or Disposal

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**

DAR FILE NO.: 43231
 FILED: 10/04/2018

**NOTICE OF REVIEW AND STATEMENT OF
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is promulgated pursuant to authority granted to the Wildlife Board in Sections 63-34-21, 23-14-18, and 23-21-1.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments supporting or opposing Rule R657-61 were received since November 2013, when the rule was last reviewed.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-61 defines the process by which the value of real property is determined for purposes of acquisition or disposal by the Division of Wildlife Resources. Therefore, this rule should be continued.

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

NATURAL RESOURCES
 WILDLIFE RESOURCES
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: Mike Fowlks, Director

EFFECTIVE: 10/04/2018

Natural Resources, Wildlife Resources
R657-66

Military Installation Permit Program

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**

DAR FILE NO.: 43232
 FILED: 10/04/2018

**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: Under the authority of Sections 23-14-1, 23-14-3, 23-14-18, and 23-14-19, the Wildlife Board is authorized and required to regulate and prescribe the means by which wildlife may be taken.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Division of Wildlife Resources has not received any written comments regarding this rule. Any comments received in opposition to this rule are resolved using existing policies and procedures, or the issue is placed on the Regional Advisory Council's and Wildlife Board's agenda for review and discussion during the process for taking public input. The public is welcome to view the Regional Advisory Council minutes, Wildlife Board minutes, and administrative record for this rule at DWR.

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 establish the standards and procedures for providing hunting opportunity on military installations to military installation personnel and to members of the public. Therefore, this rule should be continued.

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

NATURAL RESOURCES
 WILDLIFE RESOURCES
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: Mike Fowlks, Director

EFFECTIVE: 10/04/2018

Technology Services, Administration
R895-4
Sub-Domain Naming Conventions for
Executive Branch Agencies

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 43228
FILED: 10/03/2018

**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 issued by the Chief Information Officer under the authority of Section 63F-1-206 of the Technology Governance Act, and in accordance with Section 63G-3-201 of the Utah Rulemaking Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received during and since the last five-year review of this rule from interested persons 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: The statute still requires this rule. Therefore, this rule should be continued.

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

TECHNOLOGY SERVICES
ADMINISTRATION
ROOM 6000 STATE OFFICE BUILDING
450 N STATE ST
SALT LAKE CITY, UT 84114
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Stephanie Weteling by phone at 801-538-3284, by FAX at 801-538-3622, or by Internet E-mail at stephanie@utah.gov

AUTHORIZED BY: Michael Hussey, Executive Director and CIO

EFFECTIVE: 10/03/2018

Technology Services, Administration
R895-6
IT Plan Submission Rule for Agencies

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 43229
FILED: 10/03/2018

**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 issued by the Chief Information Officer under the authority of Section 63F-1-206 of the Technology Governance Act, in accordance with Section 63G-3-201 of the Utah Rulemaking Act, and Section 63F-1-204 of the Utah Code, Agency Information Technology Plans.

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 during and since the last five-year review of this rule from interested persons 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: State agencies are required by statute to submit IT plans for review and approval by the Chief Information Officer's (CIO) office. This rule provides the format and content requirements for IT Plan submission. Therefore, this rule should be continued.

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

TECHNOLOGY SERVICES
ADMINISTRATION
ROOM 6000 STATE OFFICE BUILDING
450 N STATE ST
SALT LAKE CITY, UT 84114
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Stephanie Weteling by phone at 801-538-3284, by FAX at 801-538-3622, or by Internet E-mail at stephanie@utah.gov

AUTHORIZED BY: Michael Hussey, Executive Director and CIO

EFFECTIVE: 10/03/2018

Transportation, Operations,
Maintenance

R918-4

Using Volunteer Groups and Third-
Party Contractors for the Adopt-a-
Highway and Sponsor-a-Highway Litter
Pickup Programs

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 43241
FILED: 10/08/2018

**NOTICE OF REVIEW AND STATEMENT OF
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is enacted under the general rulemaking authority in Section 72-1-201, which authorizes the Department of Transportation (Department) to make policy and rules for the administration of the Department, state transportation systems, and programs.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any written comments during and since the last five-year

review of this rule from interested persons 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: The Adopt-a-Highway and Sponsor-a-Highway Litter Pickup Programs remain active, are popular with the public, and help save taxpayers money. Therefore, this rule should be continued.

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

TRANSPORTATION
OPERATIONS, MAINTENANCE
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY, UT 84119-5998
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at cwnewman@utah.gov
- ◆ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at jimpalmer@utah.gov
- ◆ Josh Dangel, or by Internet E-mail at jdangel@utah.gov
- ◆ Linda Hull by phone at 801-965-4253, or by Internet E-mail at lhull@utah.gov

AUTHORIZED BY: Carlos Braceras, Executive Director

EFFECTIVE: 10/08/2018

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

Commerce

Administration

No. 43148 (AMD): R151-4. Department of Commerce

Administrative Procedures Act Rule

Published: 09/01/2018

Effective: 10/11/2018

Occupational and Professional Licensing

No. 43150 (AMD): R156-47b-102. Definitions

Published: 09/01/2018

Effective: 10/11/2018

No. 43137 (AMD): R156-67. Utah Medical Practice Act Rule

Published: 09/01/2018

Effective: 10/09/2018

No. 43142 (AMD): R156-68. Utah Osteopathic Medical Practice Act Rule

Published: 09/01/2018

Effective: 10/09/2018

Environmental Quality

Administration

No. 42781 (AMD): R305-7. Administrative Procedures

Published: 05/01/2018

Effective: 11/01/2018

No. 42781 (CPR): R305-7. Administrative Procedures

Published: 09/01/2018

Effective: 11/01/2018

Governor

Economic Development

No. 43152 (NEW): R357-22. Rural Employment Expansion

Program Rule

Published: 09/01/2018

Effective: 10/11/2018

No. 43149 (NEW): R357-23. Business Expansion and

Retention Initiative Rule

Published: 09/01/2018

Effective: 10/11/2018

Health

Family Health and Preparedness, Child Care Licensing

No. 43107 (REP): R430-1. General Licensing, Certificate,

and Enforcement Provisions, Child Care Facilities

Published: 08/15/2018

Effective: 10/15/2018

No. 43106 (REP): R430-6. Background Screening

Published: 08/15/2018

Effective: 10/15/2018

Labor Commission

Occupational Safety and Health

No. 43121 (AMD): R614-1-4. Incorporation of Federal

Standards

Published: 08/15/2018

Effective: 10/15/2018

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 October 15, 2018. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules Index of Changes. Nonsubstantive changes, while not published in the Bulletin, do become part of the Utah Administrative Code (Code) and are included in this Index, as well as 120-Day (Emergency) rules that do not become part of the Code. The rules are indexed by Agency (Code Number) and Keyword (Subject).

Questions regarding the index and the information it contains should be addressed to the Office of Administrative Rules (801-538-3003).

A copy of the **RULES INDEX** is available for public inspection at the Office of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Office's web site (<https://rules.utah.gov/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
<u>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	Travel-Related Reimbursements for State Employees	43095	AMD	09/21/2018	2018-16/6
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,
 Tomicus 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

ATTORNEY GENERAL

Administration

R105-2 Records Access and Management 42367 AMD 02/07/2018 2018-1/2
 R105-2 Records Access and Management 43075 AMD 09/07/2018 2018-15/52

CAREER SERVICE REVIEW OFFICE

Administration

R137-1 Grievance Procedure Rules 42844 AMD 09/28/2018 2018-10/15
 R137-1 Grievance Procedure Rules 42844 CPR 09/28/2018 2018-12/36
 R137-2 Government Records Access and Management
 Act 42779 5YR 04/09/2018 2018-9/69

COMMERCE

Administration

R151-4 Department of Commerce Administrative
 Procedures Act Rule 43148 AMD 10/11/2018 2018-17/17

Consumer Protection

R152-1 Utah Division of Consumer Protection Buyer
 Beware List 42827 NSC 04/26/2018 Not Printed
 R152-1a Internet Content Provider Ratings Methods 42828 NSC 04/26/2018 Not Printed
 R152-1a-1 Authority and Purpose 43196 NSC 09/27/2018 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
 R152-22 Charitable Solicitations Act 42835 NSC 04/26/2018 Not Printed
 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

RULES INDEX

Corporations and Commercial Code

R154-100 Utah Administrative Procedures Act Rules 43184 5YR 09/11/2018 2018-19/97

Occupational and Professional Licensing

R156-1 General Rule of the Division of Occupational and Professional Licensing 42582 AMD 04/09/2018 2018-5/7
 R156-5a Podiatric Physician Licensing Act Rule 42869 5YR 05/01/2018 2018-10/155
 R156-9 Funeral Service Licensing Act Rule 43092 AMD 09/10/2018 2018-15/53
 R156-11a Cosmetology and Associated Professions Licensing Act Rule 42778 AMD 06/07/2018 2018-9/4
 R156-24b-102 Definitions 42623 NSC 03/14/2018 Not Printed
 R156-31b Nurse Practice Act Rule 42448 5YR 01/08/2018 2018-3/69
 R156-37c 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
 R156-42a Occupational Therapy Practice Act Rule 43247 5YR 10/09/2018 Not Printed
 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
 R156-47b-102 Definitions 43150 AMD 10/11/2018 2018-17/22
 R156-55b-102 Definitions 42429 NSC 01/18/2018 Not Printed
 R156-61 Psychologist Licensing Act Rule 43216 5YR 09/18/2018 2018-20/31
 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
 R156-67 Utah Medical Practice Act Rule 43137 AMD 10/09/2018 2018-17/24
 R156-68 Utah Osteopathic Medical Practice Act Rule 42447 5YR 01/08/2018 2018-3/70
 R156-68 Utah Osteopathic Medical Practice Act Rule 43142 AMD 10/09/2018 2018-17/28
 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
 R156-78-502 Unprofessional Conduct 42243 AMD 01/02/2018 2017-22/28

Real Estate

R162-2c Utah Residential Mortgage Practices and Licensing Rules 42809 AMD 07/13/2018 2018-10/27
 R162-2f Real Estate Licensing and Practices Rules 43012 AMD 08/21/2018 2018-14/12
 R162-2g Real Estate Appraiser Licensing and Certification Administrative Rules 43011 AMD 09/04/2018 2018-14/16

CORRECTIONS

Administration

R251-103 Undercover Roles of Offenders 43186 5YR 09/12/2018 2018-19/97
 R251-105 Applicant Qualifications for Employment with Department of Corrections 43217 5YR 09/19/2018 2018-20/32
 R251-114 Offender Long-Term Health Care - Notice 42637 5YR 03/07/2018 2018-7/161

EDUCATION

Administration

R277-100 Definitions for Utah State Board of Education (Board) Rules 42749 NSC 04/12/2018 Not Printed
 R277-101 Public Participation in Utah State Board of Education Meetings 42750 NSC 04/12/2018 Not Printed
 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 42915 AMD 07/09/2018 2018-11/12

	Regular Employment				
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R307-509	Oil and Gas Industry: Leak Detection and Repair Requirements	42114	NEW	03/05/2018	2017-19/79
R307-509	Oil and Gas Industry: Leak Detection and Repair Requirements	42114	CPR	03/05/2018	2018-3/63
R307-510	Oil and Gas Industry: Natural Gas Engine Requirements	42115	NEW	03/05/2018	2017-19/81
R307-510	Oil and Gas Industry: Natural Gas Engine Requirements	42115	CPR	03/05/2018	2018-3/65
R307-510	Oil and Gas Industry: Natural Gas Engine Requirements	42858	NSC	05/14/2018	Not Printed
R307-801	Utah Asbestos Rule	42551	EXT	01/31/2018	2018-4/115
R307-801	Utah Asbestos Rule	42669	5YR	03/08/2018	2018-7/179
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R313-25	License Requirements for Land Disposal of Radioactive Waste – General Provisions	42204	CPR	04/16/2018	2018-5/128
R313-32-2	Clarifications or Exceptions	43158	NSC	08/31/2018	Not Printed
R313-37-3	Clarifications or Exceptions	42798	AMD	07/13/2018	2018-9/59

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R315-15	Standards for the Management of Used Oil	42451	AMD	04/19/2018	2018-3/35
R315-15-5	Standards for Used Oil Processors and Re-Refiners	42615	NSC	03/14/2018	Not Printed
R315-15-16	Grants	43081	AMD	09/14/2018	2018-15/57
R315-260	Hazardous Waste Management System	43079	AMD	09/14/2018	2018-15/61
R315-261	General Requirements -- Identification and Listing of Hazardous Waste	43080	AMD	09/14/2018	2018-15/65
R315-261	General Requirements -- Identification and Listing of Hazardous Waste	43129	NSC	09/20/2018	Not Printed
R315-262-17	General -- Conditions for Exemption for a Large Quantity Generator that Accumulates Hazardous Waste	42672	NSC	03/30/2018	Not Printed
R315-262-17	General -- Conditions for Exemption for a Large Quantity Generator that Accumulates Hazardous Waste	42824	NSC	05/03/2018	Not Printed
R315-270-61	Hazardous Waste Permit Program -- Emergency Permits	43159	NSC	08/31/2018	Not Printed
R315-301	Solid Waste Authority; Definitions, and General Requirements	42452	5YR	01/12/2018	2018-3/71
R315-302	Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements	42453	5YR	01/12/2018	2018-3/72
R315-303	Landfilling Standards	42454	5YR	01/12/2018	2018-3/72
R315-304	Industrial Solid Waste Landfill Requirements	42455	5YR	01/12/2018	2018-3/73
R315-305	Class IV and VI Landfill Requirements	42456	5YR	01/12/2018	2018-3/74
R315-306	Incinerator Standards	42457	5YR	01/12/2018	2018-3/74
R315-307	Landtreatment Disposal Standards	42458	5YR	01/12/2018	2018-3/75
R315-308	Ground Water Monitoring Requirements	42459	5YR	01/12/2018	2018-3/75
R315-309	Financial Assurance	42460	5YR	01/12/2018	2018-3/76
R315-310	Permit Requirements for Solid Waste Facilities	42461	5YR	01/12/2018	2018-3/77
R315-311	Permit Approval For Solid Waste Disposal, Waste Tire Storage, Energy Recovery, And Incinerator Facilities	42462	5YR	01/12/2018	2018-3/77
R315-312	Recycling and Composting Facility Standards	42463	5YR	01/12/2018	2018-3/78
R315-313	Transfer Stations and Drop Box Facilities	42464	5YR	01/12/2018	2018-3/79
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R315-315	Special Waste Requirements	42466	5YR	01/12/2018	2018-3/80
R315-316	Infectious Waste Requirements	42467	5YR	01/12/2018	2018-3/80
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R315-318	Permit by Rule	42469	5YR	01/12/2018	2018-3/82
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R317-2	Standards of Quality for Waters of the State	42691	AMD	07/02/2018	2018-7/58
R317-9	Administrative Procedures	42509	5YR	01/24/2018	2018-4/95
R317-10-10	Examination	42274	AMD	01/24/2018	2017-22/29
R317-13	Approvals and Permits for a Water Reuse Project	42510	5YR	01/24/2018	2018-4/96
R317-14	Approval of Change in Point of Discharge of POTW	42511	5YR	01/24/2018	2018-4/96
R317-15	Water Quality Certification	43130	5YR	08/02/2018	2018-17/71
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R331-24	Accounting for Accrued Uncollected Income by Banks and Industrial Loan Corporations	43162	5YR	08/23/2018	2018-18/35
R331-25	Rule Governing Debt Cancellation and Debt Suspension Agreements Issued by Depository Institutions, Who Are Under the Jurisdiction of the Department of Financial Institutions	43248	5YR	10/11/2018	Not Printed

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R356-4	Juvenile Confinement	42055	NEW	01/02/2018	2017-18/26

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R357-16	Utah Outdoor Recreation Infrastructure Grant	42633	NSC	03/14/2018	Not Printed
R357-22	Rural Employment Expansion Program Rule	43152	NEW	10/11/2018	2018-17/52
R357-23	Business Expansion and Retention Initiative Rule	43149	NEW	10/11/2018	2018-17/54
R357-23	Business Expansion and Retention Initiative Rule	43208	NSC	10/11/2018	Not Printed

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R380-50	Local Health Department Funding Allocation Formula	42852	AMD	07/03/2018	2018-10/39
R380-250	HIPAA Privacy Rule Implementation	42784	5YR	04/10/2018	2018-9/69

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R436-13	Disclosure of Records	42715	5YR	03/21/2018	2018-8/153
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R381-60	Hourly Child Care Centers	42727	AMD	08/10/2018	2018-8/4
R381-70	Out of School Time Child Care Programs	42726	AMD	08/10/2018	2018-8/19
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R392-102	Food Truck Sanitation	42685	NEW	05/18/2018	2018-7/97
R392-103	Food Handler Training and Certificate	43077	5YR	07/12/2018	2018-15/103
R392-200	Design, Construction, Operation, Sanitation, and Safety of Schools	42732	AMD	05/31/2018	2018-8/51
R392-300	Recreation Camp Sanitation	42516	R&R	03/26/2018	2018-4/4
R392-301	Recreational Vehicle Park Sanitation	43076	R&R	09/10/2018	2018-15/84
R392-302	Design, Construction and Operation of Public Pools	42744	AMD	05/24/2018	2018-8/66
R392-401	Roadway Rest Stop Sanitation	42514	R&R	03/26/2018	2018-4/27
R392-402	Mobile Home Park Sanitation	42731	R&R	05/24/2018	2018-8/89
R392-501	Labor Camp Sanitation	43014	R&R	09/10/2018	2018-14/25
R392-502	Hotel, Motel and Resort Sanitation	42515	R&R	03/26/2018	2018-4/31
R392-600	Illegal Drug Operations Decontamination Standards	43037	AMD	08/24/2018	2018-14/34
R392-700	Indoor Tanning Bed Sanitation	42491	5YR	01/19/2018	2018-4/97

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R386-702	Communicable Disease Rule	42285	AMD	01/02/2018	2017-22/31
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R384-201	School-Based Vision Screening for Students in Public Schools	42569	EXT	02/08/2018	2018-5/161
R384-201	School-Based Vision Screening for Students in Public Schools	42951	5YR	06/07/2018	2018-13/141
R384-210	Co-prescription Guidelines -- Reporting	42283	NEW	06/07/2018	2017-22/30
R384-210	Co-prescription Guidelines -- Reporting	42283	CPR	06/07/2018	2018-4/70
R384-324	Tobacco Retailer Permit Process	42870	NEW	07/09/2018	2018-10/42

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R438-13	Rules for the Certification of Institutions to Obtain Impounded Animals in the State of Utah	43078	EXT	07/12/2018	2018-15/109
R438-15	Newborn Screening	42282	NEW	01/29/2018	2017-22/60

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R430-50	Residential Certificate Child Care	42877	5YR	05/09/2018	2018-11/58
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R398-1	Newborn Screening	42279	REP	01/29/2018	2017-22/46
R398-2	Newborn Hearing Screening	43013	5YR	06/19/2018	2018-14/51
R398-3	Children's Hearing Aid Program	43205	5YR	09/14/2018	2018-19/99
R398-10	Autism Spectrum Disorders and Intellectual Disability Reporting	43105	AMD	09/24/2018	2018-16/12
R398-20	Early Intervention	43054	5YR	07/02/2018	2018-14/51

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R426-1	General Definitions	42554	AMD	04/19/2018	2018-4/43
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R426-2	Emergency Medical Services Provider Designations for Pre-Hospital Providers, Critical Incident Stress Management and Quality Assurance Reviews	42555	AMD	04/19/2018	2018-4/46
R426-2	Emergency Medical Services Provider Designations for Pre-Hospital Providers, Critical Incident Stress Management and Quality Assurance Reviews	43243	5YR	10/09/2018	Not Printed
R426-3	Licensure	42556	AMD	04/19/2018	2018-4/50
R426-3	Licensure	42964	EMR	06/11/2018	2018-13/133
R426-3	Licensure	43244	5YR	10/09/2018	Not Printed
R426-4	Operations	43245	5YR	10/09/2018	Not Printed
R426-6	Emergency Medical Services Per Capita and Competitive Grant Programs Rules	42724	5YR	03/28/2018	2018-8/148
R426-8	Emergency Medical Services Ground Ambulance Rates and Charges	42826	AMD	07/01/2018	2018-10/49
R426-9	Trauma and EMS System Facility Designations	43246	5YR	10/09/2018	Not Printed
<u>Family Health and Preparedness, Licensing</u>					
R432-1	General Health Care Facility Rules	42520	5YR	01/29/2018	2018-4/98
R432-1	General Health Care Facility Rules	43006	AMD	08/20/2018	2018-13/37
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R432-2	General Licensing Provisions	43005	AMD	08/27/2018	2018-13/43
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R432-2-13	New License Required	42396	AMD	03/22/2018	2018-2/11
R432-3	General Health Care Facility Rules Inspection and Enforcement	42522	5YR	01/29/2018	2018-4/99
R432-3	General Health Care Facility Rules Inspection and Enforcement	43004	AMD	08/27/2018	2018-13/45
R432-4	General Construction	42523	5YR	01/29/2018	2018-4/99
R432-5	Nursing Facility Construction	42524	5YR	01/29/2018	2018-4/100
R432-6	Assisted Living Facility General Construction	42525	5YR	01/29/2018	2018-4/100
R432-6-16	Parking	42937	AMD	08/20/2018	2018-12/20
R432-16	Hospice Inpatient Facility Construction	42518	5YR	01/29/2018	2018-4/101
R432-35	Background Screening -- Health Facilities	42519	5YR	01/29/2018	2018-4/101
R432-35	Background Screening -- Health Facilities	43003	AMD	10/01/2018	2018-13/50
R432-150-8	Administrator	42201	AMD	01/11/2018	2017-21/108
R432-270	Assisted Living Facilities	43002	AMD	08/27/2018	2018-13/53
R432-270-19	Medication Administration	42200	AMD	01/11/2018	2017-21/109
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R434-150	Adverse Events from the Administration of Sedation or Anesthesia; Recording and Reporting	42671	NSC	04/14/2018	Not Printed
<u>Health Care Financing</u>					
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R410-14	Administrative Hearing Procedures	42746	AMD	05/29/2018	2018-8/95
<u>Health Care Financing, Coverage and Reimbursement Policy</u>					
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R414-2A-7	Limitations	42625	AMD	05/08/2018	2018-6/11
R414-3A	Outpatient Hospital Services	42180	AMD	03/05/2018	2017-20/26
R414-3A	Outpatient Hospital Services	42180	CPR	03/05/2018	2018-2/42
R414-3A-5	Services	42594	AMD	05/08/2018	2018-5/42
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R414-9	Federally Qualified Health Centers and Rural Health Clinics	43122	5YR	07/27/2018	2018-16/33
R414-27	Medicaid Enrollment Process for Nursing Care Facilities	42427	5YR	01/02/2018	2018-2/54
R414-42	Telemedicine	42871	AMD	07/01/2018	2018-10/45
R414-42	Telemedicine	43053	5YR	07/02/2018	2018-14/52

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R414-53	Eyeglasses Services	42783	5YR	04/10/2018	2018-9/71
R414-55	Medicaid Policy for Hospital Emergency Department Copayment Procedures	43036	REP	09/04/2018	2018-14/43
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R414-61-2	Incorporation by Reference	42936	AMD	07/27/2018	2018-12/14
R414-301	Medicaid General Provisions	42440	5YR	01/08/2018	2018-3/83
R414-302	Eligibility Requirements	42441	5YR	01/08/2018	2018-3/84
R414-302-6	Residents of Institutions	42487	EMR	01/19/2018	2018-4/85
R414-302-6	Residents of Institutions	42627	AMD	05/08/2018	2018-6/15
R414-303	Coverage Groups	42442	5YR	01/08/2018	2018-3/84
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R414-305	Resources	42444	5YR	01/08/2018	2018-3/85
R414-306	Program Benefits and Date of Eligibility	42445	5YR	01/08/2018	2018-3/86
R414-308	Application, Eligibility Determinations and Improper Medical Assistance	42446	5YR	01/08/2018	2018-3/86
R414-308-3	Application and Signature	42488	EMR	01/19/2018	2018-4/87
R414-308-3	Application and Signature	42628	AMD	05/08/2018	2018-6/17
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R414-311	Targeted Adult Medicaid	42629	NEW	05/08/2018	2018-6/20
R414-401-3	Assessment	42851	AMD	07/01/2018	2018-10/47
R414-508	Requirements for Transfer of Bed Licenses	42935	5YR	05/25/2018	2018-12/46
R414-509	Medicaid Autism Waiver Open Enrollment Process	42490	REP	04/11/2018	2018-4/41
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R414-511	Medicaid Accountable Care Organization Incentives to Appropriately Use Emergency Room Services	43204	5YR	09/14/2018	2018-19/100
R414-517	Inpatient Hospital Provider Assessments	42353	AMD	01/29/2018	2017-24/16
R414-519	Settings for Home and Community-Based Services	42635	NEW	05/25/2018	2018-7/112

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R477-2	Administration	42811	AMD	07/01/2018	2018-10/57
R477-4	Filling Positions	42812	AMD	07/01/2018	2018-10/60
R477-5	Employee Status and Probation	42813	AMD	07/01/2018	2018-10/63
R477-6	Compensation	42814	AMD	07/01/2018	2018-10/65
R477-7	Leave	42815	AMD	07/01/2018	2018-10/71
R477-8	Working Conditions	42816	AMD	07/01/2018	2018-10/79
R477-9	Employee Conduct	42817	AMD	07/01/2018	2018-10/84
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R477-12	Separations	42820	AMD	07/01/2018	2018-10/92
R477-16	Abusive Conduct Prevention	42821	AMD	07/01/2018	2018-10/94
R477-101	Administrative Law Judge Conduct Committee	42822	AMD	07/01/2018	2018-10/96

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R495-881	Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule Implementation	42766	5YR	04/02/2018	2018-8/156
R495-885	Employee Background Screenings	42417	AMD	02/23/2018	2018-2/13
R495-885	Employee Background Screenings	42845	EMR	04/23/2018	2018-10/149
R495-885	Employee Background Screenings	42630	AMD	07/18/2018	2018-6/23
R495-885	Employee Background Screenings	42630	CPR	07/18/2018	2018-11/50

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R501-7	Child Placing Adoption Agencies	42317	R&R	05/02/2018	2017-23/50
R501-7	Child Placing Adoption Agencies	42317	CPR	05/02/2018	2018-6/34

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R512-75	Rules Governing Adjudication of Consumer Complaints	43270	5YR	10/15/2018	Not Printed
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R512-201	Child Protective Services, Investigation Services	42598	5YR	02/15/2018	2018-5/144
R512-202	Child Protective Services, General Allegation Categories	42599	5YR	02/15/2018	2018-5/144
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R512-301	Out-of-Home Services, Responsibilities Pertaining to a Parent or Guardian	42601	5YR	02/15/2018	2018-5/145
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R527-201	Medical Support Services	43166	NSC	09/07/2018	Not Printed
R527-303	Automatic Payment Withdrawal	42638	NEW	05/08/2018	2018-7/134
R527-920	Mandatory Disbursement to Obligee Through Electronic Funds Transfer	42720	5YR	03/23/2018	2018-8/156
<u>Services for People with Disabilities</u>					
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R918-4	Using Volunteer Groups and Third-Party Contractors for the Adopt-a-Highway and Sponsor-a-Highway Litter Pickup Programs	43241	5YR	10/08/2018	Not Printed
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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
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ABBREVIATIONS

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

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<u>accreditation</u> Education, Administration	42885 43050	R277-410 R277-505	NSC NSC	05/17/2018 07/06/2018	Not Printed Not Printed
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	42786	R612-100-4	AMD	06/07/2018	2018-9/66	
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Human Services, Substance Abuse and Mental Health, State Hospital	42476	R525-5	5YR	01/16/2018	2018-3/88
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Education, Administration	42775	R277-214	NSC	04/13/2018	Not Printed
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Public Safety, Criminal Investigations and Technical Services, Criminal Identification	42808	R722-310	AMD	07/11/2018	2018-10/113
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Public Safety, Criminal Investigations and Technical Services, Criminal Identification	42808	R722-310	AMD	07/11/2018	2018-10/113
<u>bail bond recovery apprentices</u>					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	42808	R722-310	AMD	07/11/2018	2018-10/113
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Natural Resources, Wildlife Resources	42492	R657-33	AMD	03/26/2018	2018-4/55
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Natural Resources, Wildlife Resources	42913	R657-51	NEW	07/09/2018	2018-11/44
<u>big game seasons</u>					
Natural Resources, Wildlife Resources	42371	R657-5	AMD	02/07/2018	2018-1/19
	42920	R657-5	AMD	07/09/2018	2018-11/40
	42373	R657-71	NEW	02/07/2018	2018-1/52
<u>biliteracy</u>					
Education, Administration	43035	R277-499	NSC	07/06/2018	Not Printed
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Health, Center for Health Data, Vital Records and Statistics	42339	R436-6	REP	04/03/2018	2017-24/20
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Education, Administration	42801	R277-801	AMD	06/07/2018	2018-9/35
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Education, Administration	42749	R277-100	NSC	04/12/2018	Not Printed

<u>boards</u>						
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Labor Commission, Boiler, Elevator and Coal Mine Safety	42565	R616-2-3	AMD	04/09/2018	2018-5/49	
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Human Resource Management, Administration	42816	R477-8	AMD	07/01/2018	2018-10/79	
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Administrative Services, Facilities Construction and Management	42347	R23-5	AMD	01/23/2018	2017-24/8	
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Education, Administration	42921	R277-613	R&R	07/09/2018	2018-11/27	
	43131	R277-613	5YR	08/02/2018	2018-17/71	
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Governor, Economic Development	43149	R357-23	NEW	10/11/2018	2018-17/54	
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Commerce, Consumer Protection	42827	R152-1	NSC	04/26/2018	Not Printed	
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Health, Disease Control and Prevention, Environmental Services	42516	R392-300	R&R	03/26/2018	2018-4/4	
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	42906	R671-312B	5YR	05/11/2018	2018-11/62	
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UTech Board of Trustees, Administration	43093	R945-1	NEW	09/07/2018	2018-15/92	
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	42912	R722-350	NSC	05/17/2018	Not Printed	
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	42862	R501-12	AMD	07/01/2018	2018-10/101	
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	42599	R512-202	5YR	02/15/2018	2018-5/144	
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	43086	R986-700-779	AMD	09/07/2018	2018-15/95	
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	43106	R430-6	REP	10/15/2018	2018-16/18	
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	42317	R501-7	CPR	05/02/2018	2018-6/34
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	42638	R527-303	NEW	05/08/2018	2018-7/134
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	43153	R277-703	NSC	08/31/2018	Not Printed	
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	42706	R436-2	5YR	03/20/2018	2018-8/149	
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	42771	R277-210	NSC	04/13/2018	Not Printed
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	42926	R539-1	NSC	06/01/2018	Not Printed
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Health, Disease Control and Prevention, Environmental Services	43014	R392-501	R&R	09/10/2018	2018-14/25
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Natural Resources, Wildlife Resources	42376	R657-9	AMD	02/07/2018	2018-1/33
<u>military installations</u>					
Natural Resources, Wildlife Resources	43232	R657-66	5YR	10/04/2018	Not Printed
<u>minerals reclamation</u>					
Natural Resources, Oil, Gas and Mining; Non-Coal	42500	R647-1	5YR	01/24/2018	2018-4/105
	42501	R647-2	5YR	01/24/2018	2018-4/105
	42502	R647-3	5YR	01/24/2018	2018-4/106
	42503	R647-4	5YR	01/24/2018	2018-4/106
	42504	R647-5	5YR	01/24/2018	2018-4/107
	42505	R647-6	5YR	01/24/2018	2018-4/108
	42506	R647-7	5YR	01/24/2018	2018-4/108
	42507	R647-8	5YR	01/24/2018	2018-4/109
<u>minors</u>					
Commerce, Consumer Protection	42841	R152-39	NSC	04/26/2018	Not Printed
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Environmental Quality, Air Quality	42542	R307-350	EXT	01/31/2018	2018-4/114
	42661	R307-350	5YR	03/08/2018	2018-7/174
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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
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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
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<u>naturopaths</u> Commerce, Occupational and Professional Licensing	42785	R156-71	AMD	06/07/2018	2018-9/8
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<u>negotiated sales</u> Transportation, Administration	42688	R907-80	AMD	05/09/2018	2018-7/142
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Health, Family Health and Preparedness, Children with Special Health Care Needs	42279	R398-1	REP	01/29/2018	2017-22/46	
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	42700	R277-532	AMD	05/08/2018	2018-7/29	
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	42675	R307-403	CPR	08/02/2018	2018-13/126	
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	42695	R30-2	NEW	06/01/2018	2018-7/14	
	42696	R30-3	NEW	06/01/2018	2018-7/17	
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	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	
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Governor, Economic Development	42332	R357-16	AMD	01/17/2018	2017-23/25
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physical therapist

Commerce, Occupational and Professional Licensing	42623	R156-24b-102	NSC	03/14/2018	Not Printed
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physical therapist assistant

Commerce, Occupational and Professional Licensing	42623	R156-24b-102	NSC	03/14/2018	Not Printed
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physical therapy

Commerce, Occupational and Professional Licensing	42623	R156-24b-102	NSC	03/14/2018	Not Printed
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physician assistants

Commerce, Occupational and Professional Licensing	42807	R156-70a	AMD	06/21/2018	2018-10/24
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physicians

Commerce, Occupational and Professional Licensing	43137	R156-67	AMD	10/09/2018	2018-17/24
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pilot lights

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<u>postsecondary schools</u>	Commerce, Consumer Protection	42840	R152-34a	NSC	04/26/2018	Not Printed
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		42662	R307-351	5YR	03/08/2018	2018-7/174
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	42491	R392-700	5YR	01/19/2018	2018-4/97
<u>satellite</u>					
Education, Administration	42610	R277-482	AMD	04/09/2018	2018-5/22

<u>scholarships</u>					
Education, Administration	43062	R277-602	NSC	07/26/2018	Not Printed
	43153	R277-703	NSC	08/31/2018	Not Printed
UTech Board of Trustees, Administration	43093	R945-1	NEW	09/07/2018	2018-15/92
<u>school boards</u>					
Education, Administration	42750	R277-101	NSC	04/12/2018	Not Printed
<u>school buses</u>					
Education, Administration	43060	R277-600	NSC	07/26/2018	Not Printed
	43061	R277-601	NSC	07/26/2018	Not Printed
<u>school certification</u>					
Commerce, Real Estate	43011	R162-2g	AMD	09/04/2018	2018-14/16
<u>school community councils</u>					
Education, Administration	42800	R277-477	AMD	06/07/2018	2018-9/13
	42323	R277-491-4	AMD	01/09/2018	2017-23/9
<u>school counselors</u>					
Education, Administration	42923	R277-461	NEW	07/09/2018	2018-11/25
<u>school enrollment</u>					
Education, Administration	42889	R277-419	NSC	05/17/2018	Not Printed
	42899	R277-445	NSC	05/17/2018	Not Printed
<u>school fees</u>					
Education, Administration	42883	R277-407	NSC	05/17/2018	Not Printed
<u>school grading accountability</u>					
Education, Administration	42999	R277-497	AMD	08/07/2018	2018-13/24
<u>school improvements</u>					
Education, Administration	42327	R277-920	AMD	01/09/2018	2017-23/19
	43112	R277-920	NSC	08/01/2018	Not Printed
<u>school leaders</u>					
Education, Administration	42327	R277-920	AMD	01/09/2018	2017-23/19
	43112	R277-920	NSC	08/01/2018	Not Printed
<u>school nurses</u>					
Education, Administration	42480	R277-415	NEW	03/14/2018	2018-3/11
<u>school personnel</u>					
Education, Administration	42910	R277-107	5YR	05/11/2018	2018-11/57
	42915	R277-107	AMD	07/09/2018	2018-11/12
	42762	R277-508	5YR	04/02/2018	2018-8/145
	42698	R277-508	AMD	05/08/2018	2018-7/24
<u>school reports</u>					
Education, Administration	42999	R277-497	AMD	08/07/2018	2018-13/24
<u>school sponsored activities</u>					
Education, Administration	42849	R277-113	EXD	04/24/2018	2018-10/159
	42857	R277-113	NEW	06/22/2018	2018-10/28
<u>school transportation</u>					
Education, Administration	43060	R277-600	NSC	07/26/2018	Not Printed
	43061	R277-601	NSC	07/26/2018	Not Printed
<u>school vision</u>					
Health, Disease Control and Prevention, Health Promotion	42569	R384-201	EXT	02/08/2018	2018-5/161
	42951	R384-201	5YR	06/07/2018	2018-13/141
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	43021	R277-474	NSC	07/06/2018	Not Printed
	42800	R277-477	AMD	06/07/2018	2018-9/13
	42958	R277-617	5YR	06/07/2018	2018-13/140
	42994	R277-617	AMD	08/07/2018	2018-13/30
	42620	R277-719	5YR	02/26/2018	2018-6/48
	42614	R277-719	AMD	04/09/2018	2018-5/39
Environmental Quality, Air Quality	42551	R307-801	EXT	01/31/2018	2018-4/115
Health, Disease Control and Prevention, Environmental Services	42669	R307-801	5YR	03/08/2018	2018-7/179
	42732	R392-200	AMD	05/31/2018	2018-8/51
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Education, Administration	42898	R277-444	NSC	05/17/2018	Not Printed
	43084	R277-492	5YR	07/13/2018	2018-15/102
	42998	R277-492	AMD	08/07/2018	2018-13/20
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Science Technology and Research Governing Authority, Administration	42358	R856-4	R&R	01/23/2018	2017-24/41
<u>scooters</u>					
Regents (Board Of), University of Utah, Administration	42617	R805-1	5YR	02/22/2018	2018-6/50
<u>screening</u>					
Health, Disease Control and Prevention, Laboratory Services	42282	R438-15	NEW	01/29/2018	2017-22/60
<u>screenings</u>					
Human Services, Administration	42417	R495-885	AMD	02/23/2018	2018-2/13
	42845	R495-885	EMR	04/23/2018	2018-10/149
	42630	R495-885	AMD	07/18/2018	2018-6/23
	42630	R495-885	CPR	07/18/2018	2018-11/50
<u>seal</u>					
Education, Administration	43035	R277-499	NSC	07/06/2018	Not Printed
<u>sealants</u>					
Environmental Quality, Air Quality	42653	R307-342	5YR	03/08/2018	2018-7/170
<u>searches</u>					
Education, Administration	43072	R277-615	NSC	07/26/2018	Not Printed
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Education, Administration	43109	R277-914	NSC	08/01/2018	Not Printed
UTech Board of Trustees, Administration	43093	R945-1	NEW	09/07/2018	2018-15/92
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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
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Environmental Quality, Water Quality	43130	R317-15	5YR	08/02/2018	2018-17/71
<u>Section 504</u>					
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Regents (Board Of), Administration	42867	R765-254	EXD	05/01/2018	2018-10/159
<u>secure areas</u>					
Human Services, Substance Abuse and Mental Health, State Hospital	42477	R525-6	5YR	01/16/2018	2018-3/89
	42557	R525-6	NSC	03/01/2018	Not Printed

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<u>security guards</u>						
Commerce, Occupational and Professional Licensing	42925	R156-63a	5YR	05/15/2018	2018-11/55	
	42924	R156-63b	5YR	05/15/2018	2018-11/56	
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Health, Family Health and Preparedness, Primary Care and Rural Health	42334	R434-150	NEW	04/14/2018	2017-24/18	
	42671	R434-150	NSC	04/14/2018	Not Printed	
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Education, Administration	42962	R277-411	REP	08/07/2018	2018-13/8	
	43239	R277-620	5YR	10/05/2018	Not Printed	
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Human Services, Aging and Adult Services	42485	R510-105	5YR	01/17/2018	2018-4/102	
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	43125	R602-6	5YR	08/01/2018	2018-16/35	
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Public Safety, Administration	42269	R698-11	NEW	01/10/2018	2017-22/82	
<u>sexual assault kits</u>						
Public Safety, Administration	42269	R698-11	NEW	01/10/2018	2017-22/82	
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	42926	R539-1	NSC	06/01/2018	Not Printed	
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	42600	R512-300	5YR	02/15/2018	2018-5/145
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	42603	R512-305	5YR	02/15/2018	2018-5/146
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	42454	R315-303	5YR	01/12/2018	2018-3/72
	42455	R315-304	5YR	01/12/2018	2018-3/73
	42456	R315-305	5YR	01/12/2018	2018-3/74
	42457	R315-306	5YR	01/12/2018	2018-3/74
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	42460	R315-309	5YR	01/12/2018	2018-3/76
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	43119	R277-752	NSC	08/01/2018	Not Printed
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Public Service Commission, Administration	42425	R746-343	REP	02/21/2018	2018-2/28
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Public Service Commission, Administration	42424	R746-8	NEW	02/21/2018	2018-2/18
	42850	R746-8	AMD	06/21/2018	2018-10/118

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Transportation, Operations, Maintenance	43124	R918-4	EXT	07/31/2018	2018-16/39
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<u>sportsmen</u>					
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	42966	R657-41	AMD	08/09/2018	2018-13/72
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	42482	R277-700	AMD	03/14/2018	2018-3/16
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	43095	R25-7	AMD	09/21/2018	2018-16/6
	43008	R25-7-6	NSC	07/03/2018	Not Printed
	42573	R25-8	5YR	02/08/2018	2018-5/142
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Health, Health Care Financing, Coverage and Reimbursement Policy	42441	R414-302	5YR	01/08/2018	2018-3/84
	42487	R414-302-6	EMR	01/19/2018	2018-4/85
	42627	R414-302-6	AMD	05/08/2018	2018-6/15
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	42667	R307-356	5YR	03/08/2018	2018-7/177
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	42962	R277-411	REP	08/07/2018	2018-13/8
	42887	R277-417	NSC	05/17/2018	Not Printed
	43020	R277-472	NSC	07/06/2018	Not Printed
	43026	R277-485	NSC	07/06/2018	Not Printed
	43072	R277-615	NSC	07/26/2018	Not Printed
	43085	R277-619	5YR	07/13/2018	2018-15/103
	42995	R277-619	AMD	08/07/2018	2018-13/33
	42326	R277-621	NEW	01/09/2018	2017-23/17
	42619	R277-709	5YR	02/26/2018	2018-6/48
	42613	R277-709	AMD	04/09/2018	2018-5/34
	42484	R277-717	AMD	03/14/2018	2018-3/26
	42801	R277-801	AMD	06/07/2018	2018-9/35
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	42850	R746-8	AMD	06/21/2018	2018-10/118
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	42656	R307-346	5YR	03/08/2018	2018-7/171
	42541	R307-347	EXT	01/31/2018	2018-4/114
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	43087	R746-345	5YR	07/16/2018	2018-15/106	
	42589	R746-347	5YR	02/14/2018	2018-5/158	
	42426	R746-360	REP	02/21/2018	2018-2/31	
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	42529	R895-12	EMR	01/30/2018	2018-4/92	
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Human Resource Management, Administration	42816	R477-8	AMD	07/01/2018	2018-10/79	
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Public Service Commission, Administration	43087	R746-345	5YR	07/16/2018	2018-15/106	
<u>telephone utility regulations</u>						
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Public Service Commission, Administration	42769	R746-240	5YR	04/05/2018	2018-9/76	
	42423	R746-341	REP	02/21/2018	2018-2/24	
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	42487	R414-302-6	EMR	01/19/2018	2018-4/85	
	42627	R414-302-6	AMD	05/08/2018	2018-6/15	
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Labor Commission, Industrial Accidents	42562	R612-200	5YR	02/08/2018	2018-5/149	

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Health, Disease Control and Prevention, Health Promotion	42870	R384-324	NEW	07/09/2018	2018-10/42	
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Transportation Commission, Administration	43174	R940-2	5YR	08/30/2018	2018-18/38	
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Transportation, Motor Carrier	42336	R909-19	AMD	01/24/2018	2017-24/60	
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	42921	R277-613	R&R	07/09/2018	2018-11/27	
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	43095	R25-7	AMD	09/21/2018	2018-16/6	
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<u>zoological animals</u>					
Natural Resources, Wildlife Resources	42624	R657-3	5YR	02/27/2018	2018-6/49
	42965	R657-3	AMD	08/09/2018	2018-13/69