

# 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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# TABLE OF CONTENTS

<b>NOTICES OF PROPOSED RULES.....</b>	<b>1</b>
Commerce	
Occupational and Professional Licensing	
No. 43422 (Amendment): R156-55b Electricians Licensing Act Rule.....	2
No. 43423 (Amendment): R156-55c Plumber Licensing Act Rule.....	9
Education	
Administration	
No. 43441 (Amendment): R277-122 Board of Education Procurement.....	17
No. 43442 (New Rule): R277-308 New Educator Induction and Mentoring.....	22
No. 43448 (New Rule): R277-910 Underage Drinking Prevention Program.....	24
No. 43439 (New Rule): R277-912 Law Enforcement Related Incident Reporting.....	26
Health	
Health Care Financing, Coverage and Reimbursement Policy	
No. 43425 (Amendment): R414-61-2 Incorporation by Reference.....	28
Insurance	
Administration	
No. 43428 (Amendment): R590-126-2 Purpose and Scope.....	30
No. 43429 (Amendment): R590-186-5 Company License Renewal.....	31
No. 43427 (New Rule): R590-277 Managed Care Health Benefit Plan Policy Standards.....	33
Natural Resources	
Wildlife Resources	
No. 43431 (Amendment): R657-5 Taking Big Game.....	37
No. 43430 (Amendment): R657-9 Taking Waterfowl, Wilson's Snipe and Coot.....	41
No. 43432 (Amendment): R657-38 Dedicated Hunter Program.....	44
Public Safety	
Criminal Investigations and Technical Services, Criminal Identification	
No. 43435 (New Rule): R722-920 Cold Case Database.....	49
Tax Commission	
Property Tax	
No. 43437 (Amendment): R884-24P-19 Appraiser Designation Program Pursuant to Utah Code Ann. Sections 59-2-701 and 59-2-702.....	51
No. 43438 (Amendment): R884-24P-74 Changes to Jurisdiction of Mining Claims Pursuant to Utah Code Ann. Section 59-2-201.....	54
Transportation	
Motor Carrier	
No. 43443 (Amendment): R909-19 Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation, and Certification.....	56
Operations, Traffic and Safety	
No. 43444 (Amendment): R920-50 Ropeway Operation Safety.....	63
Preconstruction	
No. 43445 (Amendment): R930-7 Utility Accommodation.....	71
<b>FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION.....</b>	<b>89</b>
Education	
Administration	
No. 43426: R277-495 Required Policies for Electronic Devices in Public Schools.....	89
Health	
Disease Control and Prevention, Environmental Services	
No. 43436: R392-101 Food Safety Manager Certification.....	89
Family Health and Preparedness, Children with Special Health Care Needs	
No. 43421: R398-4 Cytomegalovirus Public Health Initiative.....	90
Human Services	
Recovery Services	
No. 43440: R527-275 Passport Release.....	91

TABLE OF CONTENTS

---

Services for People with Disabilities  
No. 43434: R539-10 Short-Term Limited Waiting List Services.....91

Natural Resources  
Water Rights  
No. 43424: R655-13 Stream Alteration.....92

Transportation  
Program Development  
No. 43446: R926-11 Clean Fuel Vehicle Decal Program.....92

Transportation Commission  
Administration  
No. 43447: R940-3 Procedures for Transportation Infrastructure Loan  
Fund Assistance.....93

**NOTICES OF RULE EFFECTIVE DATES.....95**

**2018 RULES INDEX  
BY AGENCY (CODE NUMBER)  
AND  
BY KEYWORD (SUBJECT).....97**

## NOTICES OF PROPOSED RULES

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A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between December 01, 2018, 12:00 a.m., and December 14, 2018, 11:59 p.m. are included in this, the January 01, 2019, 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 January 31, 2019. 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 May 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** or a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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

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

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

**Commerce, Occupational and  
Professional Licensing  
R156-55b  
Electricians Licensing Act Rule**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 43422

FILED: 12/06/2018

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This filing is recommended by the Electricians Licensing Board (Board) and the Construction Services Commission (Commission) to clarify current requirements and conform this rule to current practices in the industry. Additionally, this filing removes certain requirements that the Board and the Commission have found to be outdated and unnecessarily arduous.

**SUMMARY OF THE RULE OR CHANGE:** In Subsection R156-55b-102(1), these amendments clarify the definition of "electrical work", including a nonsubstantive change to update the citation to Section 58-55-102 and simplifying the description of low voltage cable-type wiring. The amendments to Subsection R156-55b-102(2) are formatting changes for clarity. The amendments to Subsection R156-55b-102(3) clarify that the definition of "minor electrical work" includes HVAC equipment, and that wiring may extend no more than ten feet from an existing outlet or disconnect intended specifically for the piece of equipment, appliance, or machinery. The new Subsection R156-55b-102(4) clarifies that "Premises Wiring" means the same as defined in Title 15A, State Construction and Fire Codes Act. The amendments to Subsection R156-55b-102(7) (formerly Subsection R156-55b-102(6)) simplify and update the definition of "work commonly done by unskilled labor" by deleting references to specific tasks and substituting in their place a reference to work performed by "unlicensed persons". In Section R156-55b-302a, the amendments to this section make nonsubstantive formatting changes to clarify all of the current education and experience requirements for the respective license classifications. This includes describing in Subsection R156-55b-302a(5), the programs approved by the Electricians Licensing Board prior to 01/01/2009. In Section R156-55b-302b, the amendments to this section: 1) make nonsubstantive formatting changes to clarify the current examination requirements for the respective license classifications; 2) extend the 25-day waiting period after a failed exam to a 30-day waiting period, to alleviate confusion and create parity among the standards for all contractor professions; and 3) delete the requirement that an applicant pass all exams within a one-year period (the one-year "rolling clock" requirement), as this restriction was deemed unnecessary and onerous. In Section R156-55b-304, the

amendments make formatting changes for clarity, including streamlining this rule by removing duplicative continuing education requirements that are already stated in Section R156-55a-303b. In Subsection R156-55b-401(1), the amendments clarify that an electrical contractor may contract with licensed professional employer organizations to employ one or more licensed electricians. The amendments to Subsection R156-55b-401(2) require an apprentice in the fifth and succeeding years of an apprenticeship to work under immediate supervision, in conformance with the requirements of Subsection 58-55-302(3)(j)(i). In Section R156-55b-501, the amendments update the definition of "unprofessional conduct" to reflect a new standard being implemented across all contractor professions - instead of the licensee being required to carry a copy of their current license at all times, the licensee must provide the license or license number upon request. These amendments also delete as "unprofessional conduct" "failing as an electrical contractor to certify an electrician's hours and breakdown of work experience by category when requested by an electrician who is or has been an employee," as this is a conduct specific to a contractor and will be included as unprofessional conduct in Section R156-55a-501.

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

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** Most of these proposed changes update definitions and ensure that this rule encompasses current requirements and practices in the profession, and make formatting changes for clarity. Accordingly, none of these amendments will impact state government revenues or expenditures. The amendments to Section R156-55b-302b that extend the 25-day waiting period after a failed exam to a 30-day waiting period are not expected to impact existing state practices or procedures and will therefore have no impact on state government revenues or expenditures. The amendments to Section R156-55b-302b that delete the requirement that an applicant pass all exams within a one-year period (the one-year "rolling clock" requirement), are not expected to impact state government revenues or expenditures as the examinee may still take each exam up to five times per year, and the changes will have no impact on state practices or procedures. No other fiscal impact to the state is expected, beyond a minimal cost to the Division of Occupational and Professional Licensing (Division) of approximately \$75 to print and distribute the Electricians Licensing Act Rule once the amendments are made effective.

♦ **LOCAL GOVERNMENTS:** These proposed amendments are not expected to change existing local government practices or procedures, and will therefore, have no impact on local government's revenues or expenditures.

♦ **SMALL BUSINESSES:** These proposed changes that update definitions, ensure that this rule encompasses current requirements and practices in the profession, and make formatting changes for clarity, are not expected to impact

small businesses as they will not change the quantity or number of exchanges between any persons. The amendments to Section R156-55b-302b that extend the 25-day waiting period after a failed exam to a 30-day waiting period are also not expected to impact small business as the examinee may still take each exam the same amount of times per year. The amendment to Section R156-55b-302b deleting the requirement that an applicant pass all exams within a one-year period (the one-year "rolling clock" requirement) is expected to create a fiscal benefit for the estimated 879 small businesses that may be impacted (NAICS 238212 and 238211). With this change, all applicants for licensure may seek licensure as soon as they have passed all of their exams, regardless of when they passed their exams. Currently, many of these applicants need to retake exams they have already passed because the date they took the exam is outside of the one-year rolling clock period. The applicants therefore experience a significant delay of weeks to months to even years in the ability to obtain their license. Other applicants, in particular apprentice electrician applicants who would like to achieve journeyman electrician status, often give up and never seek to increase their level of licensure because of the perceived difficulty and cost associated with trying to timely pass all of their electrician exams. Accordingly, this proposed amendment is expected to significantly reduce current delays in many individuals becoming licensed, and is also expected to encourage many individuals to become licensed at a higher level. Small businesses will therefore be able to more easily hire journeyman electricians, residential journeyman electricians, master electricians, and residential master electricians. Additionally, newly licensed master electricians may be able to create their own small businesses or serve as qualifiers for other small businesses. The Division estimates that this will result in an ongoing fiscal benefit for small businesses. However, the full impact cannot be estimated because it will depend on the unique licensing and employment choices made by each individual applicant, as well as on the characteristics of each small business, and this relevant data is unavailable and the cost of acquiring the data is prohibitively expensive.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The persons that may potentially be affected by these amendments will be Utah licensed master electricians, residential master electricians, journeyman electricians, residential journeyman electricians, and apprentice electricians engaged in electrical work, and applicants from other jurisdictions who wish to become licensed as residential journeyman electricians or higher in Utah. The proposed changes that update definitions and ensure that this rule encompasses current requirements and practices in the profession and that make formatting changes for clarity are not expected to impact these other persons as the changes will not change the quantity or number of exchanges between any persons. The amendments to Section R156-55b-302b that extend the 25-day waiting period after a failed exam to a 30-day waiting period are also not expected to impact these persons as any examinee may still take each exam the same

amount of times per year. The amendment to Section R156-55b-302b deleting the requirement that an applicant pass all licensing exams within a one-year period (the one-year "rolling clock" requirement) is expected to create a fiscal benefit for many of these other persons if it results in their becoming licensed at a higher level, and/or eliminates the cost to them of retaking licensing exams that they have already passed and reduces a delay in their becoming licensed at a higher level. However, the full impact cannot be estimated because it will depend on the unique licensing and employment choices made by each individual person, and this relevant data is unavailable and the cost of acquiring the data is prohibitively expensive.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** As described above for other persons, the Division does not anticipate any compliance costs for any affected persons from these proposed amendments because these amendments will result either in no fiscal impact or in a fiscal benefit.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** These proposed amendments are recommended by the Board and the Commission to clarify current requirements and conform the rule to current practices in the industry. Additionally, this filing removes certain requirements that the Board and the Commission have found to be outdated and unnecessarily onerous. **Small Business:** The proposed changes that update definitions and ensure that the rule encompasses current requirements and practices in the profession, and make formatting changes for clarity, are not expected to impact small business as they will not change the quantity or number of exchanges between any persons. The amendments to Section R156-55b-302b that extend the 25-day waiting period after a failed exam to a 30-day waiting period are also not expected to impact small business as the examinee may still take each exam the same amount of times per year. The amendment to Section R156-55b-302b deleting the requirement that an applicant pass all exams within a one-year period (the one-year "rolling clock" requirement) is expected to create a fiscal benefit for the estimated 879 small businesses that may be impacted (NAICS 238212 and 238211). With this change, all applicants for licensure may seek licensure as soon as they have passed all of their exams, regardless of when they passed their exams. Accordingly, this proposed amendment is expected to significantly reduce current delays in many individuals becoming licensed, and is also expected to encourage many individuals to become licensed at a higher level. Small businesses will therefore be able to more easily hire journeyman electricians, residential journeyman electricians, master electricians, and residential master electricians. Additionally, newly licensed master electricians may be able to create their own small businesses or serve as qualifiers for other small businesses. The Division estimates that this will result in an ongoing fiscal benefit for small business. However, the full impact cannot be estimated because it will depend on the unique licensing and employment choices made by each individual applicant, as

well as on the characteristics of each small business, and this relevant data is unavailable. The cost of acquiring the referenced data is prohibitively expensive. The amendments to Section R156-55b-304 make formatting changes for clarity, including streamlining the rule by removing duplicative continuing education requirements that are already stated in R156-55a-303b. These amendments have no fiscal impact to small business. The amendments to Section R156-55b-401 clarify that an electrical contractor may contract with licensed professional employer organizations to employ one or more licensed electricians, and require an apprentice in the fifth and succeeding years of an apprenticeship to work under immediate supervision, in conformance with the requirements of Subsection 58-55-302(3)(j)(i). These amendments have no fiscal impact to small business. The amendments to R156-55b-501 which amend the definition of "unprofessional conduct" have no fiscal impact to small business. Non-small businesses: There are 26 non-small businesses in Utah in the electrical contracting industry in question (NAICS 238211 and NAICS 238212). The proposed rule changes are expected to have the same fiscal impacts, or lack thereof, as described above in the fiscal impacts for small businesses.

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:

◆ Steve Duncombe by phone at 801-530-6235, by FAX at 801-530-6511, or by Internet E-mail at sduncombe@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2019

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 01/30/2019 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2019

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
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
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
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits:</b>			
	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*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)**

There are 26 non-small businesses in Utah in the electrical contracting industry in question (NAICS 238211, and NAICS 238212). The proposed changes that update definitions and ensure that the rule encompasses current requirements and practices in the profession, and make formatting changes for clarity, are not expected to impact these non-small businesses as they will not change the quantity or number of exchanges between any persons. The amendments to Section R156-55b-302b that extend the 25-day waiting period after a failed exam to a 30-day waiting period are also not expected to impact non-small business as examinees may still take each exam the same amount of times per year. The amendment to Section R156-55b-302b deleting the requirement that an applicant pass all exams within a one-year period (the one-year "rolling clock" requirement) is expected to create a fiscal benefit for these non-small businesses. With this change, all applicants for licensure may seek licensure as soon as they have passed all of their exams, regardless of when they passed their exams. Currently, many of these applicants need to retake exams they have already passed because the date they took the exam is outside of the one-year rolling clock period. The applicants therefore experience a significant delay of weeks to months to even years in the ability to obtain their license. Other applicants, in particular apprentice electrician applicants who would like to achieve journeyman electrician status, often give up and never seek to increase their level of licensure because of the perceived difficulty and cost associated with trying to timely pass all of their electrician exams. Accordingly, this proposed amendment is expected to significantly reduce current delays in many individuals becoming licensed, and is also expected to encourage many individuals to become licensed at a higher level. Non-small businesses will therefore be able to more easily hire journeyman electricians, residential journeyman electricians, master electricians, and residential master electricians. Additionally, newly licensed master electricians may be able to create their own non-small businesses or serve as qualifiers for other non-small businesses. The Division estimates that this will result in an ongoing fiscal benefit for non-small business. However, the full impact cannot be estimated because it will depend on the unique licensing and employment choices made by each individual applicant, as well as on the characteristics of each non-



small business, and this relevant data is unavailable and the cost of acquiring the data is prohibitively expensive.

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

**R156. Commerce, Occupational and Professional Licensing.**

**R156-55b. Electricians Licensing Act Rule.**

**R156-55b-102. Definitions.**

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

(1)(a) "Electrical work" as used in Subsection 58-55-102(14)(a) and in this rule means:

(i) installation, fabrication or assembly of equipment or systems included in ~~["Premises Wiring" as defined by Title 15A, State Construction and Fire Codes Act.];~~

(ii) ~~[Electrical work includes] installation of raceway systems used for any electrical purpose[;]; and~~

(iii) installation of field-assembled systems such as ice and snow melting, pipe-tracing, or manufactured wiring systems~~[- and the like].~~

(b) "Electrical work" does not include:

(i) installation of factory-assembled appliances or machinery that are not part of the ~~[p]Premises [w]Wiring~~, unless wiring interconnections external to the equipment are required in the field~~[-]; and [does not include]~~

(ii) ~~low voltage cable-type wiring less than 50 volts that does not pose a hazard from a shock or fire initiation standpoint as defined by Title 15A, State Construction and Fire Codes Act. [Wiring covered by the National Electrical Code that does not pose a hazard as described above includes Class 2 wiring as defined in Article 725, Power-Limited circuits as defined in Article 760 and wiring methods covered by Chapter 8. All other wiring is subject to licensing requirements.]~~

(2) "Immediate supervision" as used in Subsection 58-55-102(26) and this rule means~~[the following]:~~

(a) for industrial and commercial electrical work, the apprentice and the supervising electrician are physically present on the same project or jobsite, but ~~[are]not required to maintain a direct line of sight[be within sight of one another]; and~~

(b) for residential electrical work, the supervising electrician, when not physically present on the same project or jobsite as the apprentice, is available to provide ~~[reasonable] direction, oversight, inspection, and evaluation of the apprentice's work [of an apprentice]so as to ensure that the end result complies with applicable standards.~~

(3)(a) "Minor electrical work incidental to a mechanical or service installation", as used in Subsection 58-55-305(1)(n), means the electrical work involved in installation, replacement, or repair of HVAC equipment, appliances, or machinery that utilize use electrical power, when wiring is extended no more than ten feet from an existing outlet or disconnect intended specifically for the piece of equipment, appliance, or machinery.

(b) Minor electrical work does not include:

(i) modification or repair of ~~["Premises Wiring" as defined in the National Electrical Code, and does not include]; or~~

(ii) installation of a disconnecting means or outlet. ~~[Electrical work is minor and incidental only when wiring is extended no more than ten feet in length from an outlet or disconnect provided specifically for the piece of equipment.]~~

(4) "Premises Wiring" means the same as defined in Title 15A, State Construction and Fire Codes Act.

([4]5) "Residential project" as used in Subsection 58-55-302(3)(j)(ii) ~~[pertains]pertaining~~ to supervision, ~~[and]means~~ electrical work performed in one- or two-family dwellings, including townhouses, as determined by Title 15A, State Construction and Fire Codes Act.

([5]6) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 55, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-55b-501.

([6]7) "Work commonly done by unskilled labor" as used in Subsection 58-55-102(14)(b)(iii) means work performed by unlicensed persons and includes assisting or handling wire~~[such as digging, sweeping, hammering, carrying, drilling holes, or other tasks that do not directly involve the installation of raceways, conductors, cables, wiring devices, overcurrent devices, or distribution equipment. Unlicensed persons may handle wire on] large wire pulls involving conduit of two inches or larger [or assist in moving heavy electrical equipment]when the task is performed under[in] the immediate [presence of and supervised]supervision of a [by]properly licensed master or[;] journeyman[; residential master or residential journeyman] electrician[s] acting within the scope of [their]the licensee's licenses.~~

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

~~[(1) In accordance with Subsection 58-55-302(3)(i)(i), the approved electrical training program for licensure as a residential journeyman electrician consists of:~~

~~(a) a program of electrical study approved by the Utah Board of Regents, Utah System of Technical Colleges Board of Trustees or other out of state program that is deemed substantially equivalent as determined by the Electricians Licensing Board. Programs approved by the Electricians Licensing Board prior to January 1, 2009 remain approved programs; and~~

~~(b) at least two years of work experience as a licensed apprentice consistent with Section R156-55b-302b.~~

~~(2) In accordance with Subsection 58-55-302(3)(h)(i), the approved four year planned training program for licensure as a journeyman electrician consists of:~~

~~(a) a program of electrical study approved by the Utah Board of Regents, Utah System of Technical Colleges Board of Trustees or other out of state program that is deemed substantially equivalent as determined by the Electricians Licensing Board. Programs approved by the Electricians Licensing Board prior to January 1, 2009 remain approved programs; and~~

~~(b) at least four years of work experience as a licensed apprentice consistent with Section R156-55b-302b.~~

~~(3) A semester of school shall include at least 81 hours of classroom instruction time. A student shall attend a minimum of 72 hours to receive credit for the semester.~~

~~(4) A competency exam shall be given to each student at the end of each semester with the exception of the fourth year second semester. A student, to continue to the next semester, shall achieve a score of 75% or higher on the competency exam. A student who scores below 75% may retake the test one time.~~

~~(5) The applicant shall pass each class with a minimum score of 75%.~~

~~(6) Competency test results shall be provided to the Board at the Board meeting immediately following the semester in a format approved by the Board.~~

~~(7) An applicant for a master electrician license, applying pursuant to Subsection 58-55-302(3)(f)(i) shall be a graduate of an electrical program accredited by the Engineering Accreditation Commission/Accreditation Board for Engineering and Technology (EAC/ABET).~~

~~(8) An applicant shall provide documentation that all education and experience meets the requirements of this rule. The training and instruction requirements for licensure in Subsection 58-55-302(3) are defined, clarified, or established as follows:~~

~~(1) Master Electrician:~~

~~(a) An applicant under Subsection 58-55-302(3)(f)(i) shall:~~

~~(i) hold a bachelor's or master's degree in electrical engineering from an electrical program accredited by the Engineering Accreditation Commission/Accreditation Board for Engineering and Technology (EAC/ABET); and~~

~~(ii) have at least 2,000 hours (one year) of work experience as a licensed Apprentice Electrician.~~

~~(b) An applicant under Subsection 58-55-302(3)(f)(ii) shall:~~

~~(i) hold an associate's degree in applied science from an electrical trade school course of study that meets the requirements of Subsection (5); and~~

~~(ii) have at least 4,000 hours (two years) of work experience as a licensed Journeyman Electrician.~~

~~(c) An applicant under Subsection 58-55-302(3)(f)(iii) shall have at least 8,000 hours (four years) of work experience as a licensed Journeyman Electrician.~~

~~(2) Residential Master Electrician:~~

~~(a) An applicant under Subsection 58-55-302(3)(g)(i) shall have at least 4,000 hours (two years) of work experience as a licensed Residential Journeyman Electrician.~~

~~(b) An applicant under Subsection 58-55-302(3)(g)(ii) shall:~~

~~(i) hold a bachelor's or master's degree in electrical engineering from an electrical program accredited by the Engineering Accreditation Commission/Accreditation Board for Engineering and Technology (EAC/ABET); and~~

~~(ii) have a least 2,000 hours (one year) of work experience as a licensed Apprentice Electrician.~~

~~(3) Journeyman Electrician:~~

~~(a) An applicant under Subsection 58-55-302(3)(h)(i) shall:~~

~~(i) have successfully completed at least 576 hours (four years, 144 hours per year) of a program of electrical study that meets the requirements of Subsection (5); and~~

~~(ii) have at least 8,000 hours (four years) of full-time work experience as a licensed Apprentice Electrician.~~

~~(b) An applicant under Subsection 58-55-302(3)(h)(ii) shall have at least 16,000 hours (eight years) of full-time work experience as a licensed Apprentice Electrician.~~

~~(4) Residential Journeyman Electrician:~~

~~(a) An applicant under Subsection 58-55-302(3)(i)(i) shall:~~

~~(i) have successfully completed at least 288 hours (two years, 144 hours per year) of a program of electrical study that meets the requirements of Subsection (5); and~~

~~(ii) have at least 4,000 hours (two years) of full-time work experience as a licensed Apprentice Electrician.~~

~~(b) An applicant under Subsection 58-55-302(3)(i)(ii) shall have at least 8,000 hours (four years) of full-time work experience as a licensed Apprentice Electrician.~~

~~(5) In accordance with Subsection 58-55-302(3)(f), (h), and (i), an electrical trade school "course of study" and the planned electrical "training program" approved by the Division, mean a program of electrical study that includes measures of competency and achievement level for each student and:~~

~~(a) is approved by the:~~

~~(i) Utah Board of Regents;~~

~~(ii) Utah System of Technical Colleges Board of Trustees;~~

~~or~~

~~(iii) Electricians Licensing Board when the program is out-of-state and includes at least 81 hours of classroom instruction per semester;~~

~~(b) Programs approved by the Electricians Licensing Board include the:~~

~~(i) Independent Electrical Contractors of Utah ("IEC");~~

~~and~~

~~(ii) Utah Electrical Training Alliance, ("IBEW Local 354").~~

~~(6) "Successful completion" of a training program of electrical study means that the applicant:~~

~~(a) attended a minimum of 72 classroom instruction hours each semester; and~~

~~(b) passed each class with a score of at least 75%.~~

~~(7) As used in Subsection 58-55-302(3) and this rule, "practical electrical experience", "practical experience", "full-time training", and "full-time experience" all mean electrical work experience lawfully performed preceding the date of application, in accordance with supervision requirements and the terms and conditions of Subsections R156-55a-302b(2)(a)(i) through (iii), (b), and (c).~~

~~**[R156-55b-302b. Qualifications for Licensure - Work Experience - Residential Journeyman and Journeyman Electricians:**~~

~~(1) In order to satisfy Subsections 58-55-302(3)(h) and (i), an applicant for a license as a residential journeyman electrician or journeyman electrician shall document the following on-the-job work experience:~~

~~(a) Residential Journeyman Electrician:~~

~~(i) at least 600 hours in boxes and fittings, conduit, wireways and cableways and associated fittings;~~

~~(ii) at least 3000 hours in wire and cable, individual conductors and multi-conductors cables, and non-metallic sheathed cable;~~

~~(iii) at least 300 hours in distribution and utilization equipment, transformers, control panels, disconnects, motor starters, lighting fixtures, heaters, appliances, motor and other distribution or utilization equipment; and~~

~~(iv) at least 300 hours in specialized work including grounding, wiring of systems for sound, data, communication, alarms, automated systems, generators, batteries and computer equipment.~~

~~(b) Journeyman electrician:~~

~~(i) at least 4000 hours in raceways, boxes and fittings, conduit, wireways, cableways and other raceways and associated fittings, and non-metallic sheathed cable;~~

~~(ii) at least 800 hours in wire and cable, individual conductors and multi-conductor cables;~~

~~(iii) at least 400 hours in distribution and utilization equipment including transformers, panel boards, switchboards, control panels, disconnects, motor starters, lighting fixtures, heaters, appliances, motors and other distribution and utilization equipment; and~~

~~(iv) at least 400 hours in specialized work including grounding, wiring of systems for sound, data, communication, alarms, automated systems, generators, batteries and computer equipment.~~

~~(2) No more than 2000 hours of work experience may be credited for each 12 month period.~~

~~(3) No credit will be given for work experience performed illegally.]~~

**R156-55b-302[e]. Qualifications for Licensure - Examination Requirements.**

~~[(1)] In accordance with Subsection 58-55-302(1)(c)(i), an applicant for licensure under this rule shall pass the appropriate examinations that are approved by the Board, each of which shall consist of a theory part, a code part and a practical part as follows] the examination requirements for licensure are established as follows:~~

~~[(a)1] [Utah Electrical Licensing Examination for Master Electricians;] Master Electrician applicants shall pass:~~

~~(a) the Utah Master Electrician Code Exam and Theory Exam; and~~

~~(b) the Utah Electrician Practical Exam.~~

~~[(b)2] [Utah Electrical Licensing Examination for Master Residential Electricians;] Residential Master Electrician applicants shall pass:~~

~~(a) the Utah Residential Master Electrician Code Exam and Theory Exam; and~~

~~(b) the Utah Residential Electrician Practical Exam.~~

~~[(c)3] [Utah Electrical Licensing Examination for Journeyman Electricians; and] Journeyman Electrician applicants shall pass:~~

~~(a) the Utah Journeyman Electrician Code Exam and Theory Exam; and~~

~~(b) the Utah Electrician Practical Exam.~~

~~[(d)4] [Utah Electrical Licensing Examination for Residential Journeyman Electricians;] Residential Journeyman Electrician applicants shall pass:~~

~~(a) the Utah Residential Journeyman Electrician Code Exam and Theory Exam; and~~

~~(b) the Utah Residential Electrician Practical Exam.~~

~~[(2)5] Admission to the exam[ination]s is permitted after:~~

(a) the applicant has completed all requirements for licensure ~~[set forth in Section[s] R156-55b-302a[and R156-55b-302b]; or~~

(b) the journeyman applicant under Subsection R156-55b-302a(3)(a) has completed:

(i) the ~~[apprentice education]~~ program of electrical study ~~[set forth in Subsection R156-55b-302a]; and~~

(ii) ~~[not less than]~~ at least 6,000 hours of the required full-time work experience ~~[required under Subsection R156-55b-302b]; or~~

(c) the residential journeyman applicant under Subsection R156-55b-302a(4)(a) has completed:

(i) the ~~[apprentice education]~~ program of electrical study ~~[set forth in Subsection R156-55b-302a]; and~~

(ii) ~~[not less than]~~ at least 3,000 hours of the required full-time work experience ~~[required under Subsection R156-55b-302b].~~

~~[(3)6] [The] An applicant shall obtain:~~

~~(a) a "pass" grade on the Practical Exam; [practical part of the examination;]~~

~~(b) a score of at least 75% on the Theory Exam; [theory part] and~~

~~(c) a score of at least 75% on the Code Exam [code part of the examination].~~

~~[(4)(a) If an applicant fails one or more parts of the examination, the applicant shall retake any part of the examination failed.~~

~~(b) An applicant shall wait at least 25 days between the first two retakes and thereafter shall wait 120 days between retakes.~~

~~(5) If an applicant passes any part of the examination but does not pass the entire examination, the passing score on any part of the examination shall be valid for one year from the date the part of the examination was passed. Thereafter, the applicant shall retake any previously passed part of the examination.]~~

~~(7) An applicant who fails an exam may retake that exam:~~

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

~~(b) no sooner than 120 days following any failure thereafter.~~

**R156-55b-304. Continuing Education - Standards.**

Standards for continuing education shall be in accordance with R156-55a-303b(1)(e) and (2) through (10), except as otherwise provided in this section.

(1) Required Hours. Pursuant to Sections 58-55-302.7 and 58-55-303, each licensee shall complete at least 16 hours of continuing education during each two-year ~~[two-year]~~ license term. ~~[A minimum of]~~ At least 12 hours shall be core education. The remaining four hours may be professional or core education.

(2) "Core continuing education" is defined as education covering the National Electrical Code as adopted or proposed for adoption.

(3) "Professional continuing education" is defined as education covering:

(a) National Fire Protection Association 70E (NFPA 70E), Occupational Safety and Health Administration (OSHA), or Mine Safety and Health Administration (MSHA);

(b) electrical motors and motor controls;  
 (c) ~~[-]~~electrical tool usage; ~~[and]or~~  
 (e)d supervision skills related to the electrical trade.

~~[(4) Non-acceptable course subject matter includes the following types of courses and other similar courses:~~

~~(a) mechanical office and business skills, such as typing, speed reading, memory improvement and report writing;~~

~~(b) physical well-being or personal development, such as personal motivation, stress management, time management, or dress for success;~~

~~(c) presentations by a supplier or a supplier representative to promote a particular product or line of products; and~~

~~(d) meetings held in conjunction with the general business of the licensee or employer.]~~

~~[(5)4] The Division may defer or waive continuing education requirements for:~~

~~(a) [waive the continuing education requirements for a licensee that is]an instructor of a[n approved apprenticeship] program of electrical study under R156-55b-302a(5);~~[-or]~~~~

~~(b) a board member who regularly attends Electricians Licensing Board meetings; and~~

~~(c) any licensee [waive or defer the continuing education requirements] as provided in Section R156-1-308d.~~

~~[(6) A continuing education course shall meet the following standards:~~

~~(a) Time. Each hour of continuing education course credit shall consist of at least 50 minutes of education in the form of seminars, lectures, conferences, training sessions or distance learning modules. The remaining ten minutes may be used for breaks.]~~

~~[(b)5] Provider. [The]A course provider need not be listed in Subsection 58-55-302.5(2), but shall meet the other requirements of this section and [shall] be~~[-one of the following]:~~~~

~~[(i)a] a recognized accredited college or university;~~

~~[(ii)b] a state or federal agency;~~

~~[(iii)c] a professional association or organization involved in the construction trades; or~~

~~[(iv)d] a commercial continuing education provider providing a program related to the electrical trade.~~

~~(e)6] Content. [The]Course content [of the course-]shall be relevant to the practice of the electrical trade and consistent with [the]Utah laws and rules~~[-of this state].~~~~

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

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

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

~~(g) Distance learning. A course may be recognized for continuing education that is provided through internet or home study courses provided that the course verifies registration and participation in the course by means of a passing a test demonstrating that the participant has learned the material presented. Test questions shall be randomized for each participant.~~

~~(h) Documentation. The course provider shall have a competent method of registration of individuals who actually completed the course, shall maintain records of attendance that are~~

available for review by the Division and shall provide to individuals completing the course a certificate which contains the following information:

~~(i) the date of the course;~~

~~(ii) the name of the course provider;~~

~~(iii) the name of the instructor;~~

~~(iv) the course title;~~

~~(v) the hours of continuing education credit;~~

~~(vi) the attendee's name;~~

~~(vii) the attendee's license number; and~~

~~(viii) the signature of the course provider.~~

~~(7) On a random basis, the Division may assign monitors at no charge to attend a course for the purpose of evaluating the course and the instructor.~~

~~(8) Each licensee shall maintain adequate documentation as proof of compliance with this section, such as certificates of completion, course handouts and materials. The licensee shall retain this proof for a period of three years from the end of the renewal period for which the continuing education is due. Each licensee shall assure that the course provider has submitted the verification of attendance to the continuing education registry on behalf of the licensee as specified in Subsection (11). Alternatively, the licensee may submit the course for approval and pay any course approval fees and attendance recording fees.~~

~~(9) Licensees who lecture in approved continuing education courses shall receive two hours of continuing education for each hour spent lecturing. However, no lecturing or teaching credit is available for participation in a panel discussion.~~

~~(10) A course provider shall submit continuing education courses for approval to the continuing education registry and shall submit verification of attendance and completion on behalf of licensees attending and completing the program directly to the continuing education registry in the format required by the continuing education registry.~~

~~(11) The Division shall review continuing education courses which have been submitted through the continuing education registry and approve only those courses which meet the standards set forth under this section.~~

~~(12) Continuing Education Registry.~~

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

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

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

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

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

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

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

~~\_\_\_\_\_ (c) Fees. The Continuing Education Registry may charge a reasonable fee to continuing education providers or licensees for services provided for review and approval of continuing education programs.]~~

**R156-55b-401. Conduct of Apprentice and Supervising Electrician.**

~~[(1) The conduct of licensed apprentice electricians and their licensed supervisors shall be in accordance with]The requirements of Subsections 58-55-302(3)(j) and 58-55-102(34) are clarified as follows: ~~Sections 58-55-501, 58-55-502, and R156-55b-501.]~~~~

~~[(2) For the purposes of Subsections 58-55-102(31), 58-55-302(3)(j) and 58-55-501(12), one of the following shall apply:~~

~~\_\_\_\_\_ (a) the supervisor and apprentice employees shall be employees of the same electrical contractor;~~

~~\_\_\_\_\_ (b) the]~~(1) An electrical contractor may comply with supervision and ratio requirements by contracting[contract] with a licensed professional employer organization to employ one or more licensed electricians[such persons].

~~[(3)2] An apprentice in the fifth[fourth through sixth year of training may work without supervision for a period not to exceed eight hours in any 24-hour period. In the seventh] and succeeding years of training~~, the nonsupervision provision no longer applies and the apprentice] shall be under immediate supervision[as set forth in Subsection 58-55-302(3)(j)].~~~~

**R156-55b-501. Unprofessional Conduct.**

"Unprofessional conduct" includes:

(1) failing ~~[as a licensee]~~to comply with the supervision requirements established by Subsection 58-55-302(3)(j).

(2) failing ~~[as a licensee to carry a copy of a]~~to timely provide upon request the licensee's current electrician license or license number[at all times] when performing electrical work; ~~or~~

(3) ~~[failing as an electrical contractor to certify an electrician's hours and breakdown of work experience by category when requested by an electrician who is or has been an employee; and~~

~~\_\_\_\_\_ (4) ]~~failing as a licensee to provide proof of completed continuing education within 30 days of the Division's request.

**KEY: occupational licensing, licensing, contractors, electricians**  
**Date of Enactment or Last Substantive Amendment: [March 27, 2017]2019**

**Notice of Continuation: August 8, 2016**

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

Commerce, Occupational and Professional Licensing  
**R156-55c**  
 Plumber Licensing Act Rule

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 43423

FILED: 12/06/2018

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This filing is recommended by the Plumbers Licensing Board (Board) and the Construction Services Commission (Commission) to clarify current requirements and conform this rule to current practices in the industry. Additionally, this filing removes certain requirements that the Board and the Commission have found to be outdated and unnecessarily arduous.

**SUMMARY OF THE RULE OR CHANGE:** In Subsection R156-55c-102(1), the amendments clarify the definition of "Immediate supervision", to maintain a direct line of sight. In Section R156-55c-302a, the amendments make nonsubstantive formatting changes to clarify all of the current education and experience requirements for the respective license classifications. Amendments to this section also include the removal of the minimum hour requirements for work process previously required and referred to in Tables I and II. In Section R156-55c-302b, the amendments to this section: 1) make nonsubstantive formatting changes to clarify the current examination requirements for the respective license classifications; 2) extend the 25-day waiting period after a failed exam to a 30-day waiting period, to alleviate confusion and create parity among the standards for all contractor professions; and 3) delete the requirement that an applicant pass all exams within a one-year period (the one-year "rolling clock" requirement), as this restriction was deemed unnecessary and onerous. In Section R156-55c-304, the amendments to this section make formatting changes for clarity, including streamlining this rule by removing duplicative continuing education requirements that are already stated in Section R156-55a-303b. In Subsection R156-55c-401(1), the amendments clarify that a plumbing contractor may contract with licensed professional employer organizations to employ one or more licensed plumbers. In Section R156-55c-501, the amendments update the definition of "unprofessional conduct" to reflect a new standard being implemented across all contractor professions - instead of the licensee being required to carry a copy of their current license at all times, the licensee must provide the license or license number upon request. These amendments also delete as "unprofessional conduct" "failing as a plumbing contractor to certify a plumber's hours and breakdown of work experience by category when requested by a plumber who is or has been an employee," as this is a conduct specific to a contractor and will be included as unprofessional conduct in Section R156-55a-501.

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

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** Most of these proposed changes update definitions, ensure that this rule encompasses current requirements and practices in the profession, and make formatting changes for clarity. Accordingly, none of these amendments will impact state government revenues or expenditures. The amendments to Section R156-55c-302b that extend the 25-day waiting period after a failed exam to a 30-day waiting period are not expected to impact existing state practices or procedures and will therefore have no impact on state government revenues or expenditures. The amendments to Section R156-55c-302b that delete the requirement that an applicant pass all exams within a one-year period (the one-year "rolling clock" requirement), are not expected to impact state government revenues or expenditures as the examinee may still take each exam up to five times per year, and the changes will have no impact on state practices or procedures. No other fiscal impact to the state is expected, beyond a minimal cost to the Division of Occupational and Professional Licensing (Division) of approximately \$75 to print and distribute the Plumbers Licensing Act Rule once the amendments are made effective.

◆ **LOCAL GOVERNMENTS:** These proposed amendments are not expected to change existing local government practices or procedures, and will therefore have no impact on local governments revenues or expenditures.

◆ **SMALL BUSINESSES:** These proposed changes that update definitions and ensure that the rule encompasses current requirements and practices in the profession, and make formatting changes for clarity, are not expected to impact small business as they will not change the quantity or number of exchanges between any persons. The amendments to Section R156-55c-302b that extend the 25-day waiting period after a failed exam to a 30-day waiting period are also not expected to impact small businesses as the examinee may still take each exam the same amount of times per year. The amendment to Section R156-55c-302b deleting the requirement that an applicant pass all exams within a one-year period (the one-year "rolling clock" requirement) is expected to create a fiscal benefit for the estimated 1,139 small businesses that may be impacted (NAICS 238221 and 238222). With this change, all applicants for licensure may seek licensure as soon as they have passed all of their exams, regardless of when they passed their exams. Currently, many of these applicants need to retake exams they have already passed because the date they took the exam is outside of the one-year rolling clock period. The applicants therefore experience a significant delay of weeks to months to even years in the ability to obtain their license. Other applicants, in particular apprentice plumber applicants who would like to achieve journeyman plumber status, often give up and never seek to increase their level of licensure because of the perceived difficulty and cost associated with trying to timely pass all of their plumbing exams. Accordingly, this proposed amendment is expected to significantly reduce current delays in many individuals becoming licensed, and is also expected to encourage many individuals to become licensed at a higher level. Small businesses will therefore be able to more

easily hire journeyman plumbers, residential journeyman plumbers, master plumbers, and residential master plumbers. Additionally, newly licensed master plumbers may be able to create their own small businesses or serve as qualifiers for other small businesses. The Division estimates that this will result in an ongoing fiscal benefit for small businesses. However, the full impact cannot be estimated because it will depend on the unique licensing and employment choices made by each individual applicant, as well as on the characteristics of each small business, and this relevant data is unavailable and the cost of acquiring the data is prohibitively expensive.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The persons that may potentially be affected by these amendments will be Utah licensed master plumbers, residential master plumbers, journeyman plumbers, residential journeyman plumbers, and apprentice plumbers engaged in plumbing work, and applicants from other jurisdictions who wish to become licensed as residential journeyman plumbers or higher in Utah. These proposed changes update definitions, ensure that this rule encompasses current requirements and practices in the profession and that make formatting changes for clarity are not expected to impact these other persons as these changes will not change the quantity or number of exchanges between any persons. The amendments to Section R156-55c-302b extend the 25-day waiting period after a failed exam to a 30-day waiting period are also not expected to impact these persons as any examinee may still take each exam the same amount of times per year. The amendment to Section R156-55c-302b deleting the requirement that an applicant pass all licensing exams within a one-year period (the one-year "rolling clock" requirement) is expected to create a fiscal benefit for many of these other persons if it results in their becoming licensed at a higher level, and/or eliminates the cost to them of retaking licensing exams that they have already passed, and reduces a delay in their becoming licensed at a higher level. However, the full impact cannot be estimated because it will depend on the unique licensing and employment choices made by each individual person, and this relevant data is unavailable and the cost of acquiring the data is prohibitively expensive.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** As described above for other persons, the Division does not anticipate any compliance costs for any affected persons from these proposed amendments because these amendments will result either in no fiscal impact or in a fiscal benefit.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** These proposed amendments are recommended by the Board and the Commission to clarify current requirements and conform the rule to current practices in the industry. Additionally, this filing removes certain requirements that the Board and the Commission have found to be outdated and unnecessarily onerous. Small Businesses: These proposed changes update definitions and ensure that this rule

encompasses current requirements and practices in the profession, and make formatting changes for clarity, are not expected to impact small businesses as they will not change the quantity or number of exchanges between any persons. The amendments to Section R156-55c-302b that extend the 25-day waiting period after a failed exam to a 30-day waiting period are also not expected to impact small businesses as the examinee may still take each exam the same amount of times per year. The amendment to Section R156-55c-302b deleting the requirement that an applicant pass all exams within a one-year period (the one-year "rolling clock" requirement) is expected to create a fiscal benefit for the estimated 1,139 small businesses that may be impacted (NAICS 238221 and 238222). With this change, all applicants for licensure may seek licensure as soon as they have passed all of their exams, regardless of when they passed their exams. Currently, many of these applicants need to retake exams they have already passed because the date they took the exam is outside of the one-year rolling clock period. Accordingly, this proposed amendment is expected to significantly reduce current delays in many individuals becoming licensed, and is also expected to encourage many individuals to become licensed at a higher level. Small businesses will therefore be able to more easily hire journeyman plumbers, residential journeyman plumbers, master plumbers, and residential master plumbers. Additionally, newly licensed master plumbers may be able to create their own small businesses or serve as qualifiers for other small businesses. The Division estimates that this will result in an ongoing fiscal benefit for small business. However, the full impact cannot be estimated because it will depend on the unique licensing and employment choices made by each individual applicant, as well as on the characteristics of each small business, and this relevant data is unavailable and the cost of acquiring the data is prohibitively expensive. The amendments to Section R156-55c-501 which amend the definition of "unprofessional conduct" have no fiscal impact to small businesses. Non-small businesses: There are 42 non-small businesses in Utah in the plumbing contractor industry in question (NAICS 238221 and NAICS 238222). These proposed rule changes are expected to have the same fiscal impacts, or lack thereof, as described above in the fiscal impacts for small businesses.

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:  
 ♦ Steve Duncombe by phone at 801-530-6235, by FAX at 801-530-6511, or by Internet E-mail at sduncombe@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2019

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 01/30/2019 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2019

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
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
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
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*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)

There are 42 non-small businesses in Utah in the plumbing contractor industry in question (NAICS 238221, and NAICS 238222). The proposed changes that update definitions and ensure that this rule encompasses current requirements and practices in the profession, and make formatting changes for clarity, are not expected to impact these non-small businesses as they will not change the quantity or number of exchanges between any persons. The amendments to Section R156-55c-302b that extend the 25-day waiting period after a failed exam to a 30-day waiting period are also not expected to impact non-small business as examinees may still take each exam the same amount of times per year. The amendment to Section R156-55c-302b deleting the requirement that an applicant pass all exams

within a one-year period (the one-year "rolling clock" requirement) is expected to create a fiscal benefit for these non-small businesses. With this change, all applicants for licensure may seek licensure as soon as they have passed all of their exams, regardless of when they passed their exams. Currently, many of these applicants need to retake exams they have already passed because the date they took the exam is outside of the one-year rolling clock period. The applicants, therefore, experience a significant delay of weeks to months to even years in the ability to obtain their license. Other applicants, in particular apprentice plumber applicants who would like to achieve journeyman plumber status, often give up and never seek to increase their level of licensure because of the perceived difficulty and cost associated with trying to timely pass all of their plumbing exams. Accordingly, this proposed amendment is expected to significantly reduce current delays in many individuals becoming licensed, and is also expected to encourage many individuals to become licensed at a higher level. Non-small businesses will therefore be able to more easily hire journeyman plumbers, residential journeyman plumbers, master plumbers, and residential master plumbers. Additionally, newly licensed master plumbers may be able to create their own non-small businesses or serve as qualifiers for other non-small businesses. The Division estimates that this will result in an ongoing fiscal benefit for non-small business. However, the full impact cannot be estimated because it will depend on the unique licensing and employment choices made by each individual applicant, as well as on the characteristics of each non-small business, and this relevant data is unavailable and the cost of acquiring the data is prohibitively expensive.

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

## **R156. Commerce, Occupational and Professional Licensing.**

### **R156-55c. Plumber Licensing Act Rule.**

#### **R156-55c-102. Definitions.**

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

(1) "Immediate supervision", as used in Subsections 58-55-102(5) and 58-55-102(23) and this rule, means the apprentice and the supervising plumber are physically present on the same project or job site but are not required to maintain a direct line of sight~~[be within sight of one another]~~.

(2) "Minor plumbing work that is incidental", as used in Subsection 58-55-305(1)(k)(i) and this rule, means:

(a) installation, repair or replacement of the following residential type Plumbing Appliances:

- (i) dishwashers;
- (ii) refrigerators;
- (iii) freezers;
- (iv) ice makers;
- (v) stoves;
- (vi) ranges;
- (vii) clothes washers;
- (viii) clothes dryers; and

(b) repair or replacement of the following residential type Plumbing Appurtenances, Fixtures and Systems, when the cost of the repair or replacement does not exceed \$300 in total value, including all labor and materials, and including all changes or additions to the contracted or agreed upon work:

- (i) tub or shower trim;
- (ii) tub or shower valve;

- (iii) toilet flush valve;
- (iv) toilet removal and reset;
- (v) garbage disposal;
- (vi) kitchen or lavatory sink P-trap;
- (vii) kitchen or lavatory faucet rebuild and install;
- (viii) supply line replacement after the fixture valve; and
- (3) "Minor plumbing work that is incidental", as used in

Subsection 58-55-305(1)(k)(i), does not include installation or replacement of a water heater, or work to include the initial installation of Plumbing Appurtenances, Fixtures and Systems.

(4) Plumbing Appliances, Appurtenances, Fixtures, and Systems, as used in this rule, shall have the same meaning as defined by Title 15A, State Construction and Fire Codes Act.

(5) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 55, is further defined in accordance with Subsection 58-1-203(1)(e), in Subsection R156-55c-501.

#### **R156-55c-103. Authority - Purpose.**

This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 55.

#### **R156-55c-302a. Qualification for Licensure - ~~[Training]~~ Education and ~~[Instruction]~~ Experience Requirement.**

~~[In accordance with Subsections 58-1-203(2) and 58-1-201(3), the]~~The education and experience~~[training and instruction]~~ requirements for licensure in Subsection 58-55-302(3)~~(e) and (d)]~~ are defined, clarified, or established as follows:

##### (1) Master Plumber:

(a) An applicant under Subsection 58-55-302(3)(a)(i)(A) shall have at least 4,000 hours (two years) of work experience and at least 4,000 hours (two years) of supervisory experience as a licensed Journeyman Plumber.

(b) An applicant under Subsection 58-55-302(3)(a)(i)(B) shall:

(i) hold at least an associate of applied science degree or a similar degree, from an institution recognized by the Council for Higher Education Accreditation (CHEA); and

(ii) have at least 2,000 hours (one year) of supervisory experience as a licensed Journeyman Plumber.

##### (2) Residential Master Plumber:

(a) An applicant under Subsection 58-55-302(3)(b)(i) shall have at least 4,000 hours (two years) of work experience and at least 4,000 hours (two years) of supervisory experience as a licensed Residential Journeyman Plumber.

(b) An applicant under Subsection 58-55-302(3)(b)(ii) shall:

(i) hold at least an associate of applied science degree or a similar degree, from an institution recognized by the Council for Higher Education Accreditation (CHEA); and

(ii) have at least 2,000 hours (one year) of supervisory experience as a licensed Residential Journeyman Plumber.

##### (3) Journeyman Plumber:

(a) An applicant under Subsection 58-55-302(3)(c)(i) shall have successfully completed:

(i) at least 576 hours (four years, 144 hours per year) of a planned program of training that meets the requirements of Subsection (5); and



(ii) at least 8,000 hours (four years) of full-time work experience as a licensed Apprentice Plumber.

(b) An applicant under Subsection 58-55-302(3)(c)(ii) shall have successfully completed at least 16,000 hours (eight years) of full-time work experience as a licensed Apprentice Plumber.

(c) An applicant licensed as a Residential Journeyman Plumber shall have successfully completed:

(i) at least one year (2,000 hours) of full-time work experience in industrial or commercial plumbing while licensed as an Apprentice Plumber; and

(ii) the fourth year (144 hours) of a planned program of training that meets the requirements of Subsection (5).

(4) Residential Journeyman Plumber:

(a) An applicant under Subsection 58-55-302(3)(d)(i) shall have successfully completed:

(i) at least 432 hours (three years, 144 hours per year) of a planned program of training that meets the requirements of Subsection (5); and

(ii) at least 6,000 hours (three years) of work experience as a licensed Apprentice Plumber.

(b) An applicant under Subsection 58-55-302(3)(d)(ii) shall produce satisfactory evidence, using a form provided by the Division, that the applicant:

(i) has completed at least 12,000 hours (six years) of full-time work experience in a maintenance or repair trade; and

(ii) that at least 9,000 of the required 12,000 hours directly involve the plumbing trade.

(5)(a) The "planned program of training approved by the Division" pursuant to Subsections 58-55-302(3)(c)(i) and (d)(i), shall consist of formal classroom education in the plumbing trade that:

(i) includes measures of competency and achievement level for each student;

(ii) is conducted by competent qualified staff;

(iii) is conducted by an entity approved by:

(A) the Utah Board of Regents;

(B) the Utah System of Technical Colleges Board of Trustees; or

(C) a similar out-of-state body that approves formal classroom education in plumbing; and

(iv) includes at least 81 hours of classroom instruction per semester.

(b) "Successful completion" or "completion" of a planned program of training under Subsection 58-55-302(3)(c) and (d) and this rule, means that the applicant:

(i) attended a minimum of 72 classroom instruction hours each semester; and

(ii) passed each class with a score of at least 75%.

(6) As used in Subsections 58-55-302(3)(c) and (d) and this rule, "full-time training", "full-time experience", "work experience", and "full-time work experience" mean work experience that is lawfully performed preceding the date of application, in accordance with all licensing and supervision requirements and the terms and conditions of Subsection R156-55a-302b(2)(a)(i) through (iii), (2)(b), and (2)(c).

(7) On the job training and instruction shall include measurements of the apprentice's performance in the plumbing trade.

(8) As used in Subsections 58-55-302(3)(c) and (d) and this rule, "supervisory experience" means experience supervising a licensed plumber that is lawfully performed preceding the date of application, in accordance with all licensing and supervision requirements and the terms and conditions of Subsections R156-55a-302b(2)(a)(i) through (iii), (2)(b), and (2)(c).

(1) An applicant for a journeyman plumber's license shall demonstrate successful completion of the requirements of either paragraph (a) or (b):

(a)(i) 8,000 hours of training and instruction in not less than four years that meets the requirements of Subsections R156-55e-302a(4) and (6);

(ii) the 8,000 hours shall include 576 clock hours of related classroom instruction that meets the requirements of Subsection R156-55e-302a(5);

(iii) the apprenticeship shall be obtained while licensed as an apprentice plumber;

(iv) the apprenticeship shall include on the job training and instruction in nine of the 11 work process areas listed in Table I; and

(v) the hours obtained in any work process area shall be at least the number of hours listed in Table I.

(b)(i) 16,000 hours of on the job training and instruction in not less than eight years;

(ii) the apprenticeship shall be obtained while licensed as an apprentice plumber;

(iii) the hours shall include on the job training and instruction in nine of the 11 work process areas listed in Table I; and

(iv) the hours obtained in any work process shall be at least the number of hours listed in Table I.

TABLE I  
Training and Instruction

Work Process	Minimum Hours
A. Use of hand tools, equipment and pipe machinery	200
B. Installation of piping for waste, soil, sewer and vent lines	2,000
C. Installation of hot and cold water for domestic purposes	1,400
D. Installation and setting of plumbing appliances and fixtures	1,200
E. Maintenance and repair of plumbing	600
F. General pipe work including process and industrial hours	600
G. Gas piping or service piping	400
H. Welding, soldering and brazing as it applies to the trade	100
I. Service and maintenance of gas controls and equipment	100
J. Hydronics piping and equipment installation	300
K. Fire suppression system installation	100

~~(2) An applicant for a residential journeyman plumber's license shall demonstrate successful completion of the requirements of paragraph (a) or (b):~~

~~(a)(i) 6,000 hours of training and instruction in not less than three years that meets the requirements of Subsections R156-55c-302a(4) and (6);~~

~~(ii) the 6,000 hours shall include 432 clock hours of related classroom instruction that meets the requirements of Subsection R156-55c-302a(5);~~

~~(iii) the 6,000 hours shall be obtained while licensed as an apprentice plumber;~~

~~(iv) the apprenticeship shall include on the job training and instruction in eight of the ten work process areas listed in Table H; and~~

~~(v) the hours obtained in any work process area shall include at least the number of hours listed in Table II.~~

~~(b)(i) 12,000 hours of experience in not less than six years which has been documented using a form provided by the Division;~~

~~(ii) the experience shall be obtained while licensed as an apprentice plumber;~~

~~(iii) at least 9,000 hours of experience shall be directly involved in the plumbing trade;~~

~~(iv) the hours shall be in eight of the ten work process areas listed in Table II; and~~

~~(v) the hours obtained in any work process area shall include at least the number of hours listed in Table II.~~

TABLE II  
Training and Instruction

Work Process	Minimum Hours
A. Use of hand tools, equipment and pipe machinery	100
B. Installation of piping for waste, soil, sewer and vent lines	1,600
C. Installation of hot and cold water for domestic purposes	1,200
D. Installation and setting of plumbing appliances and fixtures	800
E. Maintenance and repair of plumbing	600
F. Gas piping or service piping	400
G. Service and maintenance of gas controls and equipment	100
H. Welding, soldering and brazing as it applies to the trade	100
I. Hydronics piping and equipment installation	300
J. Fire suppression system installation	100

~~(3) A licensed residential journeyman plumber applying for a journeyman plumber's license shall complete 2,000 hours of on the job training in industrial or commercial plumbing while licensed as an apprentice plumber, which shall include successful completion of an approved fourth year course of classroom instruction.~~

~~(4) On the job training and instruction required in this section shall include measurements of an apprentice's performance in the plumbing trade.~~

~~(5) Formal classroom instruction required by this section shall meet the following requirements:~~

~~(a) instruction shall be conducted by an entity approved by the Utah Board of Regents, Utah System of Technical Colleges Board of Trustees or by another similar out of state body that approves formal plumbing educational programs; and~~

~~(b) instruction shall be conducted by competent qualified staff and shall include measures of competency and achievement level of each apprentice.~~

~~(6) Apprentice plumbers shall engage in the plumbing trades only in accordance with the following:~~

~~(a) except as provided in Subsection 58-55-302(3)(e)(ii) for fourth through tenth year apprentices, while engaging in the plumbing trade, an apprentice plumber shall be under the immediate supervision of a journeyman plumber for commercial or industrial work, and by a residential journeyman or journeyman plumber for residential work;~~

~~(b) the apprentice shall engage in the plumbing trade in accordance with the instruction of the supervising plumber; and~~

~~(c) the apprentice shall work in a ratio of not to exceed two apprentice plumbers to one supervising plumber.]~~

**R156-55c-302b. Qualifications for Licensure - Examination Requirements.**

In accordance with Subsection[s 58-1-203(2) and 58-1-301(3)] 58-55-302(1)(c)(i), the examination requirements for licensure ~~[in Subsection 58-55-302(1)(e)(i)]~~ are established as follows:

~~[(1) The applicant shall obtain a minimum score of 70% on the Utah Plumbers Licensing Examination that shall consist of a written section and practical section.](1) a Master Plumber applicant shall pass:~~

- ~~(a) the Utah Master Plumber Theory Exam; and~~
- ~~(b) the Utah Master Plumber Practical Exam.~~

~~(2) a Residential Master Plumber applicant shall pass:~~

- ~~(a) the Utah Residential Master Plumber Theory Exam; and~~
- ~~(b) the Utah Residential Master Plumber Practical Exam.~~

~~(3) a Journeyman Plumber applicant shall pass:~~

- ~~(a) the Utah Journeyman Plumber Theory Exam; and~~
- ~~(b) the Utah Journeyman Plumber Practical Exam.~~

~~(4) a Residential Journeyman Plumber applicant shall pass:~~

- ~~(a) the Utah Residential Journeyman Plumber Theory Exam; and~~
- ~~(b) the Utah Residential Journeyman Plumber Practical Exam.~~

~~[(2)]5 Admission to the [examinations]exams is permitted after:~~

~~(a) the applicant has completed all requirements for licensure [set forth in this section and] in Section[s] R156-55c-302a[ and R156-55c-302e]; or~~

~~(b) the Journeyman Plumber applicant under Subsection R156-55c-302a(3)(a) has completed:~~

(i) the first semester of the fourth year of the ~~[apprentice education]~~planned program of training~~[set forth in Subsection R156-55c-302a(1)(a)(ii)]~~; and

(ii) ~~[not less than]~~at least 6,000 hours of the required full-time work experience~~[required under Subsection R156-55c-302a(1)(a)(i)]~~.

~~(3) (a) If an applicant fails any section of the examination, the applicant shall retake that section.~~

~~(b) An applicant shall wait at least 25 days for the first two retakes, and thereafter shall wait 120 days between retakes.~~

~~(4) If an applicant passes any section of the examination but does not pass the entire examination, the passing score for that section shall be valid for one year from the pass date. After one year the applicant shall retake any previously passed section to support any subsequent application for licensure.]~~

~~(6) An applicant shall obtain:~~

~~(a) a "pass" grade on the Practical Exam; and~~

~~(b) a score of at least 70% on the Theory Exam.~~

~~(7) An applicant who fails an exam may retake that exam:~~

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

~~(b) no sooner than 120 days following any failure thereafter.~~

**~~[R156-55c-302c. Qualifications for Licensure - Master Supervisory Experience and Education Requirements.~~**

~~In accordance with Subsections 58-55-302(3)(a)(i)(A) and 58-55-302(3)(b)(i), the minimum supervisory experience qualifications for licensure as a master plumber and residential master plumber are established as follows:~~

~~(1) An applicant shall demonstrate successful completion of 4000 hours of supervisory experience that includes each of the following categories and minimum number of hours:~~

~~(a) supervising employees: 700 hours;~~

~~(b) supervising construction projects: 700 hours;~~

~~(c) cost/price management: 300 hours; and~~

~~(d) miscellaneous construction experience: 300 hours in any one or more of the following: accounting/financial principles, contract negotiations, conflict resolutions, marketing, human resources and government regulation pertaining to business and the construction trades.~~

~~(2) The following, or the substantial equivalent thereof, as determined by the Board in collaboration with the Commission, shall apply to the minimum supervisory experience qualifications established in Subsection (1):~~

~~(a) supervisory experience shall be obtained while licensed in the proper license classification as either a journeyman plumber or a residential journeyman plumber;~~

~~(b) supervisory experience shall be obtained as an employee of a licensed plumbing contractor, whose employer covers the applicant with workers compensation and unemployment insurances and deducts federal and state taxes from the applicant's compensation;~~

~~(c) all supervisory experience shall be under the immediate supervision of the applicant's employer; and~~

~~(d) no more than 2000 hours of experience may be earned during any 12-month period.~~

~~(3) An associate of applied science or similar or higher educational degree, in accordance with Subsection 58-55-302(3)(a)(i)(B), shall fulfill 2000 hours of the 4000 hour supervisory experience requirement. Such an applicant shall complete the remaining minimum 2000 hour supervisory experience listed above in Subsection R156-55c-302e(1).~~

~~(a) The degree shall be accredited by one of the following:~~

~~(i) Middle States Association of Colleges and Schools;~~

~~(ii) New England Association of Colleges and Schools;~~

~~(iii) North Central Association of Colleges and Schools;~~

~~(iv) Northwest Commission on Colleges and Universities;~~

~~(v) Southern Association of Colleges and Schools; or~~

~~(vi) Western Association of Schools and Colleges.~~

~~(b) The degree shall be in one of the following courses of study:~~

~~(i) accounting;~~

~~(ii) apprenticeship;~~

~~(iii) business management;~~

~~(iv) communications;~~

~~(v) computer systems and computer information systems;~~

~~(vi) construction management;~~

~~(vii) engineering;~~

~~(viii) environmental technology;~~

~~(ix) finance;~~

~~(x) human resources; or~~

~~(xi) marketing.]~~

**R156-55c-304. Continuing Education - Standards.**

Standards for continuing education shall be in accordance with R156-55a-303b(1)(e) and (2) through (10), except as otherwise provided in this section.

(1) Required Hours. Pursuant to Sections 58-55-302.7 and 58-55-303, each licensee shall complete at least 12 hours of continuing education during each two-year license term. ~~[A minimum of]~~At least eight hours shall be core education. The remaining four hours may be professional or ~~core~~ education.

(2) "Core continuing education" is defined as education covering:

(a) International Building, Mechanical, Plumbing, and International Energy Conservation Codes and Utah building code amendments as adopted or proposed for adoption;

(b) the Americans with Disability Act;

(c) medical gas, National Fire Protection Association 13D and 54; ~~and~~ or

(d) hydronics and waste water treatment.

(3) "Professional continuing education" is defined as education covering:

(a) energy conservation[;];

(b) management training[;];

(c) new technology[;];

(d) plan reading; ~~and~~

([b]e) lien laws and Utah construction registry;

([e]f) Occupational Safety and Health Administration (OSHA) training; ~~and~~ or

([d]g) government regulations.

~~[(4) Non-acceptable course subject matter includes the following types of courses and other similar courses:~~

~~(a) mechanical office and business skills, such as typing, speed reading, memory improvement, and report writing;~~

~~(b) physical well-being or personal development, such as personal motivation, stress management, time management, or dress for success;~~

~~(c) presentations by a supplier or a supplier representative to promote a particular product or line of products; and~~

~~(d) meetings held in conjunction with the general business of the licensee or employer.]~~

~~[(5)4] The Division may defer or waive continuing education requirements for:~~

~~(a) [waive the continuing education requirements for a licensee that is] an instructor of [an approved education apprenticeship] a planned program of training under Subsection R156-55c-302a(5); ~~[-or]~~~~

~~(b) a board member who regularly attends Plumbers Licensing Board meetings; and~~

~~[(b)c] any licensee [waive or defer the continuing education requirements] as provided in Section R156-1-308d.~~

~~[(6) A continuing education course shall meet the following standards:~~

~~(a) Time. Each hour of continuing education course credit shall consist of at least 50 minutes of education in the form of seminars, lectures, conferences, training sessions, or distance learning modules. The remaining ten minutes may be used for breaks.]~~

~~[(b)5] Provider. [The]A course provider need not be listed in Subsection 58-55-302.5(2), but shall meet the other requirements of this section and [shall]be ~~[-one of the following]:~~~~

~~(i)a a recognized accredited college or university;~~

~~(ii)b a state or federal agency;~~

~~(iii)c a professional association or organization involved in the construction trades; or~~

~~(iv)d a commercial continuing education provider providing a program related to the plumbing trade.~~

~~[(e)6] Content. [The]Course content [of the course] shall be relevant to the practice of the plumbing trade and consistent with [the]Utah laws and rules ~~[-of this state].~~~~

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

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

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

~~(g) Distance learning. A course that is provided through internet or home study courses may be recognized for continuing education if the course verifies registration and participation in the course by means of a passing a test demonstrating that the participant has learned the material presented. Test questions shall be randomized for each participant.~~

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

~~individuals completing the course a certificate that contains the following information:~~

~~(i) the date of the course;~~

~~(ii) the name of the course provider;~~

~~(iii) the name of the instructor;~~

~~(iv) the course title;~~

~~(v) the hours of continuing education credit;~~

~~(vi) the attendee's name;~~

~~(vii) the attendee's license number; and~~

~~(viii) the signature of the course provider.~~

~~(7) On a random basis, the Division may assign monitors at no charge to attend a course for the purpose of evaluating the course and the instructor.~~

~~(8) Each licensee shall maintain adequate documentation as proof of compliance with this section, such as certificates of completion, course handouts, and materials. The licensee shall retain this proof for a period of three years from the end of the renewal period for which the continuing education is due. Each licensee shall assure that the course provider has submitted the verification of attendance to the continuing education registry on behalf of the licensee as specified in Subsection (10). Alternatively, the licensee may submit the course for approval and pay any course approval fees and attendance recording fees.~~

~~(9) Licensees who lecture in approved continuing education courses shall receive two hours of continuing education for each hour spent lecturing. However, no lecturing or teaching credit is available for participation in a panel discussion.~~

~~(10) A course provider shall submit to the continuing education registry, in the format required by the continuing education registry:~~

~~(a) applications for approval of continuing education courses; and~~

~~(b) on behalf of each licensee, verification of the licensee's attendance and completion of a continuing education course.~~

~~(11) The Division shall review continuing education courses which have been submitted through the continuing education registry and approve only those courses that meet the standards set forth under this section.~~

~~(12) Continuing Education Registry.~~

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

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

~~(i) through its internet site electronically receive applications for course approval from continuing education course providers, and submit to the Division for review and approval only those courses which meet the standards set forth under this section;~~

~~(ii) publish on its website listings of continuing education courses approved by the Division, which meet the standards for continuing education credit under this rule;~~

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

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

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

~~(c) Fees. The Continuing Education Registry may charge a reasonable fee to continuing education providers or licensees for services provided for review and approval of continuing education programs.]~~

**R156-55c-401. Conduct of Apprentice and Supervising Plumber.**

~~(1) The conduct of licensed apprentice plumbers and their licensed supervisors shall be in accordance with Subsections 58-55-302(3)(e), 58-55-501, 58-55-502 and R156-55e-501.~~

~~(2) For the purposes of Subsections 58-55-302(3)(e) and 58-55-501(12), one of the following shall apply:~~

~~(a) the supervisor and apprentice employees shall be employees of the same plumbing contractor; or~~

~~(b) the]A plumbing contractor may comply with the supervision and ratio requirements of Subsection 58-55-302(3)(e) and 58-55-501(12) by contracting[contract] with a licensed professional employer organization to employ one or more licensed plumbers[such persons].~~

**R156-55c-501. Unprofessional Conduct.**

"Unprofessional conduct" includes:

(1) failing to comply with the supervision requirements established by Subsection 58-55-302(3)(e);

(2) failing [as a licensed plumber to carry a copy of his]to timely provide upon request the licensee's current plumber[s] license or license number [on his person or in close proximity to his person]when performing plumbing work[or to display that license upon request of a representative of the Division or any law enforcement officer]; or

(3) [failing as a plumbing contractor to certify work experience and supervisory hours when requested by a plumber who is or has been an employee of the plumbing contractor; and

~~(4) failing as a licensee to provide proof of completed continuing education within 30 days of the Division's request.~~

**KEY: occupational licensing, licensing, plumbers, plumbing**  
**Date of Enactment or Last Substantive Amendment: [April 10, 2017]2019**  
**Notice of Continuation: August 8, 2016**  
**Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-55-101**

Education, Administration  
**R277-122**  
 Board of Education Procurement

**NOTICE OF PROPOSED RULE**

(Amendment)  
 DAR FILE NO.: 43441  
 FILED: 12/14/2018

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Utah State Board of Education (USBE) Rule R277-122 is being amended to update language regarding

USBE procurement procedures and limits, as well as rules governing unsolicited proposals from vendors.

SUMMARY OF THE RULE OR CHANGE: In Section R277-122-2, a definition for "Unsolicited proposal" is added to the terms. Throughout this rule, new language referencing the "head of the procurement unit" is added, as well as, purchasing limits are updated within Sections R277-122-5 and R277-122-6.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X Section 3 and Subsection 53E-3-401(4) and Title 63G, Chapter 6a

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 provides technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and USBE policies. This rule also establishes guidelines for procurement for the USBE that conform to state procurement code and federal standards. It is not anticipated there will be any fiscal impact.

♦ LOCAL GOVERNMENTS: These rule changes are not expected to have any material impact on local governments' revenues or expenditures because they provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and USBE policies. This rule also establishes guidelines for procurement for the USBE that conform to state procurement code and federal standards. It is not anticipated there will be any fiscal impact.

♦ SMALL BUSINESSES: These rule changes are not expected to have any fiscal impact on small businesses' revenues or expenditures because it provides technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and USBE policies. This rule also establishes guidelines for procurement for the USBE that conform to state procurement code and federal standards. It is not anticipated there will be any fiscal impact.

♦ 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 provides technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and USBE policies. This rule also establishes guidelines for procurement for the USBE that conform to state procurement code and federal standards. It is not anticipated there will be any fiscal impact.

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

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) operating in Utah according to a "Firm Find Data" search through Utah's

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Angela Stallings by phone at 801-538-7550, by FAX at 801-538-7768, or by Internet E-mail at [angie.stallings@schools.utah.gov](mailto:angie.stallings@schools.utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2019

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2019

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

**Appendix 2: Regulatory Impact to Non-Small Businesses**

There are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on non-small or small businesses.

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

**Appendix 1: Regulatory Impact Summary Table\***

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0

**R277. Education, Administration.**

**R277-122. Board of Education Procurement.**

**R277-122-1. 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]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) Title 63G, Chapter 6a, Utah Procurement Code.
- (2) The purpose of this rule is to adopt and incorporate by reference Title R33, Purchasing and General Services, with exceptions as described in this rule.

**R277-122-2. Definitions.**

- (1) "Professional service provider" means a provider of a professional service as defined in Subsection 63G-6a-103(61) and includes an expert in educational instruction and teaching.
- (2) "Responsible" means the same as that term is defined in Subsection 63G-6a-103 (75).
- (3) "Responsive" means the same as that term is defined in Subsection 63G-6a-103 (76).
- (4) "Unsolicited proposal" means the same as that term is defined in Subsection 63G-6a-712(1).

**R277-122-3. Incorporation of Title R33 With Exceptions.**

(1) The Board adopts and incorporates by reference Title R33, Purchasing and General Services, as in effect on April 1, 2017, with the exceptions described in this section.

(2) The Board does not adopt Section R33-8-101b.

(3) The Board adopts Section R277-122-5 in place of Sections R33-5-104 and R33-5-107.

(4) The Board adopts Section R277-122-6 in place of Section R33-5-108.

(5) The Board adopts Section R277-122-7 in place of Section R33-7-704.

(6) The Board adopts Section R277-122-9 in place of Sections R33-9-102 and R33-9-103.

(7) The Board adopts Section R277-122-10 in place of Section R33-12-201.

(8) The Board adopts Section R277-122-12 in place of Section R33-12-608.

(9) The Board adopts Section R277-122-13 in place of Subsections:

(a) R33-16-101a(2)(a); and

(b) R33-16-301(4).

(10) The Board adopts Section R277-122-10 in place of Sections R33-5-104 and R33-5-107.

(11) The Board adopts Section R277-122-11 in place of Section R33-5-108.]

**R277-122-4. Head of the Procurement Unit Designated.**

The Board designates the Board's Director of Purchasing as the head of the procurement unit.

**~~R277-122-5. Cancellation Before Award.~~**

~~(1) A solicitation may be cancelled prior to a contract award if the head of the procurement unit determines the cancellation is:~~

~~(a) in the best interest of the Board; and~~

~~(b) supported by a reasonable and good faith justification.~~

~~(2) The head of the procurement unit shall include notice of the Board's right of cancellation described in Subsection (1) in each Board solicitation.~~

**R277-122-6. Establishment of Terms and Conditions.**

The head of the procurement unit shall develop standard terms and conditions for use with Board contracts and agreements.

**R277-122-7. Requirements for Cost or Pricing Data.**

(1) If cost or pricing data is required by Section 63G-6a-1206 or Section R33-12-601, the head of the procurement unit shall require the person who seeks a cost-based contract to submit:

(a) factual and verifiable information related to the contractor's estimated cost for completing a project on:

(i) the date the contract is signed by both parties; or

(ii) an earlier date agreed to by both parties that is:

(A) as close as practicable to the date described in Subsection (1)(a)(i); and

(B) before prudent buyers and sellers would reasonably expect price negotiations to be affected significantly; and

~~(b) underlying data related to a contractor's estimate that can be reasonably expected to contribute to the soundness of estimates of future costs and the validity of determinations of costs already incurred, including:~~

~~(i) vendor quotations;~~

~~(ii) nonrecurring costs;~~

~~(iii) information on changes in production methods and in production or purchasing volume;~~

~~(iv) data supporting projections of business prospects and objectives and related operations costs;~~

~~(v) unit-cost trends such as those associated with labor efficiency;~~

~~(vi) make-or-buy decisions;~~

~~(vii) estimated resources to attain business goals; or~~

~~(viii) information on management decisions that could have a significant bearing on costs.~~

~~(2) Submission of certified cost or pricing data applies to contracts of \$50,000.00 or greater if the contract price is not established by:~~

~~(a) adequate price competition;~~

~~(b) established catalogue or market prices; or~~

~~(c) law or regulation.~~

**R277-122-8. Use of Federal Cost Principles.**

The head of the procurement unit shall apply the federal cost principles described in 2 CFR Part 200, Subpart E in determining which costs expended under Board contracts are reasonable, allocable, and allowable.

**R277-122-9. Grounds for Protest -- Intervention in a Protest.**

(1) A bidder who files a protest shall include in the bidder's submission a concise statement of the grounds for the protest, which shall include the facts leading the protestor to contend that a grievance has occurred, including but not limited to specifically referencing:

(a) the circumstances described in Subsections R33-16-101a(2)(a)(i) through (iii);

(b) a provision of the solicitation alleged to be:

(i) unduly restrictive;

(ii) anticompetitive; or

(iii) unlawful;

(c) an alleged material error made by the evaluation committee or conducting procurement unit; or

(d) the circumstances described in Subsections R33-16-101a(2)(a)(vi) and (vii).

(2) A motion to intervene in a post-award protest may only be made by the announced awardee.

(3) A person may intervene in a pre-award protest, if the person's proposal:

(a) was evaluated;

(b) found to be responsive; and

(c) the head of the procurement unit finds the person to be responsible.]

**R277-122-[10]5. Small Purchases of Procurement Items Other than Professional Services and Consultants.**

(1) The [Superintendent]head of the procurement unit shall make small purchases in accordance with the requirements set forth in Section 63G-6a-506 and this Section R277-122-10.

(2) Unless otherwise required as part of another standard procurement process being used in conjunction with a small purchase, the [Superintendent]head of the procurement unit need not utilize a solicitation or provide public notice to conduct a small purchase.

(3) The [Superintendent]head of the procurement unit may make a small purchase of a procurement item other than a professional service by:

(a) direct award without seeking competitive bids or quotes up to the following threshold amounts:

(i) ~~[\$3,500]~~[\$10,000] for one or more procurement items purchased at the same time from one source; and

(ii) ~~[\$50,000]~~[\$75,000] for multiple procurement items purchased in a 12-month period from one source; and

(b) subject to Rule R33-4-109, obtaining quotes from a minimum of two vendors and purchasing the procurement item from the responsible vendor offering the lowest quote for a purchase of up to ~~[\$50,000]~~[\$75,000] for one or more procurement items purchased at the same time from a single source.

(4) When conducting a purchase under Subsection (3)(b) in conjunction with an approved vendor list, the [Superintendent]head of the procurement unit:

(a)(i) may obtain quotes from all the vendors on the approved vendor list; or

(ii) may obtain quotes from a minimum of two vendors on the approved vendor list, using one or more of the following methods to select vendors from whom to obtain quotes:

(A) a rotation system, organized alphabetically, numerically, or randomly;

(B) the geographic area serviced by each vendor;

(C) each vendor's particular expertise or field;

(D) solicitation of an additional quote from the vendor that provided the lowest quote on the most recently completed procurement conducted by the Board using the approved vendor list; or

(E) another method approved by the head of the procurement unit;

(b) shall document that all vendors on the approved vendor list have a fair and equitable opportunity to obtain a contract; and

(c) shall purchase the procurement item from the responsible vendor on the approved list offering the lowest quote.

(5) Whenever practicable, the [Superintendent]head of the procurement unit shall use a rotation system or other system designed to allow for competition when using a small purchase process.

(6) In the process of obtaining a competitive quote, the [Superintendent]head of the procurement unit shall record and maintain the following as a government record:

(a) the names of the vendors from whom quotes were requested and received; and

(b) the date of receipt and amount of each quote.

(7) The [Superintendent]head of the procurement unit shall comply with all applicable laws and rules in the conduct of small purchases, including:

(a) Subsection 63G-6a-506(8);

(b) Title 63G, Chapter 6a, Part 24, Unlawful Conduct and Penalties; and

(c) Sections R33-24-104 through R33-24-106.

#### **R277-122-[H]6. Small Purchases of Professional Service Providers and Consultants.**

(1) The [Superintendent]head of the procurement unit shall make small purchases of professional services in accordance with the requirements set forth in Section 63G-6a-506 and this Section R277-122-11.

(2) Unless otherwise specifically required in this rule or as part of another standard procurement process being used in conjunction with a small purchase, the [Superintendent]head of the procurement unit need not utilize a solicitation or provide public notice to conduct a small purchase of professional services.

(3) The [Superintendent]head of the procurement unit may procure professional services:

(a) up to a maximum of ~~[\$3,500]~~[\$10,000] by direct negotiation with any professional services provider or consultant determined in writing by the [Superintendent]head of the procurement unit to be qualified to provide the professional service; and

(b) up to a maximum of \$100,000 by:

(i) subject to Rule R33-4-109, obtaining quotes from a minimum of three professional services providers or consultants determined in writing by the [Superintendent]head of the procurement unit to be qualified to provide the professional services; and

(ii) making the purchase from the professional service provider or consultant determined in writing by the [Superintendent]head of the procurement unit to provide the Board with the best value, comparing qualifications and price.

(4) The head of the procurement unit may utilize the process set forth in Subsection (3)(b) to make purchases from multiple professional service providers or consultants if:

(a) multiple professional service providers or consultants of the same type are required to fulfill the need for the professional service;

(b) the total amount awarded to the selected professional service providers or consultants does not exceed \$250,000;

(c) a request for qualifications and quotes is published in accordance with Section 63G-6a-112;

(d) the request for qualifications and quotes states that the Board may make a purchase from multiple professional service providers or consultants; and

(e) all responses received are reviewed and considered when selecting the best value professional service providers or consultants.

([4]5) The [Superintendent]head of the procurement unit shall comply with all applicable laws and rules in the conduct of small purchases for professional services, including:

(a) Subsection 63G-6a-506(8);

(b) Title 63G, Chapter 6a, Part 24, Unlawful Conduct and Penalties; and

(c) Sections R33-24-104 through R33-24-106.

#### **R277-122-7. Scoring of Proposals Against Evaluation Criteria Other Than Cost in the Request for Proposal Process.**

(1) The head of the procurement unit shall score proposals against evaluation criteria other than cost in the request for proposal process to:



(a) determine which proposals meet mandatory minimum requirements or minimum score thresholds set forth in a request for proposal; and

(b) assist the head of the procurement unit in selecting the proposal that provides the best value or is the most advantageous to the Board.

(2) The head of the procurement unit shall award points for each applicable evaluation criteria set forth in a request for proposal.

(3) The head of the procurement unit shall evaluate request for proposals based on a ten-point scale consisting of all whole numbers from zero to ten, with scores adhering to the following benchmarks:

(a) Ten points: the proposed solution measurably exceeds requirements and expectations as described in the request for proposal;

(b) Five points: the proposed solution satisfactorily meets requirements and expectations as described in the request for proposal; and

(c) Zero points: the proposed solution does not meet requirements and expectations as described in the request for proposal.

(4) The head of the procurement unit may use an alternative scoring scale if approved in writing by the head of the procurement unit.

**R277-122-8. Multiple Category Request for Proposals Process Resulting in a Single Award.**

(1) In accordance with Section 63G-6a-710, the head of the procurement unit may conduct a multiple stage process as a multiple category request for proposals process resulting in a single contract award.

(2) The head of the procurement unit may use a multiple category request for proposals process when proposals are accepted in more than one category of solution, and the category of solution providing the best value to the Board is not determined until the final stage of the multiple stage process.

(3) When conducting a multiple category request for proposals process, the head of the procurement unit shall:

(a) comply with all requirements set forth in Title 63G, Chapter 6a, Part 7, Requests for Proposals;

(b) allow offerors to submit proposals in more than one category; and

(c) include in the request for proposals:

(i) the subjective and objective criteria that will be used to evaluate proposals in each category of solution;

(ii) the minimum score thresholds required to advance to subsequent stages of the multiple stage process;

(iii) the method of identifying the best value proposal in each category of solution; and

(iv) the method of identifying the best value category of solution in the final stage of the multiple stage process.

(4) Categories in a multiple category request for proposals may consist of:

(a) different types of solutions addressing the same need;

(b) a base solution and its variants, including add alternates building upon the base solution; or

(c) any other category determined in writing by the head of the procurement unit to be appropriate for use in a multiple category request for proposals.

**R277-122-9. Cancellation Before Award.**

(1) A solicitation may be cancelled prior to a contract award if:

(a) the Board does not receive any responsive responses to the solicitation; or

(b) the head of the procurement unit determines the cancellation is:

(i) in the best interest of the Board; and

(ii) supported by a reasonable and good faith justification.

(2) The head of the procurement unit shall include notice of the Board's right of cancellation described in Subsection (1) in each Board solicitation.

(3) A solicitation may be re-issued:

(a) with or without modification, if cancelled pursuant to Subsection (1)(a); or

(b) with modification, if cancelled pursuant to Subsection (1)(b).

**R277-122-10. Establishment of Terms and Conditions.**

The head of the procurement unit shall develop standard terms and conditions for use with Board contracts and agreements.

**R277-122-11. Requirements for Cost or Pricing Data.**

(1) If cost or pricing data is required by Section 63G-6a-1206 or Section R33-12-601, the head of the procurement unit shall require the person who seeks a cost-based contract to submit:

(a) factual and verifiable information related to the contractor's estimated cost for completing a project on:

(i) the date the contract is signed by both parties; or

(ii) an earlier date agreed to by both parties that is:

(A) as close as practicable to the date described in Subsection (1)(a)(i); and

(B) before prudent buyers and sellers would reasonably expect price negotiations to be affected significantly; and

(b) underlying data related to a contractor's estimate that can be reasonably expected to contribute to the soundness of estimates of future costs and the validity of determinations of costs already incurred, including:

(i) vendor quotations;

(ii) nonrecurring costs;

(iii) information on changes in production methods and in production or purchasing volume;

(iv) data supporting projections of business prospects and objectives and related operations costs;

(v) unit-cost trends such as those associated with labor efficiency;

(vi) make-or-buy decisions;

(vii) estimated resources to attain business goals; or

(viii) information on management decisions that could have a significant bearing on costs.

(2) Submission of certified cost or pricing data applies to contracts of \$50,000.00 or greater if the contract price is not established by:

- (a) adequate price competition;
- (b) established catalogue or market prices; or
- (c) law or regulation.

**R277-122-12. Use of Federal Cost Principles.**

The head of the procurement unit shall apply the federal cost principles described in 2 CFR Part 200, Subpart E in determining which costs expended under Board contracts are reasonable, allocable, and allowable.

**R277-122-13. Grounds for Protest - Intervention in a Protest.**

(1) A bidder who files a protest shall include in the bidder's submission a concise statement of the grounds for the protest, which shall include the facts leading the protestor to contend that a grievance has occurred, including but not limited to specifically referencing:

- (a) the circumstances described in Subsections R33-16-101a(2)(a)(i) through (iii);
- (b) a provision of the solicitation alleged to be:
  - (i) unduly restrictive;
  - (ii) anticompetitive; or
  - (iii) unlawful;
- (c) an alleged material error made by the evaluation committee or conducting procurement unit; or

(d) the circumstances described in Subsections R33-16-101a(2)(a)(vi) and (vii).

(2) A motion to intervene in a post-award protest may only be made by the announced awardee.

(3) A person may intervene in a pre-award protest, if the person's proposal:

- (a) was evaluated;
- (b) found to be responsive; and
- (c) the head of the procurement unit finds the person to be responsible.

**R277-122-14. Unsolicited Proposals.**

The head of the procurement unit may not consider an unsolicited proposal.

**KEY: procurement, efficiency**

**Date of Enactment or Last Substantive Amendment: [April 9, 2018]2019**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401; 63G-6a**

## Education, Administration R277-308

### New Educator Induction and Mentoring

#### NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43442

FILED: 12/14/2018

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this new Rule R277-308 is to establish requirements for induction of new educators.

**SUMMARY OF THE RULE OR CHANGE:** The Utah State Board of Education (USBE) Rule R277-308 begins with many of the mentoring requirements established as part of Rule R277-301 and expands upon those requirements. This rule defines the Local Education Agencies' (LEA) Induction Programs, in which an LEA shall provide an induction program for at least three years for employees with an LEA-specific educator license.

**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 technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and USBE policies. This rule also creates the foundation for implementation of the three-tier licensing structure adopted by the USBE and passed by the Utah legislature in the 2018 General Session. This rule has a delayed implementation until 01/01/2020 and would not go into full effect until the 2020 - 2021 school year. Funding for this was provided to the USBE in the 2018 General Session.

♦ **LOCAL GOVERNMENTS:** This rule is not expected to have any material impact on local governments' revenues or expenditures because it provides technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and USBE policies. This rule also creates the foundation for implementation of the three-tier licensing structure adopted by the USBE and passed by the Utah legislature in the 2018 General Session. This rule has a delayed implementation until 01/01/2020 and would not go into full effect until the 2020 - 2021 school year. Funding for this was provided to the USBE in the 2018 General Session.

♦ **SMALL BUSINESSES:** This rule is not expected to have any fiscal impact on small businesses' revenues or expenditures because it provides technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and USBE policies. This rule also creates the foundation for implementation of the three-tier licensing structure adopted by the USBE and passed by the Utah legislature in the 2018 General Session. This rule has a delayed implementation until 01/01/2020 and would not go into full effect until the 2020 - 2021 school year. Funding for this was provided to the USBE in the 2018 General 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 technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and USBE policies. This rule also creates the foundation for implementation of the three-tier licensing structure adopted by the USBE and passed by the Utah legislature in the 2018 General Session. This rule has a delayed implementation until 01/01/2020 and would not go into full effect until the 2020 - 2021 school year. Funding for this was provided to the USBE in the 2018 General 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:** There are no compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). This rule has no fiscal impact on local education agencies and will not have a fiscal impact on non-small or small businesses. The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

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

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
 ♦ Angela Stallings by phone at 801-538-7550, by FAX at 801-538-7768, or by Internet E-mail at [angie.stallings@schools.utah.gov](mailto:angie.stallings@schools.utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2019

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2019

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
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
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
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

**Appendix 2: Regulatory Impact to Non-Small Businesses**

There are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). This rule has no fiscal impact on local education agencies and will not have a fiscal impact on non-small or small businesses.

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

**R277. Education, Administration.****R277-308. New Educator Induction and Mentoring.****R277-308-1. 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) The purpose of this rule is to establish requirements for induction of new educators.

**R277-308-2. Definitions.**

- (1) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.
- (2) "Mentor" means an educator with a professional educator license who is trained to advise, coach, consult, and guide the development of a new educator.

**R277-308-3. LEA Induction Programs.**

- (1) An LEA shall provide an induction program for the LEA's licensed employees if:
- (a) an educator holds an associate educator license; or
- (b) an educator holds a professional educator license with less than three years experience.
- (2) An LEA shall provide an induction program for at least three years for employees with an LEA-specific educator license.
- (3) An induction program under this rule shall include, at a minimum:
- (a) a documented professional learning plan, appropriate for each educator;
- (b) LEA support in meeting the requirements of a professional license for an individual who holds an associate license;
- (c) mentor observation and feedback for each educator beginning early in the program;
- (d) principal observation and feedback for each educator as required by Rule R277-533; and
- (e) assistance in meeting the pedagogical requirements described in Subsection R277-301-5(5).
- (4) An induction plan under Subsection (1) shall provide a new educator with a trained mentor educator with a professional educator license.
- (5) A trained mentor educator under Subsection (3) shall assist the educator to meet the Utah Effective Educator Standards established in Rule R277-530.
- (6) A trained mentor educator may not have responsibility to evaluate a new educator for whom the educator acts as mentor.
- (7) An LEA and a Utah approved university-based education preparation program may partner in implementing the induction program required by Subsection (1).
- (8) The Superintendent shall:
- (a) develop a model induction program, including model competencies for mentors;
- (b) provide training for mentors based on the competencies developed in accordance with Subsection (8)(a);

- (c) provide training for principals to oversee and support mentor training; and
- (d) facilitate the sharing of best practices between LEAs.

**R277-308-4. Effective Date.**

This rule will be effective beginning July 1, 2020.

**KEY: new educators, mentors, programs**

**Date of Enactment of Last Substantive Amendment: 2019**

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

Education, Administration  
**R277-910**  
 Underage Drinking Prevention Program

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 43448

FILED: 12/14/2018

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this new rule is to establish the criteria for selecting a provider for the Underage Drinking Prevention Program (Program) and general requirements of a local education agency (LEA) when offering the program.

**SUMMARY OF THE RULE OR CHANGE:** As required in Section 53G-10-406, the Utah State Board of Education (USBE) shall make rules establishing the criteria for selecting a provider of the Program and also require that LEAs offer this program to all students in Grades 7 or 8, and 9 or 10. This new rule is being created to comply with the statutory mandates.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Article X Section 3 and Section 53G-10-406 and Subsection 53E-3-401(4)

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** This new rule is not expected to have any fiscal impact on state government revenues or expenditures. The Program is funded through legislative appropriation for all LEAs and the administrative supported required at the USBE to fund the Program. No additional resources are required at the state level.
- ◆ **LOCAL GOVERNMENTS:** This new rule is not expected to have any material impact on local governments' revenues or expenditures. The Program is funded through legislative appropriation for all LEAs and the administrative supported required at the USBE to fund the Program. No additional resources are required from LEAs.
- ◆ **SMALL BUSINESSES:** This new rule and the associated legislation has resulted in the award of a contract, as a result

of an RFP, for a statewide Program. The vendor awarded the contract will receive funds in accordance with their contract.

◆ **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 government entities.

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

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). This proposed rule has no fiscal impact on local education agencies and will not have a fiscal impact on non-small or small businesses. The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

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

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
 ◆ Angela Stallings by phone at 801-538-7550, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2019

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2019

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
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
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
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits:</b>			
	\$0	\$0	\$0

\*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

**Appendix 2: Regulatory Impact to Non-Small Businesses**

There are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). This rule has no fiscal impact on local education agencies and will not have a fiscal impact on non-small or small businesses.

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

**R277. Education Administration.  
 R277-910. Underage Drinking Prevention Program.  
 R277-910-1. 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 53G-10-406 which directs the Board to establish rules regarding:

(i) a requirement that an LEA offer the Underage Drinking Prevention Program each school year to each student in grade 7 or 8, and grade 9 or 10; and

(ii) the criteria for the board to use in selecting a provider for the Underage Drinking Prevention Program.

(2) The purpose of this rule is to establish the criteria for selecting a provider for the Underage Drinking Prevention Program and general requirements of an LEA when offering the program.

**R277-910-2. Criteria for Selecting a Provider.**

(1) The following criteria, along with the requirements found in 53G-10-406, shall be considered in selecting a provider for the Underage Drinking Prevention Program:

(a) a program that is evidence-based including peer reviewed journals, national registries, and research;

(b) a program that is focused on preventing underage consumption of alcohol through a curriculum, course, or program that is taught through multiple days of instruction and not a one-time presentation.

(c) a program that is delivered in the classroom by the classroom teacher or other trained professional;

(d) a program that addresses behavioral risk factors associated with underage drinking and integrates skills practice into the curriculum; and

(e) a program that aligns with the core standards of the Utah Public School system.

(2) The vendor of the Underage Drinking Prevention Program shall:

(i) have prior experience in successfully reducing underage drinking; and

(ii) be available for deployment beginning in the 2018-19 school year.

**R277-910-3. Mandatory Offering of Underage Drinking Prevention Program.**

(1) An LEA shall offer to each student in grades 7 or 8 and grades 9 or 10, respectively, the Underage Drinking Prevention Program procured by the Board.

(2) An LEA shall offer the Underage Drinking Prevention Program to students of the grades in subsection (1) of this section beginning in the 2018-19 school year.

**R277-910-4. Reporting Requirements.**

(1) An LEA shall report to the Superintendent annually regarding the general participation and deployment of the Underage Drinking Prevention Program.

(2) The report shall be made via the Annual Assurances Document described in R277-108 and shall include:

(a) if the Underage Drinking Prevention Program was offered to students each school year in grades 7 or 8 and in grades 9 or 10;

(b) the name of the course where the Underage Drinking Prevention Program was offered including if it was offered as a stand-alone course; and

(c) if the instructor has attended the one time training, including online state level training for the Underage Drinking Prevention Program.

**KEY: underage drinking prevention, substance abuse, alcohol**  
**Date of Enactment or Last Substantive Amendment: 2019**  
**Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53G-10-406**

Education, Administration  
**R277-912**  
 Law Enforcement Related Incident  
 Reporting

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 43439

FILED: 12/14/2018

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule is to generate the report required by Subsection 53E-3-516 and the form that the report may be accessed.

**SUMMARY OF THE RULE OR CHANGE:** The Utah State Board of Education (USBE) Rule R277-912 is drafted in response to 2018 General Session S.B. 198, Utah Communications Authority Amendments, to provide a procedure to collect required data.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Article X Section 3 and Section 53E-3-516 and Subsection 53E-3-401(4)

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** This new rule is not expected to have any fiscal impact on state government revenues or expenditures. This rule clarifies expectations for required reporting of school incident data. Local education agencies (LEAs) already have data gathering systems and reporting capabilities. Annual reporting will be facilitated by existing USBE staff. No additional resources are required at the state level.

♦ **LOCAL GOVERNMENTS:** This new rule is not expected to have any material impact on local governments' revenues or expenditures. This rule clarifies expectations for required reporting of school incident data. LEAs already have data gathering systems and reporting capabilities. Annual reporting will be facilitated by existing USBE staff. LEAs already gather and report various data elements. It is anticipated that existing staff at LEAs will gather and report required data.

♦ **SMALL BUSINESSES:** No impact on small businesses. This rule clarifies expectations for required reporting of school incident data.

◆ **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 government entities. This rule clarifies expectations for required reporting of school incident data.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs for affected persons. This rule clarifies expectations for required reporting of school incident data.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). This rule change has no fiscal impact on LEAs and will not have a fiscal impact on non-small or small businesses. The Assistant Superintendent of Financial Operations at the Utah State Board of Education, Natalie Grange, has reviewed and approved this fiscal analysis.

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

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
 ◆ Angela Stallings by phone at 801-538-7550, by FAX at 801-538-7768, or by Internet E-mail at [angie.stallings@schools.utah.gov](mailto:angie.stallings@schools.utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2019

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2019

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
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
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
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

**Appendix 2: Regulatory Impact to Non-Small Businesses**

There are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). This rule has no fiscal impact on local education agencies and will not have a fiscal impact on non-small or small businesses.

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

**R277. Education, Administration.**

**R277-912. Law Enforcement Related Incident Reporting.**

**R277-912-1. 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-3-516 which directs the Board to establish rules regarding a collaborative annual report meeting all the requirements of Subsection 53E-3-516(2).

(2) The purpose of this rule is to generate the report required by Subsection 53E-3-516 and the form that the report may be accessed.

**R277-912-2. LEA Reporting Requirements.**

(1) An LEA shall work with the Superintendent and the relevant law enforcement agencies and school personnel to collect the following incident data that occurred on school grounds while school is in session or during a school-sponsored activity:

(a) arrests of a minor;

(b) other law enforcement activities as defined in Section 53E-3-516(1);

(c) disciplinary actions as defined in section 53E-3-516(1); and

(d) all other data as outlined in subsection 53E-3-516(3) and (4).

(2) An LEA shall collect the data in a form agreed upon by the Superintendent and the relevant law enforcement agencies.

(3) An LEA shall report the data required to the Superintendent in a timely manner;

(4) Beginning in the 2020-21 school year, an LEA shall report the data compiled for each school year to the Superintendent on or before September 1<sup>st</sup> of the year in which the school year ended.

(5) An LEA shall report the data to the Superintendent as prescribed by the Superintendent.

**R277-912-3. Annual Report Content and Access.**

(1) The Superintendent shall compile the data to form an aggregated report consistent with the requirements of Subsection 53E-3-516(3), (4) and (5).

(2) The report shall exclude all identifiable student information and data.

(3) The report shall be compiled no later than November 1<sup>st</sup> of each year in which the school year ended and provided to the board.

(4) An external entity may request access to the data used to compile the report consistent with Utah Code Title 63G, Chapter 2, Government Records Access Management Act.

(5) The Superintendent shall respond to the request within 15 business days and provide the report within 30 business days of the request by providing the most recent data set available at the time of the request, so long as the data set is aggregated and no student identifiable information is included in the data set.

(6) If the request is for the data being used for an upcoming report that is more than 30 days from being compiled, the Superintendent may wait longer than 30 days to provide the requested report.

**KEY: incident reporting; law enforcement**

**Date of Enactment or Last Substantive Amendment: 2019**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(3); 53E-3-516**

## Health, Health Care Financing, Coverage and Reimbursement Policy **R414-61-2** Incorporation by Reference

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43425

FILED: 12/07/2018

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this change is to incorporate by reference updates to the Medically Complex Children's Waiver, effective 10/01/2018.

**SUMMARY OF THE RULE OR CHANGE:** This renewal incorporates by reference updates to the Medically Complex Children's Waiver, effective 10/01/2018. These updates include: adjustments made to eligibility targeted criteria for initial and annual determinations; developing criteria to evaluate level of care based on the performance of age appropriate activities of daily living; the development of a transition plan for individuals who may no longer meet criteria for program participation; and the revision of quality-improvement performance measures to better align with waiver assurances and sub-assurances.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 26-1-5 and Section 26-18-3

**MATERIALS INCORPORATED BY REFERENCE:**

- ◆ Updates Medically Complex Children's Waiver, published by Centers for Medicare & Medicaid Services, 10/01/2018

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** There is no impact on the state budget because these waiver updates do not provide new services, and ongoing services are within previous allocations set forth by the Legislature.
- ◆ **LOCAL GOVERNMENTS:** There is no impact on local governments because they neither fund nor provide waiver services for Medicaid members.
- ◆ **SMALL BUSINESSES:** There is no impact on small businesses because these waiver updates do not provide new services, and ongoing services are within previous allocations set forth by the Legislature.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact on Medicaid providers because these waiver updates do not provide new services, and ongoing services are within previous allocations set forth by the Legislature. Children who are currently enrolled in the waiver,



or would have been enrolled in the waiver, may lose or not be able to obtain eligibility due to new entrance requirements and assessment criteria. On the other hand, children who would not have previously been enrolled in the waiver will gain coverage due to the new requirements and criteria. No cost-effective data exists to determine what the fiscal impact would be on either of these groups.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** A child who is currently enrolled in the waiver, or would have been enrolled in the waiver, may lose or not be able to obtain eligibility due to new entrance requirements and assessment criteria. There is, however, no cost-effective data to estimate what the fiscal impact would be.

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

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

HEALTH  
HEALTH CARE FINANCING,  
COVERAGE AND REIMBURSEMENT POLICY  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY, UT 84116-3231  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov or mail at PO Box 143102, Salt Lake City, UT 84114-3102

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2019

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2019

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Other Person	\$0	\$0	\$0
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
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
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits:</b>			
	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*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 does not affect cost or revenue to the 182 Medicaid home and community-based service providers, as fiscal impacts are within previous allocations set forth by the Legislature.

**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

**R414-61. Home and Community-Based Services Waivers.**

**R414-61-2. Incorporation by Reference.**

The Department incorporates by reference the following home and community-based services waivers:

- (1) Waiver for Technology Dependent/Medically Fragile Individuals, effective July 1, 2018;
- (2) Waiver for Individuals Age 65 or Older, effective July 1, 2015;
- (3) Waiver for Individuals with Acquired Brain Injuries, effective July 1, 2014;
- (4) Waiver for Individuals with Physical Disabilities, effective July 1, 2016;
- (5) Community Supports Waiver for Individuals with Intellectual Disabilities and Other Related Conditions, effective July 1, 2015;
- (6) New Choices Waiver, effective July 1, 2015;
- (7) Medicaid Autism Waiver, effective October 1, 2015; and

**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

(8) Medically Complex Children's Waiver, effective October 1, 201~~5~~<sup>8</sup>.

These documents are available for public inspection during business hours at the Utah Department of Health, Division of Medicaid and Health Financing, located at 288 North 1460 West, Salt Lake City, UT, 84114-3102.

**KEY: Medicaid**

**Date of Enactment or Last Substantive Amendment:** ~~July 27, 2018~~<sup>2019</sup>

**Notice of Continuation:** October 30, 2014

**Authorizing, and Implemented or Interpreted Law:** 26-18-3

**Insurance, Administration  
R590-126-2  
Purpose and Scope**

**NOTICE OF PROPOSED RULE**  
(Amendment)  
DAR FILE NO.: 43428  
FILED: 12/07/2018

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This change is being made to recognize the new standards proposed in Rule R590-277 as a result of H.B. 336, Health Reform Amendments, passed during the 2017 General Session. The effective date for applicable provisions had had a delayed effective date of 01/01/2018. (EDITOR'S NOTE: The proposed new Rule R590-277 is under Filing No. 43427 in this issue, December 15, 2018, of the Bulletin.)

**SUMMARY OF THE RULE OR CHANGE:** This change adds a citation to recognize health benefit plans that comply with the proposed new Rule R590-277.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 31A-2-202 and Section 31A-22-623 and Section 31A-22-626 and Section 31A-23a-412 and Subsection 31A-2-201(3)(a) and Subsection 31A-22-605(4) and Subsection 31A-23a-402(8) and Subsection 31A-26-301(1)

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. This rule only adds a citation to recognize health benefit plans that comply with the proposed new Rule R590-277.
- ◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local governments. This rule only adds a citation to recognize health benefit plans that comply with the proposed new Rule R590-277.
- ◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. This rule only adds a citation to recognize health benefit plans that comply with the proposed new Rule R590-277.

- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to any other persons. This rule only adds a citation to recognize health benefit plans that comply with the proposed new Rule R590-277.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no anticipated compliance costs for affected persons. This rule only adds a citation to recognize health benefit plans that comply with the proposed new Rule R590-277.

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

**THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:**  
INSURANCE  
ADMINISTRATION  
ROOM 3110 STATE OFFICE BLDG  
450 N MAIN ST  
SALT LAKE CITY, UT 84114-1201  
or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
◆ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2019**

**THIS RULE MAY BECOME EFFECTIVE ON:** 02/07/2019

**AUTHORIZED BY:** Steve Gooch, Information Specialist

**Appendix 1: Regulatory Impact Summary Table\***

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>Fiscal Benefits</b>			
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
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*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 is not expected to have any fiscal impact on non-small businesses revenues or expenditures, because this rule merely adopts standards that are currently required under an administrative rule that applies not only to managed care contracts, but also other types of health insurance contracts.

The head of the Insurance Department, Todd E. Kiser, has reviewed and approved this fiscal analysis.

**R590. Insurance, Administration.  
 R590-126. Accident and Health Insurance Standards.  
 R590-126-2. Purpose and Scope.**

(1) Purpose. The purpose of this rule is to provide reasonable standardization and simplification of terms and coverages of insurance policies in order to facilitate public understanding and comparison and to prohibit provisions which may be misleading or confusing in connection either with the purchase of such coverages or with the settlement of claims, and to provide for full disclosure in the sale of such insurance.

(2) Scope.

(a) This regulation applies to:

(i) all individual accident and health insurance policies and group supplemental health policies and certificates, delivered or issued for delivery in this state on and after January 1, 2006, that are not specifically exempted from this regulation, regardless of:

(A) whether the policy is issued to an association; a trust; a discretionary group; or other similar grouping; or

(B) the situs of delivery of the policy or contract; and

(ii) all dental plans and vision plans.

(b) This rule shall not apply to:

(i) employer accident and health insurance, as defined in Section 31A-22-502;

(ii) policies issued to employees or members as additions to franchise plans in existence on the effective date of this regulation;

(iii) Medicare supplement policies subject to Section 31A-22-620; ~~or~~

(iv) civilian Health and Medical Program of the Uniformed Services, Chapter 55, title 10 of the United States Code, CHAMPUS supplement insurance policies; or

(v) a health benefit plan that complies with R590-277. Managed Care Health Benefit Plan Policy Standards.

(3) The requirements contained in this regulation shall be in addition to any other applicable regulations previously adopted.

**KEY: health insurance**

**Date of Enactment or Last Substantive Amendment:** ~~March 12, 2009~~ **2019**

**Notice of Continuation:** December 12, 2016

**Authorizing, and Implemented or Interpreted Law:** 31A-2-201; 31A-2-202; 31A-21-201; 31A-22-605; 31A-22-623; 31A-22-626; 31A-23a-402; 31A-26-301

**Insurance, Administration  
 R590-186-5  
 Company License Renewal**

**NOTICE OF PROPOSED RULE  
 (Amendment)  
 DAR FILE NO.: 43429  
 FILED: 12/07/2018**

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Section 31A-35-404, minimum financial requirements for bail bond agency license, was changed in 2016 to allow more flexibility in providing verification for each parcel of real property owned by the applicant and included in the net worth of the applicant.

**SUMMARY OF THE RULE OR CHANGE:** This change clarifies what verification can be provided for each parcel of real property owned by the applicant and included in the agency's net worth calculation at the time of renewal.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 31A-35-104 and Section 31A-35-301 and Section 31A-35-401 and Section 31A-35-406

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. This change merely clarifies the types of real property verification that bail bond agencies may provide at the time of renewal.

◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local governments. This change merely clarifies the types of real property verification that bail bond agencies may provide at the time of renewal.

♦ **SMALL BUSINESSES:** Small businesses could see some savings or expense depending on which verification option they choose to provide. One option is significantly more expensive than the other two options, while another is significantly less expensive. The Insurance Department (Department) anticipates that most companies will see savings because they will likely choose to provide the less expensive option.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to any other person. This change merely clarifies the types of real property verification that bail bond agencies may provide at the time of renewal.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Bail bond agencies are already required to provide real property verification for their annual license renewal. The change to this rule ultimately allows them to save money on that verification at their discretion.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:**  
**I. WHETHER A FISCAL IMPACT TO BUSINESS IS EXPECTED AS A RESULT OF THE PROPOSED RULE AND, IF SO, A DESCRIPTION OF WHY:** All bail bond agencies are required to provide property verification for their annual license renewal. This rule change allows the agencies to choose which verification method they will provide, rather than requiring a specific method. Agencies could see some savings or expenses depending on which verification option they choose to provide. One option is significantly more expensive than the other two options, while another is significantly less expensive. The Department anticipates that most companies will see savings because they will likely choose to provide the less expensive option.  
**II. AN ESTIMATE OF THE TOTAL NUMBER OF BUSINESS ESTABLISHMENTS IN UTAH EXPECTED TO BE IMPACTED:** There are 13 collaterally backed bail bond agencies in Utah that will be affected.  
**III. AN ESTIMATE OF THE SMALL BUSINESS ESTABLISHMENTS IN UTAH EXPECTED TO BE IMPACTED:** All of those 13 collaterally backed bail bond agencies in Utah are small businesses and will be affected.  
**IV. A DESCRIPTION OF THE SOURCES OF COST OR SAVINGS AS WELL AS THE EXPECTED NET SAVINGS OR COST TO BUSINESS ESTABLISHMENTS AND SMALL BUSINESS ESTABLISHMENTS AS A RESULT OF THE PROPOSED RULE OVER A ONE-YEAR PERIOD, IDENTIFYING ONE-TIME AND ONGOING COSTS:** The Insurance Department is not able to anticipate the expected net savings or costs to small businesses as a result of this rule change. The cost of the most expensive option — a certified appraisal — is negotiated between the small business and the appraiser and depends on several individual factors that the Department cannot know. The cost of the cheaper options — the title letter or report, or a current abstract of title from a county recorder — are similarly difficult to determine because they vary by county and provider. The Department expects that most affected small businesses will

choose to use a cheaper option and will recognize ongoing savings.  
**V. DEPARTMENT HEAD'S COMMENTS ON THE ANALYSIS:** The above analysis represents the Insurance Department's best estimate of the fiscal impact this rule amendment will have on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 INSURANCE  
 ADMINISTRATION  
 ROOM 3110 STATE OFFICE BLDG  
 450 N MAIN ST  
 SALT LAKE CITY, UT 84114-1201  
 or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
 ♦ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2019

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2019

AUTHORIZED BY: Steve Gooch, Information Specialist

**Appendix 1: Regulatory Impact Summary Table\***

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
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

<b>Total Benefits:</b>	<b>Fiscal</b>	\$0	\$0	\$0
<b>Net Fiscal Benefits:</b>		\$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 none of the affected businesses are large. All 13 affected businesses are small businesses.

The head of the Insurance Department, Todd E. Kiser, has reviewed and approved this fiscal analysis.

**R590. Insurance, Administration.**  
**R590-186. Bail Bond Surety Business.**  
**R590-186-5. Company License Renewal.**

A licensed bail bond surety company shall renew its license on or before July 15 of each year by meeting the following requirements:

(1) file with the insurance commissioner a renewal application, pay the required renewal licensing fee set forth in R590-102, Insurance Department Fee Payment Deadlines, and provide the additional information described in this section.

(2) If the applicant relies on the ownership of real or personal property as the financial basis for issuing bail bonds the applicant must include the following with the renewal:

(a) a statement that no material changes have occurred negatively affecting the property's title, including any liens or encumbrances that have occurred since the last license renewal;

(b) a financial statement reviewed by a certified public accountant as of the end of the most current fiscal year showing a net worth of at least \$300,000, at least \$100,000 of which must consist of liquid assets and a copy of the applicant's federal income tax return for the prior year; and

(c) if the bail bond agency is in its second or subsequent year of licensure, the following items are required[as indicated]:

- (i) a certified appraisal report;
- (ii) a current tax notice and a title letter or report; or
- (iii) a current abstract of title from the county recorder.

~~[(i) renewal in 2002, 2008, and 2014: a preliminary title report dated not more than one month prior to the date of the renewal application for each parcel of real property owned by the applicant and included in the applicant's net worth calculation; or~~

~~(ii) renewal in 2005, 2011, and 2017: a preliminary title report and a current appraisal dated not more than one month prior to the date of the renewal application for each parcel of real property owned by the applicant and included in the applicant's net worth calculation.]~~

(3) Renewal applicants who were licensed as a bail bond surety company prior to December 31, 1999, may opt to apply under the lower limits in effect at that date.

(a) For renewal applicants relying on a letter of credit as the financial basis for issuing bail bonds, the amount is reduced to \$250,000.

(b) For renewal applicants relying on real or personal property as the basis for issuing bail bonds, the amount is reduced to a net worth of at least \$250,000, at least \$50,000 of which must consist of liquid assets.

(c) Renewal applicants opting for lower limits are limited to the 5 to 1 ratio of outstanding bond obligations as shown in R590-186-9.

(4) When using a letter of credit at renewal the bail bond surety must follow R590-186-4(5).

**KEY: insurance**  
**Date of Enactment or Last Substantive Amendment: ~~[March 26, 2014]~~2019**  
**Notice of Continuation: July 10, 2018**  
**Authorizing, and Implemented or Interpreted Law: 31A-35-104; 31A-35-301; 31A-35-401; 31A-35-406**

**Insurance, Administration**  
**R590-277**  
**Managed Care Health Benefit Plan**  
**Policy Standards**

**NOTICE OF PROPOSED RULE**  
 (New Rule)  
 DAR FILE NO.: 43427  
 FILED: 12/07/2018

**RULE ANALYSIS**  
 PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being adopted as a result of H.B. 336, Health Reform Amendments, passed during the 2017 General Session. The effective date for applicable provisions had had a delayed effective date of 01/01/2018.

SUMMARY OF THE RULE OR CHANGE: This rule adopts key definitions to be used in contracts; prohibits contract limitations or exclusions except for those stated in this rule; provides for rights for a spouse or child in the event of contract termination; requires certain benefits for transplants, requires notification when premiums are being revised; requires coverage to be offered without regard to health status; includes required provisions to be included in contracts; and restricts the manner in which premium rates are calculated.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 31A-2-202 and Section 31A-23a-412 and Section 31A-45-103 and Subsection 31A-2-201(3)(a) and Subsection 31A-23a-402(8)

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. This rule adopts standards that are currently required under an administrative rule that applies not only to managed care contracts, but also other types of health insurance contracts.
- ◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local governments. If a local government plan offered their employees a self-funded health plan, this rule would not apply. If a local government plan offered their employees a fully insured health plan, it is not anticipated that there will be additional costs or savings. This rule adopts standards that are currently required under an administrative rule that applies not only to managed care contracts, but also other types of health insurance contracts.
- ◆ **SMALL BUSINESSES:** There is no anticipated cost or savings to small businesses. This rule adopts standards that are currently required under an administrative rule that applies not only to managed care contracts, but also other types of contracts.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated cost or savings to persons other than small businesses, businesses or local government entities. This rule adopts standards that are currently required under an administrative rule that applies not only to managed care contracts, but also other types of contracts.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no anticipated compliance costs for affected persons. This rule adopts standards that are currently required under an administrative rule that applies not only to managed care contracts, but also other types of contracts.

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

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 INSURANCE  
 ADMINISTRATION  
 ROOM 3110 STATE OFFICE BLDG  
 450 N MAIN ST  
 SALT LAKE CITY, UT 84114-1201  
 or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
 ◆ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at [sgooch@utah.gov](mailto:sgooch@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2019

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

◆ 01/15/2019 10:00 AM, State Office Building, 450 N State Street, Room 3110, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2019

AUTHORIZED BY: Steve Gooch, Information Specialist

**Appendix 1: Regulatory Impact Summary Table\***

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
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
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*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 new rule is not expected to have any fiscal impact on non-small businesses revenues or expenditures, because this rule merely adopts standards that are currently required under an administrative rule that applies not only to managed care contracts, but also other types of health insurance contracts.

The head of the Insurance Department, Todd E. Kiser, has reviewed and approved this fiscal analysis.

**R590. Insurance Administration.**

**R590-277. Managed Care Health Benefit Plan Policy Standards.**

**R590-277-1. Authority.**

This rule is promulgated by the commissioner pursuant to Subsections 31A-2-201(3)(a), 31A-2-202, 31A-23a-402(8), 31A-23a-412, and 31A-45-103.

**R590-277-2. Purpose and Scope.**

(1) The purpose of this rule is to provide reasonable standardization and simplification of terms and coverages of a managed care health benefit plan policy in order to:

- (a) facilitate public understanding and comparison;
- (b) prohibit provisions which may be misleading or confusing in connection either with the purchase of such coverages or with the settlement of claims; and
- (c) provide for full disclosure.

(2) This rule applies to any health benefit plan issued by a managed care organization to an individual or group, including policies issued to an association, trust, discretionary group, or other similar group.

(3) This rule does not apply to short-term limited duration health insurance that complies with both R590-85, Individual Accident and Health Insurance and Individual and Group Medicare Supplement rates, and R590-126, Accident and Health Insurance Standards.

**R590-277-3. Definitions.**

The definitions in Sections 31A-1-301, 31A-22-625, 31A-30-103 and 31A-45-102, and Rules R590-126, R590-192, R590-261 and R590-266, shall apply for the purposes of this rule.

**R590-277-4. Prohibited Policy Provisions.**

(1) A health benefit plan may not impose any preexisting condition limitation or exclusion provisions.

(2) Limitations or exclusions. Unless otherwise required by law, a policy may not limit or exclude coverage or benefits by type of illness, accident, treatment, or medical condition, except as follows:

- (a) abortion;
- (b) acupuncture and acupressure services;
- (c) administrative charges for completing insurance forms, duplication services, interest, finance charges, or other administrative charges;
- (d) administrative exams and services;
- (e) applied behavioral analysis therapy, except as required by Section 31A-22-642;
- (f) aviation;
- (g) axillary hyperhidrosis;
- (h) benefits provided under:
- (i) Medicare or other governmental program, except Medicaid;
- (ii) state or federal worker's compensation; or
- (iii) employer's liability or occupational disease law;
- (i) fitness training, exercise equipment, or membership fees to a spa or health club;
- (j) charges for appointments scheduled and not kept;
- (k) chiropractic care;
- (l) complementary and alternative medicine;
- (m) corrective lenses, and examination for the prescription or fitting thereof, except lens implant following cataract surgery and as required by R590-266;
- (n) cosmetic surgery; reversal, revision, repair, complications, or treatment related to a non-covered cosmetic surgery. This exclusion does not apply to reconstructive surgery when the service is incidental to or follows surgery resulting from trauma, infection or other diseases of the involved party; or reconstructive surgery because of congenital disease or anomaly of a covered dependent child that has resulted in a functional defect;

- (o) custodial care;
- (p) dental care or treatment;
- (q) dietary products, except as required by R590-194;
- (r) educational and nutritional training, except as required by R590-200;
- (s) experimental or investigational services;
- (t) expenses before coverage begins or after coverage ends;
- (u) felony, riot or insurrection, when it has been determined the covered person was a voluntary participant;
- (v) foot care in connection with corns, calluses, flat feet, fallen arches, weak feet, chronic foot strain or symptomatic complaints of the feet, including orthotics. The exclusion of routine foot care does not apply to cutting or removal of corns, calluses, or nails when provided to a person who has a systemic disease, such as diabetes with peripheral neuropathy or circulatory insufficiency, of such severity that unskilled performance of the procedure would be hazardous;
- (w) gastric or intestinal bypass services including lap banding, gastric stapling, and other similar procedures to facilitate weight loss; the reversal, or revision of such procedures; or services required for the treatment of complications from such procedures;
- (x) gender reassignment, except as required by Section 1557 of the Patient Protection and Affordable Care Act;
- (y) gene therapy;
- (z) genetic testing;
- (aa) hearing aids, and examination for the prescription or fitting thereof;
- (bb) a loss directly related to an illegal activity when it has been determined the covered person voluntarily committed the illegal activity. This exclusion does not apply to:
  - (i) an exclusion prohibited by the nondiscrimination provisions of the Health Insurance Portability and Accountability Act; or
  - (ii) a loss resulting from the covered person being under the influence of alcohol, unless it has been determined the loss is directly related to and a result of the covered person illegally operating a motor vehicle under the influence of alcohol, as determined under 41-6a-502. If the loss occurs in a state other than Utah, the determination shall be made under the laws of such jurisdiction;
- (cc) infertility services;
- (dd) mental health and substance use disorder services, except as required by Section 31A-22-625 and R590-266;
- (ee) injury as a result of a motor vehicle, to the extent the covered person is required by law to have no-fault coverage. The exclusion applies only to charges up to the minimum coverage required by law, whether or not such coverage is in effect;
- (ff) nuclear release;
- (gg) refractive eye surgery;
- (hh) rehabilitation or habilitative therapy services, such as physical, speech, and occupational, except as required to correct an impairment caused by a covered accident or illness, or as required by R590-266;
- (ii) respite care;
- (jj) rest cures;
- (kk) service in the armed forces or units auxiliary to it;
- (ll) services that are not medically necessary;
- (mm) services performed by the covered person's parent, spouse, sibling or child, including a step or in-law relationship;
- (nn) services for which no charge is normally made in the absence of insurance;

(oo) services in connection with a prearranged surrogacy agreement where the covered person relinquishes a baby and receives payment or other compensation arising out of such services. This exclusion does not apply to services for the baby;

(pp) sexual dysfunction procedures, equipment and drugs;

(qq) shipping and handling;

(rr) telephone/electronic consultations;

(ss) territorial limitations outside the United States;

(tt) terrorism, including acts of terrorism;

(uu) transplants, except as required by R590-266;

(vv) transportation, except medically necessary ambulance services;

(ww) war or act of war, whether declared or undeclared; or

(xx) others that in the opinion of the commissioner are not inequitable, misleading, deceptive, obscure, unjust, unfair or unfairly discriminatory to the policyholder, beneficiary or covered person under the policy.

#### **R590-277-5. General Requirements.**

(1) Policy definitions. No policy subject to this rule may contain definitions respecting the matters defined in R590-277-3 unless such definitions comply with the requirements of that section.

(2) Rights of spouse and dependents. Except for an employer sponsored health plan, a policy:

(a) may not provide for termination of coverage of the spouse or a dependent solely because of the occurrence of an event specified for termination of coverage of the policyholder, other than for nonpayment of premium; and

(b) shall provide that in the event of the policyholder's death the spouse of the insured shall become the insured.

(3) Cancellation, renewability, and termination. A policy cancellation, renewability and termination provision shall comply with Sections 31A-22-618.6 or 31A-22-618.7.

(4) Transplant donor coverage. A policy providing coverage for the recipient in a transplant operation shall also provide reimbursement of any medically necessary transplant expenses of a live donor.

(5) Notice of premium change. A notice of change in premium shall be given no fewer than 45 days before the renewal date.

(6)(a) Except as provided in Subsection (b), a completed application shall be made part of the policy. A copy of the completed application shall be provided to the applicant prior to, or upon delivery, of the policy.

(b) Subsection (6)(a) does not apply to:

(i) an employer sponsored health benefit plan; or

(ii) an individual policy where application was effectuated directly through healthcare.gov.

(7) A managed care organization offering a health benefit plan to an individual or small employer:

(a) shall offer coverage to all individuals and eligible employees on a guaranteed basis without regard to health status;

(b) may modify coverage at the time of renewal to the extent that such modification is consistent with federal and state law and effective on a uniform basis among all individuals in the health benefit plan; and

(c) must renew or continue coverage at the option of the policyholder, subject to Subsections 31A-22-618.6 and 618.7.

#### **R590-277-6. Required Provisions.**

(1) A policy and certificate shall include a renewal, continuation, and nonrenewal provision. The provision shall be appropriately captioned, appear on the first page of the policy and certificate, and clearly state the duration of coverage.

(2) Endorsement acceptance.

(a) Except for an endorsement by which the insurer effectuates a request made in writing by the policyholder or exercises a specifically reserved right under the policy, an endorsement added to a policy after date of issue or at reinstatement or renewal that reduces or eliminates benefits or coverage in the policy shall require signed acceptance by the policyholder.

(b) After the date of policy issue, an endorsement that increases benefits or coverage with a concurrent increase in premium during the policy term, must be agreed to in writing signed by the policyholder, except if the increased benefits or coverage is required by law.

(3) Additional premium. Where a separate additional premium is charged for benefits provided in connection with an endorsement, the premium charge shall be set forth in the policy or certificate.

(4) Benefit payment standard. A policy or certificate that provides for the payment of benefits based on standards described as usual and customary, reasonable and customary, or words of similar import, shall include a definition of the terms and an explanation of the terms in its accompanying outline of coverage or certificate.

#### **R590-277-7. Restrictions Relating to Premium Rates.**

(1) The premium charged shall not be adjusted more frequently than annually, except that the premium rates may be changed:

(a) to reflect changes to the enrollment;

(b) to reflect changes to the health benefit plan; or

(c) as expressly permitted by federal or state law.

(2) Premium rates may vary only with respect to the particular coverage involved on the basis of the following:

(a) whether the plan covers an individual or family:

(i) the total family premium shall include only the premiums for all covered family members over the age of twenty-one and the three oldest children under the age of twenty one; and

(ii) any rating variation on the basis of age or tobacco use must be applied separately to the portion of the premium attributable to each covered family member;

(b) geographic rating area, determined by the policyholder's primary address, as follows:

(i) Area 1, comprised of Cache and Rich counties;

(ii) Area 2, comprised of Box Elder, Morgan, and Weber counties;

(iii) Area 3, comprised of Davis, Salt Lake, Summit, Tooele, and Wasatch counties;

(iv) Area 4, comprised of Utah county;

(v) Area 5, comprised of Iron and Washington counties; and

(vi) Area 6, comprised of Beaver, Carbon, Daggett, Duchesne, Emery, Garfield, Grand, Juab, Kane, Millard, Piute, San Juan, Sanpete, Sevier, Uintah, and Wayne counties;



- (c) age of each enrollee, as of the date of the policy issuance or renewal, in accordance with the Utah Individual and Small Employer Health Benefit Plan Age Curve; and
- (d) tobacco rate factor, not greater than 1.5.
- (3) R590-277-7(2) does not apply to:
  - (a) a large employer health benefit plan; or
  - (b) an individual or small employer health benefit plan issued prior to January 1, 2014 in which the policy rating complies with:
    - (i) Title 31A-30, Individual, Small Employer, and Group Health Insurance Act; and
    - (ii) Rule R590-167, Individual, Small Employer, and Group Health Benefit Plan Rule.

**R590-277-8. Existing Policies.**

A policy issued prior to the effective date of this rule shall be amended to comply with this rule on the first policy anniversary following the effective date of this rule.

**R590-277-9. Penalties.**

A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

**R590-277-10. Enforcement Date.**

The commissioner will begin enforcing the provisions of this rule for policies issued or renewed on or after January 1, 2020.

**R590-277-11. Severability.**

If any provision or clause of this rule or its application to any person or situation is held invalid, that invalidity may not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.

**KEY: insurance, health insurance**

**Date of Enactment or Last Substantive Amendment: 2019**  
**Authorizing, and Implemented or Interpreted Law: 31A-45-103; 31A-2-201(3)(a); 31A-23a-402(8); 31A-23a-412; 31A-2-202**

Natural Resources, Wildlife Resources  
**R657-5**  
 Taking Big Game

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 43431

FILED: 12/10/2018

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is being amended pursuant to Regional Advisory Council meetings and the Wildlife Board meetings conducted for taking public input and reviewing the big game rule.

**SUMMARY OF THE RULE OR CHANGE:** The proposed revisions to this rule: 1) authorize the use of airguns with a bolt during any legal weapon hunts; 2) authorize and set the regulations for flying into a hunting unit during a hunt; and 3) require successful applicants of hunter's choice Rocky Mountain Goat hunts to complete an online orientation course prior to receiving the 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:** These proposed rule amendments either clarify current regulations or set protocol for new hunts, all of these changes can be initiated within the current workload and resources of the Division, therefore, the Division of Wildlife Resources (DWR) determines that these amendments do not create a cost or savings impact to the state budget or DWR's budget, since these changes will not increase workload and can be carried out with existing budget.

◆ **LOCAL GOVERNMENTS:** Since these proposed amendments only make adjustments to current regulations, or in many instances simplifies current restrictions, this filing does not create any direct cost or savings impact to local governments. Nor are local governments indirectly impacted because this rule does not create a situation requiring services from local governments.

◆ **SMALL BUSINESSES:** These proposed rule amendments will not directly impact small businesses as they do not require a service from small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These amendments do not have the potential to create a cost impact to those individuals wishing to participate in the hunting opportunities. The mandatory orientation course is offered free of charge and will only require 30 minutes of the successful applicants' time.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** DWR has determined that these amendments will not create additional costs for those participating in big game hunting in Utah.

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

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

NATURAL RESOURCES  
 WILDLIFE RESOURCES  
 1594 W NORTH TEMPLE  
 SALT LAKE CITY, UT 84116-3154  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2019

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2019

AUTHORIZED BY: Mike Fowlks, 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
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
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
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses  
 These rule changes are not expected to have any fiscal impact on non-small businesses revenues or expenditures, because they currently do not benefit from the sale of big

game permits or the regulations set forth in these rule amendments.

The head of department of Natural Resources, Michael Styler, has reviewed and approved this fiscal analysis.

**R657. Natural Resources, Wildlife Resources.**

**R657-5. Taking Big Game.**

**R657-5-1. Purpose and Authority.**

(1) Under authority of Sections 23-14-18 and 23-14-19, the Wildlife Board has established this rule for taking deer, elk, pronghorn, moose, bison, bighorn sheep, and Rocky Mountain goat.

(2) Specific dates, areas, methods of take, requirements, and other administrative details which may change annually are published in the guidebook of the Wildlife Board for taking big game.

**R657-5-8. Rifles, Shotguns, Airguns, and Crossbows.**

(1) A rifle used to hunt big game must fire centerfire cartridges and expanding bullets.

(2) A shotgun used to hunt big game must be 20 gauge or larger, firing only 00 or larger buckshot or slug ammunition.

(3) An airgun used to hunt big game must:

(a) be pneumatically powered;

(b) be pressurized solely through a separate charging device; and

(c) may only fire a bolt or arrow:

(i) no less than 16 inches long;

(ii) with a fixed or expandable broadhead at least 7/8 inch wide at its widest position; and

(iii) traveling no less than 400 feet per second at the muzzle.

(4)(a) A crossbow used to hunt big game must have a minimum draw weight of 125 pounds and a positive mechanical safety mechanism.

(b) A crossbow arrow or bolt used to hunt big game must be at least 16 inches long and have:

(i) fixed broadheads that are at least 7/8 inch wide at the widest point; or

(ii) expandable, mechanical broadheads that are at least 7/8 inch wide at the widest point when the broadhead is in the open position.

(c) Unless otherwise authorized by the division through a certificate of registration, it is unlawful for any person to:

(i) hunt big game with a crossbow or airgun during a big game archery hunt;

(ii) carry a cocked crossbow containing an arrow or a bolt while in or on any motorized vehicle on a public highway or other public right-of-way; or

(iii) hunt any protected wildlife with a crossbow utilizing a bolt that has any chemical, explosive or electronic device attached.

([4]5) A crossbow used to hunt big game may have a fixed or variable magnifying scope only during an any weapon hunt.

**R657-5-11. Archery Equipment.**

(1) Archery equipment may be used during any big game hunt, except a muzzleloader hunt, provided:

(a) the minimum bow pull is 30 pounds at the draw or the peak, whichever comes first;

(b) arrowheads used have two or more sharp cutting edges that cannot pass through a 7/8 inch ring;

(c) expanding arrowheads cannot pass through a 7/8 inch ring when expanded, and

(d) arrows must be a minimum of 20 inches in length from the tip of the arrowhead to the tip of the nock.

(2) The following equipment or devices may not be used to take big game:

(a) a crossbow, except as provided in Subsection (5) and Rule R657-12;

(b) arrows with chemically treated or explosive arrowheads;

(c) a mechanical device for holding the bow at any increment of draw, except as provided in Subsection (5) and Rule R657-12;

(d) a release aid that is not hand held or that supports the draw weight of the bow, except as provided in Subsection (5) and Rule R657-12;~~or~~

(e) a bow with a magnifying aiming device; or

~~(f) an airgun, except as provided in Subsection (5).~~

(3) Arrows carried in or on a vehicle where a person is riding must be in an arrow quiver or a closed case.

(4)(a) A person who has obtained an archery permit for a big game hunt may:

(i) only use archery equipment authorized in Subsections (1) and (2) to take the species authorized in the permit; and

(ii) not possess or be in control of a crossbow, draw-lock, rifle, shotgun or muzzleloader while in the field during an archery hunt.

(b) "Field" for purposes of this section, means a location where the permitted species of wildlife is likely to be found, but does not include a hunter's established campsite or the interior of a fully enclosed automobile or truck.

(c) The provisions of Subsection (a) do not apply to:

(i) a person lawfully hunting upland game or waterfowl;

(ii) a person licensed to hunt big game species during hunts that coincide with the archery hunt, provided the person is in compliance with the regulations of that hunt and possesses only the weapons authorized for that hunt;

(iii) livestock owners protecting their livestock;

(iv) a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code, provided the person is not utilizing the concealed firearm to hunt or take protected wildlife; or

(v) a person possessing a crossbow or draw-lock under a certificate of registration issued pursuant to R657-12.

(5) A person who has obtained an any weapon permit for a big game hunt may use archery equipment authorized in this Section to take the species authorized in the permit, ~~[including] and may also use a crossbow~~[-or]~~, draw-lock, or airgun satisfying the minimum requirements of this rule.~~

(6)(a) A person hunting an archery-only season on a once-in-a-lifetime hunt may:

(i) only use archery equipment authorized in Subsections (1) and (2) to take the species authorized in the permit; and

(ii) not possess or be in control of a crossbow, draw-lock, rifle, shotgun~~[-or]~~, muzzleloader, or airgun while in the field during the archery-only season.

(b) "Field" for purposes of this section, means a location where the permitted species of wildlife is likely to be found, but does not include a hunter's established campsite or the interior of a fully enclosed automobile or truck.

#### **R657-5-13. Spotlighting.**

(1) Except as provided in Section 23-13-17:

(a) a person may not use or cast the rays of any spotlight, headlight, or other artificial light to:

(i) take protected wildlife; or

(ii) locate protected wildlife while in possession of a rifle, shotgun, archery equipment, crossbow, ~~[-or]~~ muzzleloader, or airgun.

(b) the use of a spotlight or other artificial light in a field, woodland, or forest where protected wildlife are generally found is probable cause of attempting to locate protected wildlife.

(2) The provisions of this section do not apply to:

(a) the use of headlights, illuminated sight pins on a bow, or other artificial light in a usual manner where there is no attempt or intent to locate protected wildlife; or

(b) a person licensed to carry a concealed weapon in accordance with Title 53, Chapter 5, Part 7 of the Utah Code, provided the person is not utilizing the concealed firearm to hunt or take wildlife.

#### **R657-5-14. Use of Vehicle or Aircraft.**

(1)(a) A person may not use an airplane, drone, or any other airborne vehicle or device, or any motorized terrestrial or aquatic vehicle, including snowmobiles and other recreational vehicles, except a vessel as provided in Subsection (c), to take protected wildlife.

(b) A person may not take protected wildlife being chased, harmed, harassed, rallied, herded, flushed, pursued or moved by any vehicle, device, or conveyance listed in Subsection (a).

(c) Big game may be taken from a vessel provided:

(i) the motor of a motorboat has been completely shut off;

(ii) the sails of a sailboat have been furled; and

(iii) the vessel's progress caused by the motor or sail has ceased.

~~(2)(a)~~ A person may not use any type of aircraft, drone, or other airborne vehicle or device from 48 hours before any big game hunt begins in the area where they are flying through 48 hours after any big game hunting season ends in the area where they are flying to~~:-~~

~~(i) transport a hunter or hunting equipment into a hunting area;~~

~~(ii) transport a big game carcass; or~~

~~(iii)] locate, or attempt to observe or locate any protected wildlife.~~

~~[(b) Flying slowly at low altitudes, hovering, circling or repeatedly flying over a forest, marsh, field, woodland or rangeland where protected wildlife is likely to be found may be used as evidence of violations of Subsections (1) and (2).]~~

(3)(a) The provisions of this section do not apply to the operation of an aircraft, drone, or other airborne vehicle or device in a usual manner, or landings and departures used for the purposes of transporting hunters, equipment, or legally harvested wildlife, provided the aircraft takes off and lands only from an improved airstrip where there is no attempt or intent to locate protected wildlife.

(b) Hunters that are transported by aircraft into an area may not hunt protected wildlife until the following day.

(c) For the purposes of this section, "improved airstrip" means a take-off and landing area with a graded or otherwise mechanically improved surface free of barriers or other hazards that is traditionally used by pilots for the purposes of air travel.

#### **R657-5-32. Limited Entry Bull Elk Hunts.**

(1) To hunt in a limited entry bull elk area, a hunter must obtain a limited entry bull elk permit for the area.

(2)(a) A limited entry bull elk permit allows a person, using the prescribed legal weapon, to take one bull elk within the area and season specified on the permit, except as provided in Subsection (5) and excluding elk cooperative wildlife management units located within a limited entry unit. Spike bull elk restrictions do not apply to limited entry elk permittees.

(3)(a) The Wildlife Board may establish a multi-season hunting opportunity in the big game guidebooks for selected limited entry bull elk units.

(b) A person that obtains a limited entry bull elk permit with a multi-season opportunity may hunt during any of the following limited entry bull elk seasons established in the guidebooks of the Wildlife Board for the unit specified on the limited entry bull elk permit:

(i) archery season, using only archery equipment prescribed in R657-5-11 for taking elk;

(ii) muzzleloader season, using only muzzleloader equipment prescribed in R657-5-10 for taking elk; and

(iii) any weapon season, using any legal weapon prescribed in R657-5 for taking elk.

(c) A landowner association under R657-43 is not eligible to receive a multi-season hunting opportunity for limited entry units.

(4) A limited entry bull elk permit, including a permit with a multi-season opportunity, is valid only within the boundaries of the unit designated on the permit, excluding:

- (a) areas closed to hunting;
- (b) elk cooperative wildlife management units; and
- (c) Indian tribal trust lands.

(5) A person who possesses any limited entry archery bull elk permit, including a permit with a multi-season opportunity, may hunt bull elk within any extended archery area during the established extended archery season for that area, provided the person:

- (a) did not take a bull elk during the limited entry hunt;
- (b) uses the prescribed archery equipment for the extended archery area;
- (c) completes the annual Archery Ethics Course required to hunt extended archery areas during the extended archery season; and
- (d) possesses on their person while hunting:
  - (i) the limited entry bull elk permit; and

(ii) the Archery Ethics Course Certificate of Completion.

(6) "Prescribed legal weapon" means for purposes of this subsection:

(a) archery equipment, as defined in R657-5-11, when hunting the archery season, excluding a crossbow~~[-or]~~, draw-lock~~,~~ and airgun;

(b) muzzleloader equipment, as defined in R657-5-10, when hunting the muzzleloader season; and

(c) any legal weapon, including a muzzleloader~~[-and]~~, crossbow with a fixed or variable magnifying scope or draw-lock~~,~~ or airgun when hunting during the any weapon season.

(7)(a) A person who has obtained a limited entry or cooperative wildlife management unit bull elk permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a bull elk.

(b) Limited entry and cooperative wildlife management unit bull elk permit holders must report hunt information by telephone, or through the division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus point in the following year.

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(2).

(8) A person who has obtained a limited entry bull elk permit may not hunt during any other elk hunt or obtain any other elk permit, except as provided in Subsections (5) and R657-5-33(3).

#### **R657-5-33. Antlerless Elk Hunts.**

(1) To hunt antlerless elk, a hunter must obtain an antlerless elk permit.

(2)(a) An antlerless elk permit allows a person to take one antlerless elk using the weapon type, within the area, and during season dates specified on the permit and in the Antlerless guidebook of the Wildlife Board for taking big game.

(b) A person may not hunt antlerless elk on an elk cooperative wildlife management unit unless that person obtains an antlerless elk permit for that specific cooperative wildlife management unit.

(3)(a) A person may obtain three elk permits each year, in combination as follows:

- (i) a maximum of one bull elk permit;
- (ii) a maximum of one antlerless elk permit issued through the division's antlerless big game drawing; and
- (iii) a maximum of two antlerless elk permits acquired over the counter or on-line after the antlerless big game drawing is finalized, including antlerless elk:

- (A) control permits, as described in Subsection (5);
- (B) depredation permits, as described in R657-44-8;
- (C) mitigation permit vouchers, as defined in R657-44-2(2); and
- (D) private lands only permits, as described in Subsection (6).

(b) Antlerless elk mitigation permits obtained by a landowner or lessee under R657-44-3 do not count towards the annual three elk permit limitation prescribed in this subsection.

(i) "Mitigation permit" has the same meaning as defined in R657-44-2(2).

(c) For the purposes of obtaining multiple elk permits, a hunter's choice elk permit is considered a bull elk permit.

(4)(a) A person who obtains an antlerless elk permit and any of the permits listed in Subsection (b) may use the antlerless elk permit during the established season for the antlerless elk permit and during the established season for the applicable permits listed in Subsection (b), provided:

(i) the permits are both valid for the same area;

(ii) the appropriate archery equipment is used, if hunting antlerless elk during an archery season or hunt; and

(iii) the appropriate muzzleloader hunt equipment is used, if hunting antlerless elk during a muzzleloader season or hunt.

(b)(i) General buck deer for archery, muzzleloader, any legal weapon, or dedicated hunter;

(ii) General bull elk for archery, muzzleloader, any legal weapon, or multi-season;

(iii) Premium limited entry buck deer for archery, muzzleloader, any weapon, or multi-season;

(iv) Limited entry buck deer for archery, muzzleloader, any legal weapon, or multi-season;

(v) Limited entry bull elk for archery, muzzleloader or any legal weapon, or multi-season.

(vi) Antlerless deer or elk, excluding antlerless elk control permits.

(c) A person that possess an unfilled antlerless elk permit and harvests an animal under authority of a permit listed in Subsection (b), may continue hunting antlerless elk as prescribed in Subsections (a) and (b) during the remaining portions of the Subsection (b) permit season.

(5)(a) To obtain an antlerless elk control permit, a person must first obtain a big game buck, bull, or a once-in-a-lifetime permit.

(b) An antlerless elk control permit allows a person to take one antlerless elk using the same weapon type, during the same season dates, and within areas of overlap between the boundary of the buck, bull, or once-in-a-lifetime permit and the boundary of the antlerless elk control permit, as provided in the Antlerless guidebook by the Wildlife Board.

(c) Antlerless elk control permits are sold over the counter or online after the division's antlerless big game drawing is finalized.

(d) A person that possess an unfilled antlerless elk control permit and harvests an animal under the buck, bull, or once-in-a-lifetime permit referenced in Subsection (b), may continue hunting antlerless elk as prescribed in Subsection (b) during the remaining portions of the buck, bull, or once-in-a-lifetime permit season.

(6)(a) A private lands only permit allows a person to take one antlerless elk on private land within a prescribed unit using any weapon during the season dates and area provided in the Big Game guidebook by the Wildlife Board.

(b) No boundary extension or buffer zones on public land will be applied to private lands only permits.

(c) Private lands only permits are sold over the counter or online after the division's antlerless big game drawing is finalized.

(d) "Private lands" means, for purposes of this subsection, any land owned in fee by an individual or legal entity, excluding:

(i) land owned by the state or federal government;

(ii) land owned by a county or municipality;

(iii) land owned by an Indian tribe;

(iv) land enrolled in a Cooperative Wildlife Management Unit under R657-37; and

(v) land where public access for big game hunting has been secured.

#### **R657-5-40. Rocky Mountain Goat Hunts.**

(1) To hunt Rocky Mountain goat, a hunter must obtain a Rocky Mountain goat permit.

(2) A person who has obtained a Rocky Mountain goat permit may not obtain any other Rocky Mountain goat permit or hunt during any other Rocky Mountain goat hunt.

(3) A Rocky Mountain goat of either sex may be legally taken on a hunter's choice permit.

(4) The goat permit allows a person to take one goat within the area, during the seasons, and using the weapon type prescribed by the Wildlife Board.

(5) A female-only goat permit allows a person to take one female goat within the area, during the seasons, and using the weapon type specified on the permit and in the Antlerless guidebook of the Wildlife Board for taking big game.

(6)(a) An orientation course is required for Rocky Mountain goat hunters who draw or purchase a female-goat only ~~permits. Hunters will be notified of the orientation date, time and location.]~~ permit or a hunter's choice permit.

(b) The orientation course must be completed online through the division's website.

(c) The orientation course must be completed before the hunter obtains his or her permit.

(7)(a) A person who has obtained a Rocky Mountain goat permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a Rocky Mountain goat.

(b) Rocky Mountain goat permit holders must report hunt information by telephone, or through the division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus points in the following year.

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(2).

#### **KEY: wildlife, game laws, big game seasons**

**Date of Enactment or Last Substantive Amendment:** ~~July 9, 2018~~ **2019**

**Notice of Continuation:** **October 5, 2015**

**Authorizing, and Implemented or Interpreted Law:** **23-14-18; 23-14-19; 23-16-5; 23-16-6**

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## Natural Resources, Wildlife Resources

### **R657-9**

### Taking Waterfowl, Wilson's Snipe and Coot

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 43430

FILED: 12/10/2018

**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) waterfowl program.

**SUMMARY OF THE RULE OR CHANGE:** The proposed revisions to this rule: 1) establish a hunt boundary for Antelope Island; and 2) authorize the use of class 1 electric bikes on Waterfowl Management Areas (WMA).

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 23-14-18 and Section 23-14-19

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** These amendments establish a boundary for Antelope Island and allows for additional opportunity or hunters to use electric bikes. DWR has determined that these amendments do not create a cost or savings impact to the state budget or DWR's budget, since these changes will not increase workload and can be carried out with existing budget.

◆ **LOCAL GOVERNMENTS:** Since these amendments have minimal impact on individual hunters and no impact on the local governments, DWR finds that this filing does not create any direct cost or savings impact to local governments. Nor are local governments indirectly impacted because this rule does not create a situation requiring services from local governments.

◆ **SMALL BUSINESSES:** These amendments only add a hunt boundary and establish the use for electric bikes in WMA's, therefore, this filing does not have the potential to generate a cost or savings impact to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These amendments only add a hunt boundary and establish the use for electric bikes in WMA's, therefore, this filing does not have the potential to generate a cost or savings impact to sportsmen or the other persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** DWR has determined that these amendments will not create additional costs for those who participate in wildlife related activities 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 amendments will not result in a fiscal impact to businesses.

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

NATURAL RESOURCES  
WILDLIFE RESOURCES  
1594 W NORTH TEMPLE

SALT LAKE CITY, UT 84116-3154

or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2019**

**THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2019**

**AUTHORIZED BY: Mike Fowlks, Director**

**Appendix 1: Regulatory Impact Summary Table\***

<b>Fiscal Costs</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>
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
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
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
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

**Appendix 2: Regulatory Impact to Non-Small Businesses**

These rule changes are not expected to have any fiscal impact on non-small businesses revenues or expenditures, because they currently do not benefit from the sale of small game licenses, nor do the amendments to this rule require any services from non-small businesses.

The head of department of Natural Resources, Mike Styler, has reviewed and approved this fiscal analysis.

**R657. Natural Resources, Wildlife Resources.**

**R657-9. Taking Waterfowl, Wilson's Snipe and Coot.**

**R657-9-1. Purpose and Authority.**

(1) Under authority of Sections 23-14-18 and 23-14-19, and in accordance with 50 CFR 20, 50 CFR 32.64 and 50 CFR 27.21, 2004 edition, which is incorporated by reference, the Wildlife Board has established this rule for taking waterfowl, Wilson's snipe, and coot.

(2) Specific dates, areas, limits, requirements and other administrative details which may change annually are published in the guidebook of the Wildlife Board for taking waterfowl, Wilson's snipe and coot.

**R657-9-12. Motorized Vehicle Access.**

(1) "Motorized vehicle" for the purposes of this section means a vehicle that is self-propelled or possesses the ability to be self-propelled. This does not include vehicles moved solely by human power, motorized wheelchairs, or an electric personal assisted mobility device, ~~or an electric assisted bicycle~~.

(2) Motorized vehicle travel is restricted to county roads, improved roads and parking areas.

(3) Off-highway vehicles are not permitted on state waterfowl management areas, except as marked and posted open.

(4) Off-highway vehicles are not permitted on Bear River Migratory Bird Refuge.

(5) Motorized boat use is restricted on waterfowl management areas as specified in the guidebook of the Wildlife Board for taking waterfowl, Wilson's snipe and coot.

(6) Electric-assisted bicycles propelled in part by electrical assistance are only permitted on state waterfowl management areas if they meet the Class 1 definition provided in Utah Code Subsection 41-6a-102(8) and (17).

**R657-9-30. Rest Areas and No Shooting Areas.**

(1) A person may only access and use state waterfowl management areas in accordance with state and federal law, state administrative code, and proclamations of the Wildlife Board.

(2)(a) The division may establish portions of state waterfowl management areas as "rest areas" for wildlife that are closed to the public and trespass of any kind is prohibited.

(b) In addition to any areas identified in the proclamation of the Wildlife Board for taking waterfowl, Wilson's snipe, and coot, the following areas are designated as rest areas:

(i) That portion of Clear Lake Waterfowl Management Area known as Spring Lake;

(ii) That portion of Desert Lake Waterfowl Management Area known as Desert Lake;

(iii) That portion of Public Shooting Grounds Waterfowl Management Area that lies above and adjacent to the Hull Lake Diversion Dike known as Duck Lake;

(iv) That portion of Salt Creek Waterfowl Management Area known as Rest Lake;

(v) That portion of Farmington Bay Waterfowl Management Area that lies in the northwest quarter of unit one; and

(iv) That portion of Ogden Bay Waterfowl Management Area known as North Bachman.

(c) Maps of all rest areas will be available at division offices, on the division's website, and to the extent necessary, marked with signage at each rest area.

(3)(a) The division may establish portions of state waterfowl management areas as "No Shooting Areas" where the discharge of weapons for the purposes of hunting is prohibited.

(b) No Shooting Areas remain open to the public for other lawful activities.

(c) In addition to any areas identified in the proclamation of the Wildlife Board for taking waterfowl, Wilson's snipe, and coot, the following areas are No Shooting Areas:

(i) All of Antelope Island, including all areas within 600 feet of the upland vegetative line or other clearly defined high water mark;

(ii) Within 600 feet of the north and south side of the center line of Antelope Island causeway;

(iii) Within 600 feet of all structures found at Brown's Park Waterfowl Management Area;

(iv) The following portions of Farmington Bay Waterfowl Management Area:

(A) within 600 feet of the Headquarters;

(B) within 600 feet of dikes and roads accessible by motorized vehicles; and

(C) within the area designated as the Learning Center.

(v) Within 600 feet of the headquarters area of Ogden Bay Waterfowl Management Area;

(vi) Within the boundaries of all State Parks except those designated open by appropriate signage as provided in Rule R651-614-4;

(vii) Within 1/3 of a mile of the Great Salt Lake Marina;

(viii) Below the high[-]water mark of Gunnison Bend Reservoir and its inflow upstream to the Southerland Bridge, Millard County;

(ix) All property within the boundary of the Salt Lake International Airport; and

(x) All property within the boundaries of federal migratory bird refuges, unless hunting waterfowl specifically authorized by the federal government.

(4) The division reserves the right to manage division lands and regulate their use consistent with Utah Code Section 23-21-7 and Utah Administrative Code R657-28.

**KEY: wildlife, birds, migratory birds, waterfowl**  
**Date of Enactment or Last Substantive Amendment: [February 7, 2018]2019**  
**Notice of Continuation: August 1, 2016**  
**Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19;\_50 CFR part 20**

**Natural Resources, Wildlife Resources**  
**R657-38**  
**Dedicated Hunter Program**

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE NO.: 43432  
 FILED: 12/10/2018

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is being amended pursuant to Wildlife Board meetings conducted for taking public input and reviewing the Division of Wildlife Resources' (DWR) Dedicated Hunter Program.

**SUMMARY OF THE RULE OR CHANGE:** The proposed revisions to this rule: 1) consolidate related sections for simplification; 2) eliminate redundancy and add clarity to rule intent throughout; 3) establish a deadline for extension requests; 4) clarify timeframes in which the service hours must be completed; and 5) clarify the withdrawal requirements and number of permits allowed for a withdrawal.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 23-14-18 and Section 23-14-19

**ANTICIPATED COST OR SAVINGS TO:**  
 ♦ **THE STATE BUDGET:** These rule amendment make technical and clarifying changes and thus DWR has determined that these amendments do not create a cost or savings impact to the state budget or DWR's budget, since the changes will not increase workload and can be carried out with the existing budget.  
 ♦ **LOCAL GOVERNMENTS:** Since these amendments are only clarifying or simplifying processes already in place, this filing does not create any direct cost or savings impact to local governments. Nor are local governments indirectly impacted because this rule does not create a situation requiring services from local governments.  
 ♦ **SMALL BUSINESSES:** These amendments simply make technical and clarifying changes, therefore, DWR determines that the amendments do not have the potential to generate a cost or savings impact to small businesses.  
 ♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These amendments simply make technical and clarifying changes, therefore, DWR had determined that these

amendments do not have the potential to generate a cost or savings impact to other persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** DWR has determined that these amendments will not create additional savings or costs for those who wish to participate in the program.

**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 amendments will not result in a fiscal impact to businesses.

**THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:**  
 NATURAL RESOURCES  
 WILDLIFE RESOURCES  
 1594 W NORTH TEMPLE

SALT LAKE CITY, UT 84116-3154  
 or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
 ♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2019**

**THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2019**

**AUTHORIZED BY: Mike Fowlks, Director**

**Appendix 1: Regulatory Impact Summary Table\***

<b>Fiscal Costs</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>
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
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
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
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

**Appendix 2: Regulatory Impact to Non-Small Businesses**  
 These rule changes are not expected to have any fiscal impact on non-small businesses revenues or expenditures, because they currently do not benefit from the sale of dedicated hunter certificate of registrations.

The head of department of Natural Resources, Michael Styler, has reviewed and approved this fiscal analysis.

**R657. Natural Resources, Wildlife Resources.**

**R657-38. Dedicated Hunter Program.**

**R657-38-1. Purpose and Authority.**

(1) Under the authority of Section 23-14-18, this rule provides the standards and requirements for qualified deer hunters to participate in the Dedicated Hunter Program by obtaining a certificate of registration.

(2) The Dedicated Hunter Program is a program that ~~provides~~:

- (a) ~~provides expanded hunting opportunities;~~
- (b) ~~opportunities to participate~~ requires participation in wildlife conservation projects; and
- (c) ~~education~~ provides educational training in hunter ethics and wildlife management principles.

**R657-38-2. Definitions.**

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Dedicated Hunter Permit" means a general buck deer permit issued to a participant in the Dedicated Hunter Program, which authorizes the participant to hunt deer during the general archery, general muzzleloader and general any weapon open seasons in the hunt area specified on the permit.

(b) "Division" means the Utah Division of Wildlife Resources.

(c) "Hunt area" means an area prescribed by the Wildlife Board where general archery, general muzzleloader and general any legal weapon buck deer hunting is open to permit holders for taking deer.

(~~e~~)d "Participant" means a person who has remitted the appropriate fee and has been issued a Dedicated Hunter certificate of registration.

~~(d) "Program" means the Dedicated Hunter Program~~

(e) "Program" means the Dedicated Hunter Program

~~(f) "Program harvest" means using a Dedicated Hunter permit to tag a harvested deer or failing to return a Dedicated Hunter permit with the kill tag attached, while enrolled in the program.~~

(~~f~~)g "Wildlife conservation project" means any project that provides wildlife habitat protection or enhancement, improves public hunting or fishing access, or directly benefits wildlife or the Division's current needs and is pre-authorized by the Division.

**R657-38-3. Dedicated Hunter Certificates of Registration.**

(1)(a) To participate in the program, a person must apply for, ~~obtain~~ be issued, and sign a Dedicated Hunter certificate of registration as prescribed by the Division. ~~A participant is not required to have the Dedicated Hunter certificate of registration on their person while hunting.~~

(b) Certificates of registration are issued by the Division through a drawing as prescribed in the guidebook of the Wildlife Board for taking big game and R657-62.

(c) Certificates of registration are valid for ~~3~~ three consecutive years, except as provided by R657-38-10 and R657-38-13, beginning on the date the big game drawing results are released and ending on the last day of the general season hunt for the ~~3rd~~ third year of enrollment.

(d) The ~~number~~ quantity of Dedicated Hunter certificates of ~~registration~~ registrations is limited to 15% percent of the total annual general season buck deer quota for each respective hunt area.

(~~i~~)e Certificates of registration remaining unissued from the Dedicated Hunter portion of the big game drawing shall be redistributed as general single-season permits for their respective hunt areas in the general buck deer drawing.

(2) The Division may deny issuance of a Dedicated Hunter certificate of registration for any of the reasons identified as a basis for suspension in Section 23-19-9(7) and R657-38-15.

(3)(~~a~~) A certificate of registration conditionally authorizes the participant to obtain ~~and use~~ a Dedicated Hunter permit which may be used to hunt deer within the area listed on the permit, during the general archery, general muzzleloader and general any legal weapon buck deer seasons according to the dates and boundaries established by the Wildlife Board.

(~~b~~) When available, the certificate of registration may also authorize ~~hunting within~~ the permit to include the general deer archery extended area during the extended season dates.

(~~a~~)c The person must use the appropriate ~~weapons and equipment otherwise applicable to~~ weapon type specified by each season and boundary.

(4) The participant's ~~selected~~ hunt area, as issued through the drawing, shall remain the same for the entire duration of that program enrollment period.

(5) Participants in the program shall be subject to any changes subsequently made to this or other ~~rules during~~ rules during the term of enrollment ~~unless a variance is authorized by the Division~~.

**R657-38-4. Applications for Certificates of Registration.**

(1) Applications to obtain a Dedicated Hunter certificate of registration are made pursuant to R657-62-16.

(2) To apply for a Dedicated Hunter certificate of registration, applicants must:

(a) have a valid Utah hunting or combination license;

(b) meet all age, hunter education, and license requirements in Sections 23-19-11, 23-19-22, 23-19-24, and 23-19-26 and in applicable rules~~[-];~~ except that:

(i) A person 11 years of age may apply for and obtain a Dedicated Hunter certificate of registration if that person's ~~[42th]~~[twelfth] birthday falls in the calendar year the certificate is issued~~[-A];~~ and

~~\_\_\_\_\_~~(ii) a person may not hunt big game prior to their ~~[42th]~~[twelfth] birthday; and

(c) be compliant with the restrictions in Subsection (2).

(3) A person under any wildlife suspension may not apply for a certificate of registration until their suspension period has ended.

#### **R657-38-5. Dedicated Hunter Preference Point System.**

~~\_\_\_\_\_~~(1) Dedicated Hunter Preference points are issued pursuant to R657-62-10.

#### **R657-38-6. Fees.**

(1) Any person who is 17 years of age or younger on July 31~~[st]~~ of the application year shall pay the youth participant fees.

(2) Any person who is 18 years of age or older on July 31~~[st]~~ of the application year, or is a Lifetime License holder, shall pay the ~~[adult]~~associated participant fees.

~~\_\_\_\_\_~~(3) Lifetime License holders shall pay a reduced fee ~~as authorized by the annual fee schedule.~~

~~(3)~~(4)a A participant who enters the program as a Utah resident and thereafter becomes a nonresident~~[-];~~ shall be changed to a nonresident status and may be issued nonresident permits ~~[at no additional charge]~~ for the remainder of the ~~[three-year]~~ enrollment period.

~~\_\_\_\_\_~~(i) No additional fee shall be applied to the nonresident certificate of registration or its respective permits following this change.

~~(5)a~~ A participant who enters the program as a nonresident and thereafter becomes a Utah resident, shall be changed to a resident status and may be issued resident permits ~~[with no reimbursement of the higher nonresident fee]~~ for the remainder of the ~~[three-year]~~ enrollment period.

~~\_\_\_\_\_~~(i) No refund will be issued for the difference of the resident certificate of registration fee or its respective permits following this change.

#### **R657-38-7. Refunds.**

(1) A refund for the Dedicated Hunter certificate of registration may not be issued, except as provided in ~~[Section]~~Sections 23-19-38 and 38.2 and R657-42.

(2) Any eligible refund of a certificate of registration fee~~[-];~~ may be issued pro rata, based on the number of years in which any portion of a hunt may have occurred during the enrollment period.

(3) Drawing application fees are nonrefundable.

(4) A refund shall not be issued under any circumstance if a participant's harvest record indicates two program harvests.

#### **R657-38-8. Wildlife Conservation and Ethics Course Requirement.**

(1) After ~~[successfully obtaining]~~being issued a Dedicated Hunter certificate of registration and prior to obtaining the first Dedicated Hunter permit of the program, a participant must complete a wildlife conservation and ethics course as prescribed by the Division.

(2) The wildlife conservation and ethics course is available through the Division's ~~[Internet site]~~Website.

(3) The Division shall keep a record of all participants who complete the wildlife conservation and ethics course as required by Utah law.

#### **R657-38-9. Service Hour Requirement.**

~~(1)a~~ ~~[Except as provided in R657-38-14, each]~~A participant ~~[in]~~must complete the ~~[program shall provide a]~~ minimum ~~[of 32 hours]~~annual required service hours as a volunteer on Division -approved wildlife conservation projects~~[-~~

~~\_\_\_\_\_~~(i) A participant may obtain a permit in the 1st year of the program ~~without having provided service hours.~~ in order to obtain a Dedicated Hunter permit.

~~\_\_\_\_\_~~(ii) A participant must have completed a minimum of 16 service hours prior to receiving a Dedicated Hunter permit in the ~~2nd year of the program.~~

~~\_\_\_\_\_~~(iii) A participant must have completed a minimum of 32 total service hours prior to receiving a Dedicated Hunter permit in the ~~3rd year of the program.~~

~~\_\_\_\_\_~~(b) A participant must complete a minimum of 8 service hours prior to receiving a Dedicated Hunter permit in the first year of the program.

~~\_\_\_\_\_~~(c) A participant must complete a minimum total of 24 service hours prior to receiving a Dedicated Hunter permit in the second year of the program.

~~\_\_\_\_\_~~(d) A participant must complete a minimum total of 32 service hours prior to receiving a Dedicated Hunter permit in the third year of the program.

~~\_\_\_\_\_~~(e) If the participant has two program harvests, the full 32 hours must be completed prior to the expiration of the certificate of registration.

~~(b)f~~ If ~~[the]~~a participant having two program harvests fails to complete the ~~[minimum 32]~~required hours of service ~~[by the]~~prior to expiration of the certificate of registration~~[-in the 3rd year]~~, the participant ~~[will be]~~is ineligible to apply for or obtain any Utah hunting ~~[licenses]~~license or ~~[permits]~~permit until the remaining service hours have been completed.

~~(i)g~~ After a certificate of registration has expired, incomplete service hours may be completed through Division approved projects or by payment at the established purchase rate.

~~(ii)2~~ A participant who has not been issued any Dedicated Hunter permits during the enrollment shall not be required to complete the service hour requirement.

~~(e)3a~~ Residents and nonresidents may complete service hour requirements through service, purchase, or a combination of the two options.

~~\_\_\_\_\_~~(d) If a participant fails to fulfill the wildlife conservation and ethics course or the minimum service requirements in any year of participation, the participant shall not be issued a Dedicated Hunter permit for that year.

(2)(b) Wildlife conservation projects may be ~~designed~~ provided by the Division, or any other individual or entity, but must be pre-approved by the Division.

(a)(c) Goods or services ~~provided~~ donated to the Division ~~for wildlife conservation projects~~ by a participant may be, at the discretion of the Division, substituted for service hours based upon current market values or comparative state contract rates for the goods or services, and the approved service hour purchase rate.

(b)(d) The Division shall publicize the dates, times, locations and description of approved wildlife conservation projects and activities on the Division's ~~Internet site's~~ Website.

~~(3)(4)(a) Service hours [must be completed within the] performed prior to an enrollment [period:] shall not be accepted as service credit.~~

(a)(b) Service hours exceeding the ~~[32-hour]~~ minimum requirement shall not be applicable beyond the enrollment period and shall not be credited to any subsequent certificate of ~~[registrations] registration.~~

~~(4) Except as provided in R657-38-14 for participants surrendering due to injury or illness, all participants~~ (5)(a) Participants are required to perform their own service hours.

(a)(b) Service hours are not transferrable to other participants or certificates of registration.

#### **R657-38-10. ~~[Service Hour Exceptions and Program] Certificate of Registration Extension.~~**

(1)(a) A participant who is a member of the United States Armed Forces or public safety organization that is mobilized or deployed on orders in the interest of national defense or declared state of emergency while enrolled in the program may request a one-year program extension if~~[:]~~:

(a)(i) the person is mobilized or deployed for a minimum period of ~~[3]three consecutive months[:]; or[:]~~

(b)(ii) the participant is mobilized or deployed during the general buck deer season.

~~(i)(b) [The extension may not be granted for a year where the participant was issued a Dedicated Hunter permit and the division determines] The participant must provide evidence of the mobilization or deployment period and that the mobilization or deployment precluded the participant from using the Dedicated Hunter permit.~~

(c) An extension may not be granted if the participant hunted ~~[with] during the [permit] general deer season.~~

(2)(d) If an extension is granted~~[:]~~ due to mobilization or deployment:

(a)(i) the minimum annual program requirements shall be postponed into the subsequent year of the enrollment; ~~[and]~~

(b)(ii) a permit will not be issued in the year the qualifying mobilization or deployment occurs.

~~(3) The participant must provide evidence of the mobilization or deployment period.]~~

(2)(a) A person who is enrolled in the program and obtains a limited entry buck deer permit through the Utah Big Game drawing or accepts a poaching reported reward limited entry buck deer permit, may request the Dedicated Hunter program enrollment period be extended one additional year.

(b) The extension request must be received by the Division before the established deadline, as published on the Division's website.

(c) An extension is not available to participants who have two program harvests.

#### **R657-38-11. Allowable Harvest and Permit Return Requirements.**

(1)(a) A program participant may take a maximum of two general season deer within the enrollment period. Only one deer may be harvested in a single year.

(b) The harvest of an antlerless deer using a Dedicated Hunter permit, when permissible in the extended archery areas and seasons established in the big game guidebook, shall be considered a program harvest.

(2) Upon ~~[issue] issuance~~ of a Dedicated Hunter permit, the participant is credited with a program harvest.

(a) Two program harvests are allowed within an enrollment period.

(b) If program harvests ~~[are accrued] accrue~~ during the ~~[1st] first~~ year and ~~[2nd] second~~ year of the enrollment, a permit shall not be issued for the ~~[3rd] third~~ year.

(c) In order to remove a program harvest credit, the participant must:

(i) not have harvested a deer with the Dedicated Hunter permit; and

(ii) return the permit ~~[and] with the~~ attached tag, or a qualifying affidavit as proof of non-harvest to a Division office. A handling fee and notarization may be ~~[assessed] required~~ for processing an affidavit.

#### **R657-38-12. Dedicated Hunter Permits.**

(1)(a) Pursuant to Sections 23-19-24 and 23-19-26 person must have a valid Utah hunting or combination license to apply for or obtain a big game permit.

(a)(b) Except as provided in subsection (b)(c), a permit may not be issued if the participant does not possess a valid hunting or combination license at the time of permit issuance.

(b)(c) A valid hunting or combination license is not required to obtain a permit in the first year of the enrollment period, provided the participant possessed a valid license when applying for the Dedicated Hunter certificate of registration.

(2) The participant must have a valid Dedicated Hunter permit in possession while hunting.

(3) Upon completion of the minimum annual requirements, a Dedicated Hunter permit may be issued~~[:—The method and dates in which the Division issues and distributes Dedicated Hunter permits shall be]~~ as published on the Division's website~~[—or in the guidebook of the Wildlife Board for taking big game].~~

(4) The Division may exclude multiple season opportunities on specific management units~~[—due to extenuating circumstances on a portion or all of a hunt area-], or may close or reduce a season on part or all of a management unit, when in the interest of the wildlife resource or as necessary for the Division to accomplish its management objectives.~~

(5)(a) The Division may issue a duplicate Dedicated Hunter permit pursuant to Section 23-19-10.

(b) If a participant's unused Dedicated Hunter permit and tag is destroyed, lost, or stolen prior to, or during the hunting season in which the permit is valid, a participant may obtain a duplicate ~~after paying the associated handling fee~~ ~~may be assessed for the duplication~~.

(c) A duplicate Dedicated Hunter permit shall not be issued after the closing date of the general buck deer season.

(6)(a) A participant may surrender a Dedicated Hunter permit in accordance with Rule R657-42.

(b) A participant may not surrender a Dedicated Hunter permit ~~once the general archery deer hunt~~ ~~after the earliest season allowed by the permit~~ has begun, unless the Division can verify that the permit was never in the participant's possession.

(7)(a) Lifetime license holders may participate in the program.

(b) ~~The Lifetime~~ A lifetime license holder shall apply for a certificate of registration in the same manner as all other prospective participants.

(c) ~~Upon joining and for the duration of enrollment in the program, the~~ A lifetime license holder participating in the program agrees to ~~temporarily~~ forego any rights to receive a lifetime license buck deer permit as provided in Section 23-19-~~47.5~~ 17.5 while enrolled in the program and until all outstanding service hours owed from a period of enrollment are complete.

(d) A refund or credit is not issued for a forgone lifetime license permit.

#### **R657-38-13. Obtaining Other Permits.**

(1)(a) Participants may not apply for or obtain any other Utah general season buck deer permit, including general landowner buck deer permits, or respective preference points issued by the Division through the big game drawing, license agents, over-the-counter sales, or the internet during an enrollment period in the program.

([a]b) Any other Utah general season deer permit obtained is invalid and must be surrendered prior to the beginning season date for that permit.

~~(c) Refunds for surrendered permits are governed by Section~~ Sections 23-19- ~~38.1~~ 38 ~~and 38.2~~ and R657-42.

(2)(a) Participants may apply for or obtain a limited entry buck deer permit, including CWMU, limited entry landowner, conservation, expo, and poaching reported rewards permits.

([i]b) A limited entry buck deer permit may be obtained without completion of the annual program requirements[;] but does not exempt the participant from fulfilling the minimum requirements of the ~~entire~~ enrollment.

~~(ii) A person who is enrolled in the program and obtains a limited entry buck deer permit through the Utah Big Game drawing or accepts a poaching reported reward limited entry deer permit, may request the Dedicated Hunter program enrollment period be extended one additional year. Any other method of obtaining a limited entry buck deer permit shall not extend the enrollment period, but shall take the place of one of the 3 enrollment years.~~

~~(iii) Harvest with a limited entry buck deer permit shall not be counted as a program harvest.~~

([b]c) If the participant obtains a limited entry buck deer permit and has been issued a Dedicated Hunter permit, ~~that~~ either

the limited entry buck deer permit or the Dedicated Hunter permit must be surrendered as permissible by R657-38- ~~41~~ 12 ~~and R657-42.~~

([i]d) A participant who obtains a limited entry buck deer permit may only use that permit in the prescribed area and season listed on the permit~~;~~ but Dedicated Hunter privileges are not extended to that permit.

([i]e) A limited entry buck deer permit may not be obtained if the Dedicated Hunter permit has been ~~in possession of the participant during any open portion of~~ issued and the general buck deer season~~;~~ has started.

~~(f) Harvest of a limited entry buck deer as permitted shall not be counted as a program harvest.~~

(3)(a) Participants may apply for or obtain antlerless deer permits as provided in Rule R657-5 and the guidebook of the Wildlife Board for taking big game.

(b) Except as provided in R657-38-~~41(1)~~ 11, harvest of an antlerless deer with an antlerless deer permit shall not be considered a program harvest.

#### **R657-38-14. Certificate of Registration Surrender.**

(1) A participant may ~~formally~~ request ~~withdrawal~~ to withdraw from the Dedicated Hunter program by surrendering the Dedicated Hunter certificate of registration pursuant to R657-42, provided the participant ~~meets the surrender requirements and~~ does not have ~~a~~ two program ~~record indicating two~~ harvests within the enrollment period.

~~(a) A participant who has not possessed any permits in the program during any portion of the hunting seasons applicable to those permits, may surrender and have all requirements waived.~~

~~(b) A participant who has possessed only one permit in the program during any portion of the hunting seasons applicable to that permit and not credited with a program harvest on that permit, may surrender upon completing a minimum of 11 service hours;~~

~~(c) A participant who has possessed two permits in the program during any portion of the hunting seasons applicable to those permits and credited with no more than program harvest between the permits, may surrender upon completion of a minimum of 22 service hours.~~

(2) A participant who has two program harvests during the program enrollment may not withdraw from the program and is required to complete the program minimum requirement of 32 service hours.

(3) The Division may reinstate preference point(s) for a participant successfully surrendering in the first year of the enrollment period, provided the ~~person did not possess a dedicated hunter permit during any portion of the hunting seasons applicable to the permit.~~

(3) "Possessed" means, for purposes of this section, that division records show a Dedicated Hunter permit was printed, mailed to or picked up by the participant, and not surrendered prior to the beginning of the general archery buck ~~surrender occurs prior to the start of the general~~ deer season.

(4)(a) Pursuant to 23-19-38, a participant who becomes ill or suffers an injury that precludes that person from using the permits or completing program requirements, may request withdrawal from the Dedicated Hunter program pursuant to R657-42 and upon furnishing verification of illness or injury from a physician.

~~(b) If the participant requesting withdrawal due to illness or injury has a program record indicating two harvests, the Division may waive the remaining service hours or authorize another person to fulfill the requirement in the participant's behalf.]~~

**R657-38-15. Certificate of Registration Suspension.**

- (1) The Division may suspend a Dedicated Hunter certificate of registration pursuant to Section 23-19-9 and R657-26.
- (2) A certificate of registration may also be suspended if the participant:
  - (a) fraudulently submits a time sheet for service hours; or
  - (b) fraudulently completes any of the program requirements; or
  - (c) is under a judicial or administrative order suspending any wildlife hunting or fishing privilege within Utah or elsewhere; or
  - (d) provides false information on the drawing application; or
  - (e) has violated the terms of any certificate of registration issued by the Division or an associated agreement.
- (3) A Dedicated Hunter permit is invalid if a participant's certificate of registration is suspended.
- (4) The program enrollment period shall not be extended in correlation with any suspension.

**KEY: wildlife, hunting, recreation, wildlife conservation**  
**Date of Enactment or Last Substantive Amendment: [March 13, 2017|2019**  
**Notice of Continuation: October 5, 2015**  
**Authorizing, and Implemented or Interpreted Law: 23-14-18**

**Public Safety, Criminal Investigations  
 and Technical Services, Criminal  
 Identification  
 R722-920  
 Cold Case Database**

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

DAR FILE NO.: 43435  
 FILED: 12/11/2018

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is required as a result of the passage of S.B 160, Cold Case Database, during the 2018 General Session, which enacted the rulemaking requirement under Section 53-10-115.

**SUMMARY OF THE RULE OR CHANGE:** This rule specifies the information to be collected from law enforcement entities and maintained in the cold case database, and the information that may be accessed by the public.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-10-115**

**ANTICIPATED COST OR SAVINGS TO:**

- ♦ **THE STATE BUDGET:** The Department of Public Safety (Department) does not anticipate a cost or savings to the state budget because this rule only specifies the information to be collected from law enforcement entities and maintained in the cold case database, and the information that may be accessed by the public.
- ♦ **LOCAL GOVERNMENTS:** The Department does not anticipate a cost or savings to local governments because this rule only specifies the information to be collected from law enforcement entities and maintained in the cold case database, and the information that may be accessed by the public.
- ♦ **SMALL BUSINESSES:** The Department does not anticipate a cost or savings to small businesses because this rule only specifies the information to be collected from law enforcement entities and maintained in the cold case database, and the information that may be accessed by the public.
- ♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Department does not anticipate a cost or savings to persons other than small businesses or local government entities because this rule only specifies the information to be collected from law enforcement entities and maintained in the cold case database, and the information that may be accessed by the public.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no associated compliance costs for affected persons, this rule only specifies the information to be collected from law enforcement entities and maintained in the cold case database, and the information that may be accessed by the public.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There are not any non-small businesses in the state of Utah that will be impacted by this rule. This rule only affects law enforcement as it requires them to enter homicide and missing person cold cases into the cold case database. The Commissioner of the Department of Public Safety, Jess L. Anderson, has reviewed and approved this fiscal analysis.

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

PUBLIC SAFETY  
 CRIMINAL INVESTIGATIONS AND TECHNICAL  
 SERVICES,  
 CRIMINAL IDENTIFICATION  
 3888 W 5400 S  
 TAYLORSVILLE, UT 84118  
 or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

- ◆ Alice Moffat by phone at 801-281-5039, by FAX at 801-965-4944, or by Internet E-mail at aerickso@utah.gov
- ◆ Greg Willmore by phone at 801-965-4533, or by Internet E-mail at gwillmor@utah.gov
- ◆ Kim Gibb by phone at 801-556-8198, by FAX at 801-964-4482, or by Internet E-mail at kgibb@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2019**

**THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2019**

**AUTHORIZED BY: Alice Moffat, Bureau Chief**

for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

**Appendix 2: Regulatory Impact to Non-Small Businesses**

There are no non-small businesses in the state of Utah that will be impacted by this rule. This rule only affects law enforcement as it requires them to enter homicide and missing person cold cases into the cold case database.

The Commissioner of the Department of Public Safety, Jess L. Anderson, has reviewed and approved this fiscal analysis.

**R722. Public Safety, Criminal Investigations and Technical Services, Criminal Identification.**

**R722-920. Cold Case Database.**

**R722-920-1. Authority.**

This rule is authorized under Section 53-10-115.

**R722-920-2. Purpose.**

The purpose of this rule is to specify the information to be collected and maintained in the cold case database, and what information may be accessed by the public.

**R722-920-3. Definitions.**

(1) Terms used in this rule are defined in Section 53-10-102 and 53-10-115.

(2) In addition:

(a) "CODIS" means the Combined DNA Index System;

(b) "database" means the cold case database established in Subsection 53-10-104(17);

(c) "NAMUS" means the National Missing and Unidentified Persons System;

(d) "NCIC" means the National Crime Information Center;

(d) "NCMEC" means the National Center for Missing and Exploited Children; and

(d) "ViCAP" means the Violent Criminal Apprehension Program.

**R722-920-4. Information to Be Collected and Maintained.**

(1) Each law enforcement agency in the state shall provide information regarding the following cold case types to the division for inclusion in the database:

(a) unresolved homicide; or

(b) missing person.

(2) The following information is required, when available, in order for a cold case to be included in the database:

(a) the victim's:

(i) name;

(ii) gender;

(iii) race;

(iv) ethnicity; and

(v) date of birth;

(b) ViCAP number, if the case has been entered into the ViCAP system;

(c) NCMEC number if the case has been entered into the NCMEC system;

(d) whether the case was entered into the NAMUS system;

(e) NCIC number if entered into the NCIC system;

(f) Medical Examiner case number;

**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
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
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
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits:</b>			
	\$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

(g) whether probative, unanalyzed suspect reference DNA is available;

(h) whether a probative, crime scene DNA profile from the putative perpetrator has been uploaded to CODIS;

(i) whether reference DNA from the victim is available;

(j) State Bureau of Forensic Services case number;

(k) name of agency referring the case;

(l) investigating agency contact number;

(m) date case entered into the database;

(n) agency case number;

(o) whether the victim was a juvenile or adult victim at the time the crime occurred;

(p) date crime was reported to investigating agency;

(q) date or approximate date the victim was last seen;

(r) date or approximate date of death;

(s) cause or manner of death;

(t) location body was found if a body was found;

(u) whether a weapon was used, and the type of weapon used if applicable;

(v) whether the following evidence is available:

(i) fingerprints

(ii) palm prints;

(iii) latent prints;

(iv) dental records;

(v) shell casings; or

(v) other physical evidence;

(w) scars, marks and tattoos;

(x) whether a suspect or person of interest has been identified;

(y) date case solved; and

(z) case narrative.

(2) The following information may be entered into the database at the discretion of the investigating agency for a cold case;

(a) associated information which may include the following:

(i) vehicle information;

(ii) nickname or moniker;

(iii) associated case addresses;

(iv) associated phone numbers;

(v) associated names

(b) case photos or composite drawings at the discretion of the investigating agency; and

(c) other details as determined by law enforcement agency.

#### **R722-920-5. Information That May Be Accessed by the Public.**

(1) The following information maintained in the database shall be made available to the public:

(a) case type;

(b) the victim's:

(i) name;

(ii) gender;

(iii) race; and

(iv) age;

(c) name of agency referring the case;

(d) agency case number;

(e) date of crime;

(f) date of death; and

(g) status of case.

(2) Additional information maintained in the database may be made available to the public at the discretion of the investigating agency.

**KEY: cold case database, cold cases, database**

**Date of Enactment or Last Substantive Amendment: 2019**

**Authorizing, and Implemented or Interpreted Law: 53-10-115**

## Tax Commission, Property Tax **R884-24P-19** Appraiser Designation Program Pursuant to Utah Code Ann. Sections 59-2-701 and 59-2-702

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43437

FILED: 12/13/2018

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** After review of county personal property staff, it

was discovered that many were not compliant with certain requirements to be designated by the commission as Ad Valorem Personal Property Auditors/Appraisers. The current rule has no deadline for achieving this designation. Additionally, it was discovered that staff were not attending the required 14 hours of continuing education every two years primarily because there are few local courses in personal property tax.

**SUMMARY OF THE RULE OR CHANGE:** These proposed amendments establish a two-year deadline for meeting the requirements for the Ad Valorem Personal Property Auditor/Appraiser designation. In addition, they reduce the number of required hours of continuing education for this designation from 14 to 6.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 59-2-701 and Section 59-2-702

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** These proposed amendments are not expected to have any measurable fiscal impact on state government revenues or expenditures because they will only impact local government employees.

◆ **LOCAL GOVERNMENTS:** These proposed amendments may have a minor inestimable fiscal impact on the revenues or expenditures of certain local governments depending on a specific local government's level of compliance with the current rule. If a local government is fully compliant with the

current rule, there may be a small reduction in expenditures as a result on the reduction in required continuing education hours.

♦ **SMALL BUSINESSES:** These proposed amendments are not expected to have any fiscal impact on small businesses' revenues or expenditures because they will only impact local government employees.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These proposed amendments are not expected to have a fiscal impact on the revenues or expenditures of other persons because they will only impact local government employees.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There may be minor inestimable compliance costs or savings for local governments as a result of these amendments depending on a specific local government's level of compliance with the current rule. If a local government is fully compliant with the current rule it is likely that there will be some compliance savings as a result on the reduction in required continuing education hours.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** These proposed amendments are not expected to have any fiscal impact on businesses because they will only impact local governments and certain local government employees.

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 01/31/2019

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2019

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
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
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
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

**Appendix 2: Regulatory Impact to Non-Small Businesses**  
 These proposed amendments are not expected to have any fiscal impact on non-small businesses' revenues or expenditures because they will only impact local government employees.

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-19. Appraiser Designation Program Pursuant to Utah Code Ann. Sections 59-2-701 and 59-2-702.**

(1) "State certified general appraiser," "state certified residential appraiser," "state licensed appraiser," and trainee are as defined in Section 61-2b-2.

(2) The ad valorem training and designation program consists of several courses and practica.

(a) Certain courses must be sanctioned by either the Appraiser Qualification Board of the Appraisal Foundation (AQB) or the Western States Association of Tax Administrators (WSATA).

(b) The courses comprising the basic designation program are:

- (i) Course 101 - Basic Appraisal Principles;



(ii) Course 103 - Uniform Standards of Professional Appraisal Practice (AQB);

(iii) Course 501 - Assessment Practice in Utah;

(iv) Course 502 - Mass Appraisal of Land;

(v) Course 503 - Development and Use of Personal Property Schedules;

(vi) Course 504 - Appraisal of Public Utilities and Railroads (WSATA); and

(vii) Course 505 - Income Approach Application.

(3) Candidates must attend 90 percent of the classes in each course and pass the final examination for each course with a grade of 70 percent or more to be successful.

(4) There are four recognized ad valorem designations: ad valorem residential appraiser, ad valorem general real property appraiser, ad valorem personal property auditor/appraiser, and ad valorem centrally assessed valuation analyst.

(a) These designations are granted only to individuals employed in a county assessor office or the Property Tax Division, working as appraisers, review appraisers, valuation auditors, or analysts/administrators providing oversight and direction to appraisers and auditors.

(b) An assessor, county employee, or state employee must hold the appropriate designation to value property for ad valorem taxation purposes.

(5) Ad valorem residential appraiser.

(a) To qualify for this designation, an individual must:

(i) successfully complete courses 501 and 502;

(ii) successfully complete a comprehensive residential field practicum; and

(iii) attain and maintain state licensed or state certified appraiser status.

(b) Upon designation, the appraiser may value residential, vacant, and agricultural property for ad valorem taxation purposes.

(6) Ad valorem general real property appraiser.

(a) In order to qualify for this designation, an individual must:

(i) successfully complete courses 501, 502, and 505;

(ii) successfully complete a comprehensive field practicum including residential and commercial properties; and

(iii) attain and maintain state certified appraiser status.

(b) Upon designation, the appraiser may value all types of locally assessed real property for ad valorem taxation purposes.

(7) Ad valorem personal property auditor/appraiser.

(a) For an individual commencing employment as an ad valorem personal property auditor/appraiser before April 15, 2019 to qualify for this designation, an individual must, by April 15, 2021:

(i) successfully complete courses 101, 103, 501, and 503; and

(ii) successfully complete a comprehensive auditing practicum.

(b) For an individual commencing employment as an ad valorem personal property auditor/appraiser on or after April 15, 2019 [Fe]to qualify for this designation, an individual must within 24 months of commencing that employment:

(i) successfully complete courses 101, 103, 501, and 503; and

(ii) successfully complete a comprehensive auditing practicum.

~~[(b)](c)~~ Upon designation, the auditor/appraiser may value locally assessed personal property for ad valorem taxation purposes.

(8) Ad valorem centrally assessed valuation analyst.

(a) In order to qualify for this designation, an individual must:

(i) successfully complete courses 501 and 504;

(ii) successfully complete a comprehensive valuation practicum; and

(iii) attain and maintain state licensed or state certified appraiser status.

(b) Upon designation, the analyst may value centrally assessed property for ad valorem taxation purposes.

(9) If a candidate fails to receive a passing grade on a final examination, two re-examinations are allowed. If the re-examinations are not successful, the individual must retake the failed course. The cost to retake the failed course will not be borne by the Tax Commission.

(10) A practicum involves the appraisal or audit of selected properties. The candidate's supervisor must formally request that the Property Tax Division administer a practicum.

(a) Emphasis is placed on those types of properties the candidate will most likely encounter on the job.

(b) The practicum will be administered by a designated appraiser assigned from the Property Tax Division.

(11) An appraiser trainee referred to in Section 59-2-701 shall be designated an ad valorem associate if the appraiser trainee:

(a) has completed all education and practicum requirements for designation under Subsections (5), (6), or (8); and

(b) has not completed the non-education requirements for licensure or certification under Title 61, Chapter 2b, Real Estate Appraiser Licensing and Certification.

(12) An individual holding a specified designation can qualify for other designations by meeting the additional requirements under Subsections (5), (6), (7), or (8).

(13)(a) Maintaining designated status for individuals designated under Subsection (7) requires completion of [14]6 hours of Tax Commission approved classroom work every two years.

(b) Maintaining designated status for individuals designated under Subsections (5), (6), and (8) requires maintaining their appraisal license or certification under Title 61, Chapter 2b, Real Estate Appraiser Licensing and Certification.

(14) Upon termination of employment from any Utah assessment jurisdiction, or if the individual no longer works primarily as an appraiser, review appraiser, valuation auditor, or analyst/administrator in appraisal matters, designation is automatically revoked.

(a) Ad valorem designation status may be reinstated if the individual secures employment in any Utah assessment jurisdiction within four years from the prior termination.

(b) If more than four years elapse between termination and rehire, and:

(i) the individual has been employed in a closely allied field, then the individual may challenge the course examinations. Upon successfully challenging all required course examinations, the prior designation status will be reinstated; or

(ii) if the individual has not been employed in real estate valuation or a closely allied field, the individual must retake all

required courses and pass the final examinations with a score of 70 percent or more.

(15) All appraisal work performed by Tax Commission designated appraisers shall meet the standards set forth in section 61-2b-27.

(16) If appropriate Tax Commission designations are not held by assessor's office personnel, the appraisal work must be contracted out to qualified private appraisers. An assessor's office may elect to contract out appraisal work to qualified private appraisers even if personnel with the appropriate designation are available in the office. If appraisal work is contracted out, the following requirements must be met:

(a) The private sector appraisers performing the contracted work must hold the state certified residential appraiser or state certified general appraiser license issued by the Division of Real Estate of the Utah Department of Commerce. Only state certified general appraisers may appraise nonresidential properties.

(b) All appraisal work shall meet the standards set forth in Section 61-2b-27.

(17) The completion and delivery of the assessment roll required under Section 59-2-311 is an administrative function of the elected assessor.

(a) There are no specific licensure, certification, or educational requirements related to this function.

(b) An elected assessor may complete and deliver the assessment roll as long as the valuations and appraisals included in the assessment roll were completed by persons having the required designations.

**KEY: taxation, personal property, property tax, appraisals**  
**Date of Enactment or Last Substantive Amendment:**  
**[November 30, 2017]2019**  
**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**

## Tax Commission, Property Tax **R884-24P-74**

### Changes to Jurisdiction of Mining Claims Pursuant to Utah Code Ann. Section 59-2-201

## NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 43438  
 FILED: 12/13/2018

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this new section is to establish the conditions under which a mining claim assessed by the Tax Commission (Commission) may be locally assessed.

**SUMMARY OF THE RULE OR CHANGE:** This new section identifies acceptable evidence that an owner or the county in which the mining claim is located may present to the Commission to request that the mining claim be locally assessed.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 59-2-201

### ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** This proposed section is not expected to have any measurable fiscal impact on state government revenues or expenditures because it only clarifies acceptable evidence and the current procedure in rule.

♦ **LOCAL GOVERNMENTS:** This proposed section is not expected to have any fiscal impact on local governments' revenues or expenditures because it only clarifies acceptable evidence and the current procedure in rule.

♦ **SMALL BUSINESSES:** This proposed section is not expected to have any fiscal impact on small businesses' revenues or expenditures because it only clarifies acceptable evidence and the existing procedure in rule.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This proposed section is not expected to have a fiscal impact on the revenues or expenditures of other persons because it only clarifies acceptable evidence and the existing procedure in rule.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is not expected to be an increased compliance cost as a result of this new section because the proposed section only identifies acceptable evidence that may be presented by an owner of a mining claim, or the county in which a mining claim is located, before a mining claim that is assessed by the Commission may be locally assessed. Acceptable evidence is not limited to the evidence specified in this rule and the evidence specified in this rule is already considered acceptable under current practice.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This proposed section is not expected to have any fiscal impact on businesses because it only clarifies existing procedure in rule.

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 01/31/2019

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2019

AUTHORIZED BY: Rebecca Rockwell, Commissioner

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

**Appendix 2: Regulatory Impact to Non-Small Businesses**

This proposed amendment is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because it only clarifies acceptable evidence and current procedure in rule.

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-74. Changes to Jurisdiction of Mining Claims Pursuant to Utah Code Ann. Section 59-2-201.**

(1) A mining claim shall be assessed by the county in which the mining claim is located if the commission determines that the mining claim is used for other than mining purposes.

(2) The owner of a mining claim may request that the mining claim be assessed by the county in which the mining claim is located by providing the following to the commission:

(a) a copy of the title to the mining claim;

(b) certification that all owners of the mining claim seek assessment by the county in which the mining claim is located;

(c) a valid metes and bounds legal description of the mining claim approved by the county recorder where the mining claim is located; and

(d) evidence that the mining claim is used for other than mining purposes.

(3) A county may request that a mining claim be assessed by the county in which the mining claim is located by providing the following to the commission:

(a) a valid metes and bounds legal description of the mining claim approved by the county recorder where the mining claim is located; and

(b) evidence that the mining claim is used for other than mining purposes.

(4) Evidence that a mining claim is used for other than mining purposes is dependent on specific facts and circumstances and includes:

(a) evidence that the mining claim will be actively and solely used for other than mining purposes for more than a temporary period of time;

(b) evidence that a restrictive covenant or conservation easement prohibiting mining activities on the mining claim is recorded in the county where the mining claim is located;

(c) evidence that local zoning ordinances prohibit mining activities on the mining claim; or

(d) in the case where the mining claim has been used for mining activities at any time, the mining claim has been reclaimed as evidenced by the return of the mine reclamation bond to the owner of the mining claim by the Division of Oil, Gas, and Mining.

**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
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
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
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**KEY: taxation, personal property, property tax, appraisals**  
**Date of Enactment or Last Substantive Amendment:**  
**[November 30, 2017]2019**

**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

**Transportation, Motor Carrier  
R909-19  
Safety Regulations for Tow Truck  
Operations - Tow Truck Requirements  
for Equipment, Operation, and  
Certification**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 43443

FILED: 12/14/2018

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** These proposed amendments to Rule R909-19 are to address concerns expressed to the Department of Transportation (Department) by the tow truck motor carrier industry, to update the rule to reflect current industry practices, to clarify certain ambiguities, and to make technical changes to this rule.

**SUMMARY OF THE RULE OR CHANGE:** Section R909-19-11 was entirely deleted and replaced. The information from this section was then divided into seven new sections, with revised heading names. There was a consensus that this would allow specific fee areas to be immediately located. The new Section R909-19-11 added additional clarification for a recovery operation. The new Section R909-19-12 separated out the police generated towing fee calculation. The new Section R909-19-13 includes the updated storage fee. The new Section R909-19-14 separated out the non-consent fuel surcharge fee. The new Rule R909-19-15 separated out the non-consent administrative fee. The new Section R909-19-16 separated out the administrative fee adjustment. The new Section R909-19-17 separated out information for public consent towing fee. The new Section R909-19-18 added additional language related to posting requirements.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 41-6a-1404 and Section 41-6a-1405

and Section 41-6a-1406 and Section 53-1-106 and Section 53-8-105 and Section 72-9-303 and Section 72-9-601 and Section 72-9-602 and Section 72-9-603 and Section 72-9-604 and Section 72-9-701 and Section 72-9-702 and Section 72-9-703

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** The Department estimates that neither it nor the state will experience a fiscal impact related to these proposed amendments because state and federal law already require it to regulate and inspect motor carrier commercial vehicles. These proposed amendment will not change the amount of work required to meet the Department's responsibilities.

♦ **LOCAL GOVERNMENTS:** The Department estimates these proposed rule changes will not cause any fiscal impact to local governments because they only change how the Department regulates the tow truck motor carrier industry. These proposed changes do not require local governments to do anything.

♦ **SMALL BUSINESSES:** Proposed changes to Section R909-19-18 will require tow truck motor carriers and impound yards, all of which are small businesses, to post all non-consent tow fees and rates for towing and storage at all locations. The tow truck motor carrier would have to pay the cost of installing additional signage to ensure that fees are posted as required. The Department does not know how many tow truck motor carriers will need to post new signs, how many signs the average tow truck motor carrier will need to install, nor what the cost of these signs is. Therefore, it is not possible to estimate this additional compliance cost at present.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Department estimates these proposed rule changes will not cause any fiscal impact to persons other than small businesses, businesses, or local government entities because they only change how the Department regulates the tow truck motor carrier industry.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** As stated in small businesses cost above, the proposed changes to Section R909-19-18 will require tow truck motor carriers and impound yards, all of which are small businesses, to post all non-consent tow fees and rates for towing and storage at all locations. They will be required to pay the cost of installing additional signage to ensure that fees are posted as required. The Department does not know how many tow truck motor carriers will need to post new signs, how many signs the average tow truck motor carrier will need to install, nor what the cost is for these signs. Therefore, it is not possible to estimate this additional compliance cost at present.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** These proposed rule changes will not have a fiscal impact on businesses in general.

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 [cnewman@utah.gov](mailto:cnewman@utah.gov)
- ◆ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at [jimpalmer@utah.gov](mailto:jimpalmer@utah.gov)
- ◆ Josh Dangel by Internet E-mail at [jdangel@utah.gov](mailto:jdangel@utah.gov)
- ◆ Linda Hull by phone at 801-965-4253, or by Internet E-mail at [lhull@utah.gov](mailto:lhull@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2019

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2019

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
Non-Small Businesses		\$0	\$0
Other Person	\$0	\$0	\$0
<b>Total Fiscal Costs:</b>		<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
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
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*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 motor vehicle towing industry in Utah includes 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 individual business, or type of business impacted, and how we define fiscal impact.
- 2) The industry regulated by this administrative rule is the Motor Vehicle Towing industry. This administrative rule defines members of this industry as tow truck motor carriers. The Department of Workforce Services (DWS) Firm Find Data lists 99 establishments identified by the NAICS industry code 488410, which is assigned to the Motor Vehicle Towing industry. However, Department records indicate there are approximately 600 Tow Truck Motor Carriers operating in Utah.
- 3) All the approximately 600 Tow truck motor carriers are small businesses, as defined by Subsection 63G-3-102(19). For a complete list of these firms, contact the Department.
- 4) Proposed changes to Section R909-19-18 will require tow truck motor carriers and impound yards to post all non-consent tow fees and rates for towing and storage at all locations. The tow truck motor carrier would have to pay the cost of installing additional signage to ensure that fees are posted as required. The Department does not know how many tow truck motor carriers will need to post new signs, how many signs the average tow truck motor carrier will need to install, nor what the cost of these signs is. Therefore, it is not possible to estimate this additional compliance cost at present.
- 5) The Department estimates this proposed rule change will not cause any fiscal impact to local governments because it only changes how the Department regulates the tow truck motor carrier industry.
- 6) 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.
- 7) Carlos Braceras, executive director of the Department has reviewed and approved this fiscal analysis.

**R909. Transportation, Motor Carrier.**

**R909-19. Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation, and Certification.**  
**R909-19-1. Authority.**

This rule is enacted under the authority of Sections 72-9-601, 72-9-602, 72-9-603, 72-9-604, 53-1-106, 41-6a-1405, Utah Code.

**R909-19-2. Applicability.**

All tow truck motor carriers and employees must comply and observe all rules, including R909-1, regulations, traffic laws and guidelines as prescribed by State Law, including Sections 41-6a-401.9, 41-6a-1404, 41-6a-1405, 41-6a-1406, 72-9-301, 72-9-303, 72-9-601, 72-9-602, 72-9-603, 72-9-604, 72-9-701, 72-9-702, and 72-9-703.

**R909-19-3. Definitions.**

(1) "Consent [F]tow" means any tow truck service that is done at the vehicle, vessel, or outboard motor owner's, or its legal operator, knowledge and/or approval.

(2) "Department" means the Utah Department of Transportation.

(3) "Division" means the Motor Carrier Division.

(4) "Emergency [M]moves" means a tow operation initiated by law enforcement to move a wrecked or disabled motor vehicle.

(5) "Gross [C]ombination [W]eight [R]ating (GCWR)" means the value specified by the manufacturer as the loaded weight of a combination (articulated) motor vehicle. In the absence of a value specified by the manufacturer, GVCR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon.

(6) "Gross [V]ehicle [W]eight [R]ating (GVWR)" means the value specified by the manufacturer as the loaded weight of a single motor vehicle.

(7) "Life-[E]ssential personal property" includes those items essential to sustain life or health including: prescription medication, medical equipment, essential clothing (e.g. shoes, coat), food and water, child safety seats, and government issued photo-identification.

(8) "Non-[C]onsent [P]olice [G]enerated [F]tow" means tow truck service that was ordered by a peace officer, or a person acting on behalf of a law enforcement agency, or a highway authority, as defined in Section 72-1-102.

(9) "Non-[C]onsent [N]on-[P]olice [G]enerated [F]tow" means towing services performed without the prior consent or knowledge of the owner of the vehicle or the person authorized by the owner to operate the vehicle from private property. The tow truck service must be from private property, at the request of the property landowner or agent for the landowner.

(10) "Normal [O]ffice [H]ours" means hours of operation where the office or yard shall be staffed and open for public business during normal business hours Monday thru Friday, except for designated state and federal holidays.

(11) "Recovery [O]peration" means a towing service that may require charges in addition to the normal one-truck/one-operator towing service requirements. The additional charges may include charges for manpower, extra equipment, ~~traffic control, and special recovery equipment~~ and supplies necessary for the recovery operation.

(12) "Tow [F]truck" means a commercial~~[motor]~~ vehicle constructed, designed, altered, or equipped primarily for the purpose of towing or removing damaged, disabled, abandoned, seized, repossessed or impounded vehicles from highway or other place by means of a crane, hoist, tow bar, tow line, dolly tilt bed, or other similar means of vehicle transfer without its own power or control.

(13) "Tow [F]truck [C]ertification [P]rogram" means a program to authorize and approve tow truck motor carrier owners, operators, and vehicles is the process by which the Department, acting under Section 72-9-602, shall verify compliance with the State and Federal Motor Carriers Safety Regulations.

(14) "Tow [F]truck [M]otor [C]arrier" means any company that provides for-hire~~[-private, salvage, or repossession]~~ towing services. It includes the company's agents, officers, and representatives as well as employees responsible for hiring, training, supervisory, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of equipment and/or accessories.

(15) "Tow [F]truck [S]ervice" means the functions and any ancillary operations associated with recovering, removing, and towing a vehicle and its load from a highway or other place by means of a tow truck.

(a) Tow [F]truck [S]ervice, with regards to authorized towing fees, is determined by the type and size of the towed vehicle, not the type and size of the tow truck performing the service.

(b) Towed [V]ehicle [C]lassifications will be used when determining authorized fees. Information regarding the GVWR to determine classification category of towed vehicle can be found on the identification plate on the vehicle driver side doorframe. Towed vehicle classifications are as follows:

(i) "Light [D]uty" means any towed vehicle with a GVWR 10,000 pounds or less;

(ii) "Medium [D]uty" means any towed vehicle with a GVWR between 10,001 ~~and~~to 26,000 pounds;

(iii) "Heavy [D]uty" means any towed vehicle with a GVWR or GCWR 26,001 pounds and greater.

(16) "Tow Truck Operator" means a natural person who drives or operates the towing equipment, or a motor vehicle adapted to or designed for the towing of motor vehicles.

(17) "Tow [F]truck [M]otor [C]arrier [S]teering [C]ommittee" means a committee established by the Motor Carrier Division and will include enforcement personnel, industry representatives and other persons as deemed necessary.

#### **R909-19-4. Duties - Enforcement - Compliance Audits, Inspections and Right of Entry.**

The Department shall administer and in cooperation with the Department of Public Safety, Utah Highway Patrol Division as specified under Section 53-8-105, shall administer and enforce state and federal laws related to the operation of tow truck motor carriers within the state. In addition, a tow truck motor carrier shall submit its lands, property, buildings, equipment for inspection and examination and shall submit its accounts, books, records, or other documents for inspection and copying to verify compliance as authorized by Section 72-9-301.

#### **R909-19-5. Insurance.**

(1) ~~[Tow Truck Motor Carriers]~~Tow truck motor carriers performing emergency moves shall maintain liability insurance coverage of at least \$750,000 per occurrence. ~~Tow [Truck Motor Carriers]truck motor carriers~~ performing non-emergency moves shall maintain liability insurance coverage of at least \$1,000,000 per occurrence.

(2) All ~~[Tow Truck Motor Carriers]~~tow truck motor carriers performing consent or non-consent tows are required to obtain a MCS-90 endorsement for environmental restoration as required in 49 CFR Part 387 - Minimum Levels of Financial Responsibility for Motor Carriers.

(3) Evidence of required insurance shall be maintained at the principal place of business and made available to the Department and/or Investigator upon request and prior to issuance of the ~~[Tow Truck Motor Carrier]~~tow truck motor carrier certification.

#### **R909-19-6. Penalties and Fines.**

(1) Any tow truck motor carrier that fails or neglects to comply with State or Federal Motor Carrier Safety Regulations, other statutes, any part of this rule, any term or condition of the permit or any materials that it incorporates either by reference or attachment, or a Departmental order, is subject to:

(a) a civil penalty as authorized by Section 72-9-701, and 72-9-703;

(b) suspension or revocation of a carrier or tow truck certification (suspension or revocation will be based upon the severity of violations to this rule, Sections 41-6a-1406 and 72-9-603);

(c) issuance of a cease-and-desist order as authorized by Section 72-9-303; and

(d) the revocation or suspension of registration by the Utah State Tax Commission pursuant to Section 72-9-303.

#### **R909-19-7. Towing Notice Requirements.**

(1) All non-consent police generated, and non-consent non-police generated tows conducted by ~~[Tow Truck Motor Carriers]~~tow truck motor carriers must input required information in electronic form on the Division of Motor Vehicles Utah State Tax Commission's website, at "https://secure.utah.gov/ivs/ivs" as required by Utah Code Subsection 41-6a-1406(11).

(2) ~~[Tow Truck Motor Carriers]~~Tow truck motor carriers must notify the local enforcement agency having jurisdiction over the area from where the vehicle, vessel, or outboard motor was removed on all non-consent non-police generated tows immediately upon arrival at the impound or storage yard.

(a) For tows conducted on vehicles, vessels, and outboard motors and the owner information does not appear in the IVS or TLR (Title License Registration) systems, a ~~[Tow Truck Motor Carrier]~~tow truck motor carrier has met this requirement if they can provide proof that a letter has been sent to the Utah State Tax Commission Division of Motor Vehicle or the appropriate state where the vehicle, vessel, and outboard motor is registered, within two business days requesting the needed information to send the letter.

~~[(3) If required notifications to the Division of Motor Vehicles and local law enforcement is not completed as required by Sections 41-6a-1406 and 72-9-603, the Tow Truck Motor Carrier or operator may not collect any fees associated with the removal or begin charging storage fees as authorized under Sections 41-6a-1406 and 72-9-603 until the removal has been reported to the Motor Vehicle Division and the local law enforcement agency.]~~

~~[(4) If notification to the last known owner and lien holder is not made as required by this rule, the Tow Truck Motor Carrier may be subject to penalties as outlined in this rule.]~~

~~[(5)]~~(3) The tow truck motor carrier or the tow truck operator must provide a copy of the Utah Consumer Bill of Rights Regarding Towing at first contact with the owner of a vehicle, vessel, or out board motor that was towed.

(a) The tow truck motor carrier must be able to verify that the consumer received their copy of the Utah Consumer Bill of Rights Regarding Towing.

~~[(6)]~~(4) The Utah Consumer Bill of Rights Regarding Towing shall contain the language and information as published at, [www.udot.utah.gov/main/f?p=100;pg:0::1:T,V:396](http://www.udot.utah.gov/main/f?p=100;pg:0::1:T,V:396).

~~[(b)]~~(a) The consumer has a right to receive documentation from the tow truck motor carrier showing the date and time the storage began.

~~[(c) The tow truck motor carrier, operator(s) and vehicle(s) shall comply with 49 CFR Section 390, of the Federal Motor Carrier Safety Regulations, which are incorporated and made a part of this Rule by this reference.]~~

~~[(d)]~~(b) A consumer has the right to file a complaint alleging:

(i) Overcharges;

(ii) ~~[H]~~(c) inadequate certification for the operator, truck or company, and;

~~[(v)]~~(iii) violations of the Federal Motor Carrier Safety Regulations, Utah Code Annotated, or Utah Administrative Code.

~~[(e)]~~(c) Complaints may be filed online with the Utah Department of Transportation at [\[http://www.udot.utah.gov/https://www.udot.utah.gov/main/f?p=100;pg:0::1:T,V:4610,66405\]](http://www.udot.utah.gov/https://www.udot.utah.gov/main/f?p=100;pg:0::1:T,V:4610,66405) ~~[Click on the Motor Carrier Division tab, Motor Carrier Contacts, and click on Motor Carrier Comments and Complaints;]~~ or by contacting the Motor Carrier Division at (801) 965-~~[5]~~4892.

#### **R909-19-8. Certification.**

There are three (3) certifications required by the Department.

(1) Tow Truck Operator Certification.

(a) Effective July 1, 2004 all tow truck operators will be tested and certified in accordance with Towing & Recovery Association of America Inc (TRAA)~~[National Driver Certification Procedure (NDCP)]~~ standards and carry evidence of certification for the appropriate level of vehicle they are operating. These standards of conduct and proficiency may be tested and certified through an accepted program approved by the Department.

(i) Towing and Recovery Association of America (TRAA) Testing Program;

(ii) Wreckmaster Certification Program;

~~[(iii) AAA Certification Program;]~~

~~[(iv)]~~(iii) Utah Safety Council; or

~~[(v) North American Towing Academy; or]~~

~~[(vi)]~~(iv) Other driver testing certification programs approved by the Department to meet certification requirements, however, the ~~[Tow Truck Motor Carrier]~~tow truck motor carrier must obtain prior approval in writing from the Motor Carrier Division Administrator or Division representative by calling (801) 965-4892.

(b) Information on qualified certification programs may be obtained by contacting the Motor Carrier Division at (801) 965-4892.

(c) ~~[Tow Truck Motor Carriers]~~Tow truck motor carriers shall ensure that all tow truck operators:

(i) are properly trained and certified to operate tow truck equipment;

(ii) are licensed, as required under Utah Code Sections 53-3-101, through 53-3-909 Uniform Driver License Act;

(iii) are complying with the requirements under Utah Code Sections 41-6a-1406 and 72-9-603;

(iv) have cleared the criminal background check required in Subsections 72-9-602(2) and (3). In addition, a tow truck motor carrier must notify the department of a ~~[n]~~(n) tow truck operator whom is not in compliance with 72-9-602(3) within two business days of obtaining knowledge from the Bureau of Criminal Identification.

(v) obtain and maintain a valid medical examiner's certificate under 49 C.F.R Sec 391.45.

(2) Tow Truck Vehicle Certification.

(a) All tow trucks shall ~~[be inspected and certified]~~receive and pass a tow truck certification inspection biannually.

(b) All tow trucks must be equipped with required safety equipment. Safety Equipment List can be found at [\[http://www.udot.utah.gov/main/f?p=100;pg::1:T,V:396\]](http://www.udot.utah.gov/main/f?p=100;pg::1:T,V:396)<https://www.udot.utah.gov/main/f?p=100;pg::1:T,V:396> or by calling 801-965-4892.

(c) Upon vehicle certification, a UDOT certification sticker will be issued and shall be affixed on the driver's side rear window.

(d) Documentation of UDOT tow truck vehicle [inspection] certification shall be retained[kept in the vehicle files] and [be] available upon request by Department personnel.

(3) Tow [~~Truck Motor Carrier~~]truck motor carrier Certification.

(a) Tow [~~Truck Motor Carriers~~]truck motor carriers shall be certified biannually to ensure compliance as required by the Federal Motor Carrier Safety Regulations, Utah Code Annotated, and local laws where applicable.

#### **R909-19-9. Certification Fees.**

The Department may charge [~~Tow Truck Motor Carriers~~]tow truck motor carriers a fee biannually as authorized by Section 72-9-603 to cover costs associated with driver, vehicle, and carrier certifications.

#### **R909-19-10. Information Required on Towing Receipt.**

(1) Charges for services provided must be clearly reflected on a company receipt and a copy shall be provided to the customer. The receipt must include the following information:

- (a) company name;
- (b) address;
- (c) phone number;
- (d) transportation, administration, fuel surcharge, and storage fees charged;
- (e) name of company driver;
- (f) unit number;
- (g) license plate of the towed vehicle;
- (h) make, model, Vehicle Identification Number, and year of the towed vehicle;
- (i) start and end time with total hours for services provided; and
- (j) the date vehicle was retrieved from tow yard or other storage area.

#### **[R909-19-11. Non-Consent Towing, Storage, Administrative and Fuel Surcharge Fees.**

(1) The Motor Carrier Division is required to establish the allowable maximum fees for tow truck service, storage, the tow truck carrier's administrative fee for reporting the removal, and the fuel surcharge as per Utah State Code 72-9-603. The Towing Fees Schedule is published on the Division's website at <http://www.udot.utah.gov/main/?p=100:pg:0:::1:T,V:396>.

(2) The allowable maximum fee for tow truck service and the maximum allowable administrative fee for reporting the removal ("Allowable Maximum Fees") shall be tied to the Consumer Price Index for all Urban Wage Earners and Clerical Workers (CPI-W) in the West Urban Region of the U.S. The (CPI-W) is calculated by the U.S. Department of Labor, Bureau of Labor and Statistics (BLS), which publishes CPI Detailed Report Tables every month on its web site at <http://www.bls.gov/epi/tables.htm>.

(3) The Motor Carrier Division shall adjust the Allowable Maximum Fees once annually as follows:

(a) The base fee schedule for each calendar year after a year in which the motor Carrier Division determines the Allowable Maximum Fees pursuant to R909-19-11(1) shall be adjusted effective January 1 of each such calendar year (the "Adjustment Date").

(b) The adjustment amount of the Allowable Maximum Fees shall be equal to the change in the CPI-W for the twelve-month

period prior to the October CPI-W figure reported by the BLS immediately preceding the Adjustment Date in question.

(c) The first CPI-W based adjustment to the Allowable Maximum Fees shall be equal to the cumulative change in the CPI-W for 2014 and 2015.

(d) If the twelve-month change in the CPI-W from October to October is negative, the Allowable Maximum Fees shall remain unchanged until the next Adjustment Date.

(e) The Division of Motor Carriers shall round the Allowable Maximum Fees to the nearest whole number.

(4) A Tow Truck Motor Carrier may charge up to but not exceeding the approved tow rate, based upon the type of non-consent tow, as indicated in the Towing Fee Schedule published online at <http://www.udot.utah.gov/main/?p=100:pg:0:::1:T,V:396>.

(a) An additional 15% of the fee for tow truck service may be charged if the towed vehicle is used in the transportation of materials found to be hazardous for the purposes of and in accordance with the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F.

(b) If a tow truck apparatus is mechanically connected to a vehicle, the tow truck motor carrier shall be considered in possession of the vehicle.

(c) If the owner, authorized operator, or authorized agent of the owner of a motor vehicle is attempting to retrieve said vehicle before the tow truck motor carrier is in possession of the vehicle, no fee(s) shall be charged to the vehicle owner.

(d) If the owner, authorized operator, or authorized agent of the owner of the vehicle is attempting to retrieve the vehicle after the tow truck motor carrier is in possession of the vehicle but before the vehicle is removed from the property or scene, the maximum fee shall not exceed 50% of the posted rate schedule.

(e) Charges for recovery operations, as defined by R909-19-3, shall be coordinated with the towed vehicle owner prior to initiating the additional charges relating to the recovery operation. Coordination with the towed vehicle owner should result in an agreement between the towed vehicle owner and Tow Truck Motor Carrier.

(f) Tow Truck Motor Carriers shall obey all applicable local municipal and county laws, pertaining to placement of signs, notification, and other towing related ordinances.

(g) Strobe lights are not allowed on Tow Trucks. The acceptable color for tow truck lights is amber.

(5) A Tow Truck Motor Carrier may charge up to but not exceeding the amount for storage per day for the type of non-consent tow as indicated in the Towing Fee Schedule as published online at: <http://www.udot.utah.gov/main/?p=100:pg:0:::1:T,V:396>.

(a) A Tow Truck Motor Carrier may charge a higher fee for inside storage per day per unit as indicated in the Towing Fees Schedule as published at on the Divisions website at: <http://www.udot.utah.gov/main/?p=100:pg:0:::1:T,V:396>. Only if requested by the owner(s), or a law enforcement agency or highway authority:

(b) Vehicles used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F may be charged a higher storage fee rate based upon the Towing Fees Schedule as published online at: <http://www.udot.utah.gov/main/?p=100:pg:0:::1:T,V:396>.



~~(e) For the purpose of calculating storage rates, if the first six (6) hours of storage for a vehicle includes more than one day, the authorized storage fee is only the charge for one day.~~

~~(6) A Tow Truck Motor Carrier may charge an administrative fee for reporting the removal of up to but not exceeding the amount indicated in the Towing Fee Schedule as published online at <http://www.udot.utah.gov/main/?p=100;pg:0::1:T,V:396> per vehicle notification for reporting non-consent tows to the Department of Motor Vehicles and for sending notifications to the owner and lien holder (if applicable).~~

~~(7) A Tow Truck Motor Carrier may charge a fuel surcharge. When the daily Rocky Mountain Average, as determined by the Department of Energy, for the price of fuel reaches \$3.25 per gallon, a tow truck motor carrier may charge a surcharge equal to 5% of the base tow rate. An additional 5% shall be allowed for each \$0.25 per gallon increase. Conversely, as the price of fuel drops, the fuel surcharge shall decrease by the same rate.~~

~~(a) To determine the Rocky Mountain daily average per gallon diesel cost, refer to the U.S. Energy Information Administration's website at <https://www.eia.gov/>.~~

~~(b) The fuel surcharge may be charged on non-consent police generated tow when the vehicle is being used in the function of a tow vehicle i.e. travel to and from the scene and during the operation of equipment for recovery operation. Non-consent non-police tows may charge a onetime fee.~~

~~(c) Surcharge fee shall be listed as a separate fee on the tow bill.~~

**R909-19-11. Non-Consent Towing Fee.**

~~(1) A tow truck motor carrier may charge up to but not exceed the approved tow rate, based upon the type of non-consent tow, as indicated in the Towing Fee Schedule published online at <http://www.udot.utah.gov/main/?p=100;pg:0::1:T,V:396>.~~

~~(a) An additional 15% of the fee for tow truck service may be charged if the towed vehicle is used in the transportation of materials found to be hazardous for the purposes of and in accordance with the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F.~~

~~(b) If a tow truck apparatus is mechanically connected to a vehicle, the tow truck motor carrier shall be considered in possession of the vehicle.~~

~~(c) If the owner, authorized operator, or authorized agent of the owner of a motor vehicle is attempting to retrieve said vehicle before the tow truck motor carrier is in possession of the vehicle, no fee(s) shall be charged to the vehicle owner.~~

~~(d) If the owner, authorized operator, or authorized agent of the owner of the vehicle is attempting to retrieve the vehicle after the tow truck motor carrier is in possession of the vehicle but before the vehicle is removed from the property or scene, the maximum fee shall not exceed 50% of the posted rate schedule.~~

~~(e) Charges for recovery operations, as defined by R909-19-3, shall be coordinated with the towed vehicle owner, or directed by law enforcement prior to initiating the additional charges relating to the recovery operation. Coordination with the towed vehicle owner should result in an agreement between the towed vehicle owner and tow truck motor carrier.~~

~~(i) If attempts to coordinate the recovery operation charges with the towed vehicle owner fail, law enforcement personnel may authorize the recovery operation.~~

~~(ii) At least two attempts must be made to contact the towed vehicle owner.~~

~~(iii) Record of owner coordination or law enforcement authorization shall be maintained by a tow truck motor carrier for each recovery operation. The record shall include contact name, entity, contact time and date, and agreement made.~~

~~(iv) Uncoordinated or unauthorized recovery operation fees may be subject to penalty and reimbursement of recovery operation fees.~~

**R909-19-12. Police Generated Towing Fee Calculation.**

~~(1) Tows dispatched during business hours: Tow time shall be calculated from dispatch time to completion of tow service.~~

~~(2) Tows dispatched after business hours: Tow time shall be calculated from dispatch time to completion of tow service and return to dispatch location. Time to return to dispatch location shall not exceed allowed rotation response time.~~

~~(3) Time charged shall be to the nearest fifteen-minute increment.~~

~~(4) Charges may not extend to include the towing notice requirement period pursuant to Utah Code Subsections 72-9-603(1)(a)(i) or 41-6a-1406(4)(a)(ii).~~

**R909-19-13. Non-consent Towing Storage Fee.**

~~(1) Daily storage fees for Non-consent Police generated tow service may not exceed:~~

~~(a) Outside storage: light duty \$40, medium duty \$60, heavy duty \$60~~

~~(b) Inside Storage: light duty \$45, medium duty \$85, heavy duty \$85~~

~~(c) Outside hazardous materials: medium duty \$115, heavy duty \$115~~

~~(d) Inside hazardous materials: medium duty \$165, heavy duty \$165~~

~~(2) Daily storage fees for Non-consent non-police generated tow service may not exceed:~~

~~(a) Outside storage: light duty \$25, medium duty \$45, heavy duty \$45~~

~~(i) Light duty state approved yard: \$40, medium duty \$60, heavy duty \$60.~~

~~(b) Inside Storage: light duty \$45, medium duty \$85, heavy duty \$85~~

~~(c) Outside hazardous materials: medium duty \$115, heavy duty \$115~~

~~(d) Inside hazardous materials: medium duty \$165, heavy duty \$165.~~

~~(3) A tow truck motor carrier may charge up to but not exceeding the amount for storage per day for the type of non-consent tow.~~

~~(a) A tow truck motor carrier may charge a higher fee for inside storage per day per unit only if requested by the owner(s), or a law enforcement agency or highway authority.~~

~~(b) Vehicles used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations, 49 CFR Part 172, subpart F may be charged a higher storage fee rate.~~

(c) For the purpose of calculating storage rates, if the first six hours of storage for a vehicle includes more than one day, the authorized storage fee is only the charge for one day.

**R909-19-14. Non-consent Fuel Surcharge Fee.**

(1) A tow truck motor carrier may charge a fuel surcharge when the daily Rocky Mountain Average, as determined by the Department of Energy, for the price of fuel reaches \$3.25 per gallon, a tow truck motor carrier may charge a surcharge equal to 5% of the base tow rate. An additional 5% shall be allowed for each \$0.25 per gallon increase. Conversely, as the price of fuel drops, the fuel surcharge shall decrease by the same rate.

(a) To determine the Rocky Mountain daily average per gallon diesel cost, refer to the U.S. Energy Information Administration's website at <https://www.eia.gov/>.

(b) The fuel surcharge may be charged on non-consent police generated tow when the vehicle is being used in the function of a tow vehicle i.e. travel to and from the scene and during the operation of equipment for recovery operation. Non-consent non-police tows may charge a onetime fee.

(c) Surcharge fee shall be listed as a separate fee on the tow bill.

**R909-19-15. Non-consent Administrative Fee.**

A tow truck motor carrier may charge an administrative fee for reporting the removal of up to but not exceeding the amount indicated in the Towing Fee Schedule as published online at <http://www.udot.utah.gov/main/f?p=100:pg:0:::1:T,V:396> per vehicle notification for reporting non-consent tows to the Department of Motor Vehicles and for sending notifications to the owner and lien-holder (if applicable).

**R909-19-16. Tow Truck Service and Administrative Fee Adjustment.**

(1) The Motor Carrier Division is required to establish the allowable maximum fee for a tow truck service and administrative fee for reporting the removal, as per Utah State Code 72-9-603.

The Towing Fees Schedule is published on the Division's website at <http://www.udot.utah.gov/main/f?p=100:pg:0:::1:T,V:396>.

(2) The allowable maximum fee for tow truck service and the maximum allowable administrative fee for reporting the removal shall be tied to the Consumer Price Index for all Urban Wage Earners and Clerical Workers (CPI-W) in the West Urban Region of the U.S. The CPI-W is calculated by the U.S. Department of Labor, Bureau of Labor and Statistics (BLS), which publishes CPI Detailed Report Tables every month on its web site at <https://www.bls.gov/cpi/tables/home.htm>.

(3) The Motor Carrier Division shall adjust the allowable maximum fees once annually as follows:

(a) The base fee schedule for each calendar year after a year in which the motor Carrier Division determines the allowable maximum fees pursuant to R909-19-11(1) shall be adjusted effective January 1 of each such calendar year (the "Adjustment Date").

(b) The adjustment amount of the allowable maximum fees shall be equal to the change in the CPI-W for the twelve-month period prior to the October CPI-W figure reported by the BLS immediately preceding the Adjustment Date in question.

(c) If the twelve-month change in the CPI-W from October to October is negative, the allowable maximum fees shall remain unchanged until the next Adjustment Date.

(d) The Division of Motor Carriers shall round the allowable maximum fees to the nearest whole number.

**R909-19-17[2]. Public Consent Towing and Storage Rates.[Public Consent Tows.]**

Towing rates for public consent tows are the responsibility of the consumer and the tow truck motor carrier as contracted for services rendered and are not regulated by the Department.

**R909-19-18[3]. Rates and Storage Posting Requirements.**

Pursuant to Section 72-9-603, a tow truck motor carrier or impound yard shall clearly and conspicuously post and disclose all its current non-consent fees and rates for towing and storage of a vehicle at all locations at which vehicles are retrieved, or payment is accepted.

**R909-19-19[4]. Federal Motor Carrier Safety Requirements.**

All tow truck motor carriers that meet the definition of a commercial motor carrier shall comply with all State and Federal Motor Carrier Safety Regulations, in addition to any other legal requirements established in statute, rule, or permit.

**R909-19-20[15]. Consumer Protection Information.**

Pursuant to Section 72-9-602, the Department shall make consumer protection information available to the public that may use a tow truck motor carrier. To obtain such information, including a list of [~~Tow Truck Motor Carriers~~] tow truck motor carriers that are currently certified by the Department, the public can access this information online at <http://www.udot.utah.gov/main/f?p=100:pg:::1:T,V:396>, or by calling the Motor Carrier Division at (801) 965-4892.

**R909-19-21[16]. Establishment of Tow Truck Steering Committee and Work Group.**

(1) The Administrator for the Motor Carrier Division will establish a Steering Committee to provide advisory information and input.

(2) The Motor Carrier Advisory Board, established by the Governor, will serve as the steering body for regulatory guidance and the Department's certification process.

**R909-19-22[17]. Review of Rates, Fees and Certification Process.**

(1) During a regularly scheduled Motor Carrier Advisory Board meeting, the board may review rates, fees, tow truck motor carrier procedures, and the certification process. The board is not required to review each of these items every year.

(2)(a) Interested parties must notify the department of their desire to appear and be heard at a regularly scheduled Motor Carrier Advisory Board meeting. To ensure placement on the agenda, notify the Motor Carrier Division at 801-965-4892, by the first day of the month of the scheduled meeting.

(b) Interested parties must be present at the Motor Carrier Advisory Board meeting to submit evidence supporting or challenging proposed rate or fee adjustments, or issues related to procedures regarding the certification process.

**R909-19-23[18]. Ability to Petition for Review.**

Any ~~[Tow Truck Carrier]~~ tow truck motor carrier who believes the Division has acted wrongfully in denying or suspending certification or in imposing a cease-and-desist order may petition the Department for review of that action pursuant to Utah Admin. Code R907-1, Administrative Procedures.

**R909-19-24[19]. Record Retention.**

~~[Tow Truck Motor Carriers]~~ Tow truck motor carriers shall retain records relating to rates charged for services for a period of six months after the service has been provided. However, if the Division or the vehicle owner have notified the carrier that it disputes its ability to charge a particular fee, the carrier shall retain the record until six months after the dispute has concluded or a court rule or order requires a longer retention period.

**R909-19-25[0]. Life Essential Property.**

Property which is deemed as life essential shall be given to the vehicle owner regardless of payment for rendered services.

**KEY: safety regulations, tow trucks, towing, certifications**

**Date of Enactment or Last Substantive Amendment: [January 24, 2018]2019**

**Notice of Continuation: June 2, 2016**

**Authorizing, and Implemented or Interpreted Law: 41-6a-1404; 41-6a-1405; 41-6a-1406; 53-1-106; 53-8-105; 72-9-601; 72-9-602; 72-9-603; 72-9-604; 72-9-301; 72-9-303; 72-9-701; 72-9-702; 72-9-703**

## Transportation, Operations, Traffic and Safety

### R920-50

#### Ropeway Operation Safety

##### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43444

FILED: 12/14/2018

##### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The governing safety standard for passenger ropeways - aerial tramways, aerial lifts, surface lifts, tows, and conveyors - under the American National Standards Institute (ANSI) B77.1-2011 received an update in 2017. These proposed amendments are to incorporate the updated safety standard by reference and incorporate the changes included in the update into the existing rule.

**SUMMARY OF THE RULE OR CHANGE:** Summary of the changes resulting from replacing the ANSI B77.1-2011 standard with the ANSI B77.1-2017 standard: 1) requirements for the evaluation and selection of electrical components have been revised to be consistent with industry

standards; 2) fuel handling requirements have been revised to be consistent with industry standards; 3) additional work carrier requirements have been established to provide a consistent standard for work carriers in use; and 4) lift operation requirements are refined to provide clarity for the roles and responsibilities of lift operators.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-11-210 and Title 72, Chapter 11

##### MATERIALS INCORPORATED BY REFERENCE:

- ◆ Updates Passenger Ropeways - Aerial Tramways, Aerial Lifts, Surface Lifts, Tows and Conveyors - Safety Standard, published by American National Standards Institute, 05/11/2018
- ◆ Adds For Funiculars - Safety Requirements, published by American National Standards, 09/19/2014

##### ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The Department of Transportation (Department) does not anticipate that these proposed amendments will lead to any additional cost or saving to the state budget. The Department already regulates and inspects ski lifts operating in the state. These proposed amendments will not require the Department to invest any additional time or other assets to meet its responsibilities. It will just apply different a standard.

◆ **LOCAL GOVERNMENTS:** The Department does not anticipate that these proposed amendments will lead to any additional cost or saving to local governments. The Department regulates and inspects ski lifts operating in the state. Local governments are generally not involved in this process.

◆ **SMALL BUSINESSES:** The Department's research suggests that these proposed amendments will lead to compliance costs or fiscal impact to the average skiing facility, both small and non-small, from \$0 to \$2,000. Total fiscal impact to small businesses affected by these proposed rule changes could total more than \$24,000. The fiscal impacts would result from adoption of updated ANSI standards included in these proposed rule changes.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Department estimates persons other than businesses and local governments, skiers, may be fiscally impacted by these proposed amendments because lift operators that are fiscally impacted will likely pass additional costs on to the consumer.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The Department does not attempt to estimate what compliance costs will be for all persons affected by these proposed rule changes because the cost of doing so is prohibitive. Lift operators control how much of their costs they pass to their consumers. For lift operators, the Department estimates these proposed rule changes will be from \$0 to \$2,000 per lift.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These proposed rule changes will likely result in a fiscal impact on some 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:

- ◆ Brian Allen by phone at 801-965-4766, by FAX at 801-965-3845, or by Internet E-mail at [brianallen@utah.gov](mailto:brianallen@utah.gov)
- ◆ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at [cnewman@utah.gov](mailto:cnewman@utah.gov)
- ◆ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at [jimpalmer@utah.gov](mailto:jimpalmer@utah.gov)
- ◆ Josh Dangel by Internet E-mail at [jdangel@utah.gov](mailto:jdangel@utah.gov)
- ◆ Linda Hull by phone at 801-965-4253, or by Internet E-mail at [lhull@utah.gov](mailto:lhull@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2019

THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2019

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 - \$24,000	\$0	\$0
Non-Small Businesses	\$0 - \$254,000	\$0	\$0
Other Person	\$0	\$0	\$0
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
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
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits:</b>	<b>\$0 - \$278,000 +</b>	<b>\$0</b>	<b>\$0</b>

\*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 that skiing facilities that operate ropeways in Utah are the only businesses that will experience a material fiscal impact resulting from this proposed amendment. This fiscal impact may be positive or negative, depending upon the specific facility impacted and how we define fiscal impact. The Skiing Facilities industry is comprised of establishments that 1) operate downhill, cross-country, or related skiing areas and/or 2) operate equipment, such as ski lifts and tows. The NAICS Code for Skiing facilities is: 713920.
- 2) The Department of Workforce Services (DWS) Firm Find Data includes data about 17 establishments identified by the NAICS industry code for Skiing Facilities, 713920.
- 3) Of these 17 Skiing Facilities, seven are non-small businesses; ten are small businesses, as defined by Subsection 63G-3-102(19). For a complete list of these skiing facilities, contact the Department.
- 4) The Department's research suggests this proposed amendment will lead to compliance costs to the average impacted skiing facility, both small and non-small, from \$0 to \$2,000. If operators must upgrade every lift in the state, the fiscal impact could total \$278,000 or more. If not lift operators are required to install upgrades, the fiscal impact could be \$0.
- 5) The basis for the Department's cost estimates is: The Internet website [Skiresort.info](http://www.skiresort.info) at: <http://www.skiresort.info/ski-resorts/utah/sorted/number-lifts/> includes information about the ski resorts and operators in Utah. According to [Skiresort.info](http://www.skiresort.info) Utah has 17 ski resorts, 14 that have ski lifts that they must maintain and 3 that provide heli-skiing or cat-skiing services. Of these 14 resorts, 8 are owned by or operated as non-small businesses, 6 owned by or operated as small businesses. The 14 resorts that operate ski lifts operate 139 lifts total. Small businesses operate 12 lifts, non-small businesses operate the remaining 127 lifts are operated by non-small businesses.
- 6) The reason for this fiscal impact to these facilities is the possible need to install new or different safety equipment to conform to the new ANSI standards.
- 7) The Department estimates that local governments will not experience a fiscal impact related to this proposed amendment because the proposed changes to this rule do not require anything additional from them.

8) The Department estimates persons other than businesses and local governments, skiers, may be fiscally impacted by this proposed amendment because lift operators that are fiscally impacted will likely pass additional costs on to the consumer.

9) 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 skiing facilities. This proposed amendment will not change the amount of work required to meet its responsibilities.

10) Carlos Braceras, executive director of the Department has reviewed and approved this fiscal analysis.

## **R920. Transportation, Operations, Traffic and Safety.**

### **R920-50. Ropeway Operation Safety.**

#### **R920-50-1. Purpose.**

This rule establishes regulations, requirements, and provides standards for the design, construction, and operation of a passenger ropeway, except private residence passenger ropeways as defined in Section 72-11-102(11)[;] and establishes the procedures necessary to implement the powers and duties of the Utah Passenger Ropeway Safety Committee (Committee). Previously the Committee was known as the Utah Passenger Tramway Safety Committee. The Committee has also been referred to as the Tramway Board.

#### **R920-50-2. Authority.**

This rule is authorized by Section 72-11-210 to implement Title 72, Chapter 11, Passenger Ropeway Systems Act.

#### **R920-50-3. Definitions.**

In addition to terms defined at Section 72-11-102, the following terms are defined:

(1) "Aerial lift specialist" as used in American National Standards Institute (ANSI) B77.1 sections 3.3.4.1 and 4.3.4.1, means a Ropeway Inspector as defined in R920-50-3(31).

(2) "Aerial tramway specialist" as used in ANSI B77.1 section 2.3.4.1 means a Ropeway Inspector as defined in R920-50-3(31).

(3) "Air Space" means the area bounded by vertical planes commencing at a point thirty-five (35) feet from the intersection of the vertical planes of the ropes and ground surface.

(4) "Annual general inspection" means an inspection of a passenger ropeway made by a Ropeway Inspector to verify preservation of original design integrity and to determine that components and systems of the passenger ropeway are in proper working order and in accordance with this rule.

(5) "Audible warning devices" means an audible warning device that signals an impending start of the aerial lift.

(6) "Auxiliary Power Unit" is a generic term to describe a gas or diesel engine generally used as a backup to the prime mover.

(7) "Bullwheel" means a large grooved wheel at a terminal that rotates continuously when the haul rope is moving and deflects the haul rope by an angle of 10 degrees or more.

(8) "Carrier" means the structural and mechanical assemblage in or on which the passenger(s) or freight of a ropeway system are transported. Unless qualified, the carrier includes, for example, the carriage, grip or clip, hanger, and cabin or chair.

([6]2) "Conveyor specialist" as used in ANSI B77.1 section 7.3.4[+] means a Ropeway Inspector as defined in R920-50-3(31).

([7]10) "Dynamic Testing Logs" means a record of the data collected during the dynamic test.

([8]11) "Experienced personnel" means an individual who has acquired knowledge and skills through study, training, or experience in ropeway maintenance, operation, or testing.

([9]12) "Existing ropeway" means any passenger ropeway that shall have been operated for passengers [in excess of]for more than one calendar year.

(13) "Grip" means the device by which carriers are attached to the haul rope.

([10]14) "Governing Standard" means ["ANSI B-77.1, 2011" and "ANSI B77.2, 2014" as modified by rule of the Committee for use in the State of Utah.]the ANSI B77 standard that is incorporated by reference as part of this rule by rule R920-50-4. Governing Standards. [-Use of these standards is authorized by Section 72-11-201.]

(15) "Haul rope" means a wire rope used on a ropeway that provides motion to carrier(s) and is powered by the drive bullwheel.

([11]16) "Incident inspection" means an inspection of a passenger ropeway incident made by an approved Ropeway Inspector or a qualified engineer at the request of the Committee.

([12]17) "Land surveyor" means an individual licensed under Section 58-22-102 as a professional land surveyor.

([13]18) "Modification" means any change as defined in ANSI B77.1 Section 1.2.4.4, ANSI B77.2 Section 1.2.4.4, and the replacement of a ropeway component by one that alters the certified design or construction provided by the passenger ropeway manufacturer or designer.

([14]19) "New ropeway" means any passenger ropeway that is registered for the first time for passenger operation during its first calendar year of operation.

([15]20) "Operational inspection" means an inspection of a passenger ropeway made by a Ropeway Inspector to determine compliance with the operation and maintenance requirements of the Governing Standard and with this rule.

([16]21) "Operating personnel" means persons employed by the operator [for the purpose of]to supervise[ing] the operation, or engaged in servicing, checking, inspecting or maintaining the machinery or structures of a ropeway and when [specifically-]on duty for such purposes on that ropeway.

([17]22) "Passenger" means any person riding a ropeway, other than "operating personnel."

([18]23) "Passenger Ropeway Incident" means:

(a) Any structural, mechanical, or electrical malfunction or failure of a passenger ropeway component that results in bodily injury to any person on, or inside the load or unload zone of, a passenger ropeway;

(b) Any deropement regardless of whether [or not-]the passenger ropeway is evacuated;

(c) Any evacuation of the passenger ropeway other than by prime mover or auxiliary power unit, regardless of cause;

(d) Any fire involving a passenger ropeway component or adjacent structure;

(e) Any structural, mechanical, or electrical malfunction or failure of a passenger ropeway component that results in a ropeway that will not SLOW DOWN when given the command to do so, will not STOP when given the command to do so, OVERSPEEDS beyond control settings and/or maximum design speed, ACCELERATES faster than normal design acceleration, SELF-STARTS or SELF-ACCELERATES without the command to do so, REVERSES direction unintentionally and without the command to do so, or a loss

of control of the passenger ropeway as defined in ~~[ANSI B77.1-Section X.2.3.1 or]~~ ANSI B77.2 Section 2.2.3.1~~[2.2.1.7.2]~~;

(f) Any wire rope damage which exceeds the requirement in ANSI B77.1 Section A.4.1.3 or ANSI B77.2 Section A.4.1~~[3.4.1.1]~~; and

(g) Any structural, mechanical, or electrical malfunction or failure of a passenger ropeway component or its primary connection that has the apparent potential for causing bodily injury to any person, including but not limited to, the following:

- (i) Terminal Structure;
- (ii) Bullwheel;
- (iii) Brake System;
- (iv) Tower Structure;
- (v) Sheave, Axle, or Sheave Assembly;
- (vi) Carrier; and
- (vii) Grip.

~~[(19)24]~~ "Portable Ropeway" means a ropeway expressly designed to be portable, operated without a permanent foundation, and that has a design range of maximum grade.

~~[(20)25]~~ "Pre-operational inspection" means an inspection made by a Ropeway Inspector prior to the operation of any new or modified passenger ropeway requiring an Acceptance Inspection and Test.

~~[(21)26]~~ "Qualified engineer" means any engineer who is licensed to practice engineering in the state of Utah and who has been approved by the Committee.

(27) "Prime Mover" means the power unit utilized for the continuous operation of a passenger ropeway.

~~[(22)28]~~ "Qualified personnel" as used in ANSI B77.1 sections 2.1.1.11, 3.1.1.11, 4.1.1.11, 5.1.1.11, 6.1.1.11, and 7.1.1.11 means a qualified engineer as defined by R920-50-3(26).

~~[(23)29]~~ "Relocated ropeway" means any passenger ropeway moved to a new location.

~~[(24)30]~~ "Responsible charge" means effective control and direction of the installation or modification of a passenger ropeway.

~~[(25)31]~~ "Ropeway Inspector" means an engineer licensed to practice engineering in the state of Utah, independent of the ropeway owner, and approved by the Committee to inspect passenger ropeways.

(32) "Sheave" means pulley or wheel grooved for haul rope.

~~[(26)33]~~ "Structure" means any edifice, including residential and public buildings, or any other structure or equipment that could reasonably be expected to interfere with the safe operation of a ropeway. Ropeway components required for the operation of the ropeway are not structures.

~~[(27)34]~~ "Surface lift specialist" as used in ANSI B77.1 section 5.3.4.1, means a Ropeway Inspector as defined in R920-50-3(31).

~~[(28) "Testing Personnel" means individuals that are performing non-destructive testing (NDT) inspections (i.e., manufacturer, inspection agency, other personnel, or in-house personnel) who shall be qualified in accordance with nationally recognized NDT personnel qualifications standards: ANSI/ASNT-CP189, SNT-TC-1A, MIL STD 410, NAS 410, or equivalent.~~

~~[(29)35]~~ "Tow specialist" as used in ANSI B77.1 section 6.3.4~~[+]~~ means a Ropeway Inspector as defined by R920-50-3(31).

#### **R920-50-4. Governing Standards.**

(1) Passenger ropeways operating in the State of Utah shall conform to the requirements of ANSI B77.1-2017, ANSI B77.2-2014, which are incorporated by reference as part of this rule R920-50 and to the revised and additional provision listed in R920-50-11. Use of these standards is authorized by Utah Code Section 72-11-201.

(2) The Utah Passenger Ropeway Safety Committee reserves the right to add, alter, or delete provisions included in the Governing Standard for use in the State of Utah.

(3) Existing installations need not comply with the new or revised requirements of the Governing Standard and this rule except as set forth in R920-50-12 "Applicable Provisions."

#### **R920-50-[4]5. General Requirements for Passenger Ropeways.**

(1) Passenger ropeways operating in the State of Utah shall be registered annually with the Committee, and no passenger ropeway shall be operated for passengers without a valid certificate of registration.

(2) Ropeways require a qualified engineer to certify the design, manufacturing, and construction of the ropeway. A Qualified Engineer or Land Surveyor is required to complete the "as-built" profile and certification.

(3) Existing ropeways, when removed and reinstalled, shall be classified as new installations.

(4) Ropeway operators shall be covered by a liability insurance of a minimum of \$300,000. The Utah Passenger Ropeway Safety Committee shall be notified of a lapse or termination of insurance coverage pursuant to the terms of the policy.

#### **R920-50-[5]6. Application to Register a Passenger Ropeway.**

(1) Each year prior to operating a passenger ropeway the ropeway operator shall apply to the Committee, for a Certificate of Registration. In the event a new operator is assigned, the operator shall notify the Committee of such action and shall apply for a Certificate of Registration.

(2) Term - Passenger ropeways shall be registered annually starting November 1st of each year, and each registration expires on October 31st next following date of issue.

(3) Application for Certificate of Registration for existing ropeways shall include the following:

- (a) Annual General Inspection Report;
- (b) Annual registration fee;
- (c) Approved request for exception, if applicable;
- (d) Certification of Compliance; and
- (e) Certificate of Insurance.

(4) Application for Certificate of Registration for new ropeways shall include the following:

- (a) Annual registration fee;
- (b) Approved request for exception, if applicable;
- (c) Certification of Compliance;
- (d) Certificate of Insurance;
- (e) Certifications required in R920-50-[6]7;
- (f) Documents required in R920-50-[7]8; and
- (g) Preoperational Inspection Report.

(5) Submittal of application for registration of ropeways - All applications for registration of new or existing ropeways shall be

submitted in such form as the Committee shall designate and in accordance with requirements of these rules. Applications shall be made in writing and addressed to:

Utah Department of Transportation  
 Passenger Ropeway Safety Committee  
 Traffic and Safety Division  
 4501 South 2700 West  
 Salt Lake City, Utah 84119

**R920-50-[6]7. Certifications Required for Ropeways.**

(1) The Certifications listed below must include the following information:

(a) Name, address and telephone number of the operator of the ropeway, name of ropeway supervisor, operator's designation of the ropeway;

(b) Designated certifying statement;

(c) A certification of design, and construction must also include the name, address, seal, and Utah license of the qualified engineer making the certification; and

(d) A certification of "as-built" profile must also include the name, address, seal, and Utah license of the qualified engineer or land surveyor making the certification.

(2) A Certification of Compliance for Passenger Ropeway shall be made on the Application for Certificate of Registration for the Ropeway.

(a) The certification shall be signed and dated by the ropeway owner or area operator.

(b) The certification shall include the following statement:  
 "I certify that the reports, requests and certificates attached hereto were provided and signed by the persons required by law to provide them, and the deficiencies noted in the inspection report have been corrected with the exception of those listed in the Request for Exception from Standards for Passenger Ropeway."

(3) A Certification of Ropeway Design for New or Modified Passenger Ropeways[-] must be submitted.

(a) The Qualified Engineer in responsible charge of the design shall certify to the Committee that the design, plans and specifications conform to the Utah Passenger Ropeway Safety Act, the Governing Standard and the Utah Ropeway Operation Safety Rule.

(b) The Certification must be submitted prior to the performance of the Acceptance Inspection and Test.

(c) The certification must state the following:

"I hereby certify that the design for this ropeway or ropeway modification is in complete compliance with the Utah Passenger Ropeway Safety Act, Governing Standard and the Utah Ropeway Operation Safety Rule."

(d) This statement shall be placed on the top of the drawing packet and signed and sealed by the qualified engineer. Each additional sheet of this drawing packet shall be sealed by the qualified engineer.

(e) The drawings and specifications shall include the quality assurance methods used for the evaluation of the re-used components and shall be submitted for review a minimum of 30 days prior to installation. Any component on the Utah Passenger Ropeway Safety Committee Lift Data Form must be addressed.

(4) A Certification of Construction for Passenger Ropeways must be submitted by a Qualified Engineer directly responsible for the construction for the ropeway.

(a) The Certification must be submitted prior to the performance of the Acceptance Inspection and Test.

(b) The certification must state the following:

"I hereby certify that the construction and installation has been completed in accordance with the drawings and specifications issued for this ropeway or ropeway modification by the Qualified Design Engineer."

(5) A Certification of "as-built" profile for the Passenger Ropeway must be submitted by a Qualified Engineer or Land Surveyor licensed in the State of Utah.

(a) The "as-built" profile must be submitted prior to the performance of the Acceptance Inspection and Test.

(b) The certification must state the following:

"I hereby certify that the attached "as-built" profile of the herein-identified ropeway is as represented on the attached profile drawing and that the completed ropeway conforms to the profile as identified in the plans and specifications prepared by the Qualified Design Engineer."

**R920-50-[7]8. Documents Required for Ropeways.**

(1) A Utah Passenger Ropeway Safety Committee Lift Data Form must be submitted along with other requested supporting documents. This form must be submitted prior to the performance of the Acceptance Test.

(2) A copy of the acceptance test procedure proposed and submitted by the designer or manufacturer must be provided to the Committee for review at least fourteen (14) days before acceptance testing begins. The qualified engineer determines the acceptance test requirements.

(3) The owner or area operator shall notify the Committee in writing before the acceptance test that the continuous operation requirements of ANSI B77.1 section X.1.1.11 or ANSI B77.2 section 2.1.1.11[-2] have been completed.

(4) A final acceptance test report must be submitted to the Committee prior to opening the lift to the public. The qualified engineer shall approve any changes to the acceptance test procedure.

(5) "As-built" drawings for each passenger ropeway shall be submitted no later than 60 days after the project is completed and the Acceptance Test is finished. Any variation from the design drawings shall be noted in the as-built drawings and approved by the Qualified Design Engineer.

(6) The area operator shall send a "letter of intent" to the Committee at least 45 days prior to beginning the construction of a new lift. The letter of intent must include the name of the qualified engineer, the design standard, the anticipated dates to begin and complete construction, and the available lift manufacturing data.

**R920-50-[8]9. Certificate of Registration.**

(1) If the application for Certificate of Registration and supporting documentation attest that the ropeway complies with the Governing Standard and this rule, the Committee, if satisfied with the facts stated in the application, shall issue a Certificate of Registration to the operator.

(2) Identification number - For each ropeway, upon receipt of the first application for a Certificate of Registration, the Committee shall assign an identification number to the ropeway, which shall remain as a permanent identification number for the life of the ropeway. All correspondence with the Committee pertaining to any ropeway shall refer to the identification number assigned to that ropeway.

**R920-50-9. Governing Standards.**

~~(1) The Utah Passenger Ropeway Safety Committee reserves the right to add, alter, or delete provisions included in the Governing Standard for use in the State of Utah.~~

~~(2) Existing installations need not comply with the new or revised requirements of the Governing Standard and this rule except as set forth in R920-50-11 "Applicable Provisions."~~

**R920-50-10. Revised and Additional Provisions.**

The revised and additional provisions of this section shall only apply when referenced in R920-50-11 "Applicable Provisions."

(1) "New installations and relocated installations." ANSI B77.1 Section 1.2.4.3 is modified by the following requirement: New ropeways and relocated ropeways shall comply with the new or revised requirements of the Governing Standard and with these rules at the time of the acceptance test.

(2) "Auxiliary power unit[drives]." Installations prior to November 1, 1994 shall meet the requirements for auxiliary power units[drives], as set forth in ANSI B77.1-1992, 2.1.2.1.1, 3.1.2.1.1, 4.1.2.1.1.

(3) "Electronic speed-regulated drives." Installations prior to November 1, 1994 shall meet the requirements for electronic speed-regulated drives as set forth in ANSI B77.1-1992, 2.2.1.8.2, 3.2.1.8.2, 4.2.1.8.2, 5.2.1.8.2, 6.2.1.8.2.

(4) "Rope position monitoring." Installations prior to November 1, 1994 shall meet the requirements for rope position monitoring, as set forth in ANSI B77.1-1992, 3.1.3.3.2, paragraph 6.

(5) "Friction type brakes." Installations prior to November 1, 1995 shall meet the requirements for friction type brakes, as set forth in ANSI B77.1-1992, 2.1.2.5, 3.1.2.5, 4.1.2.5, 5.1.2.5, 6.1.2.5.

~~(6) "Fire detection." All machine rooms that are in an enclosed structure located adjacent to the rope of the tramway (vaulted) shall have a fire detection system installed in accordance with the National Fire Alarm Code. This system shall initiate a visual and audible alarm monitored at the drive terminal operator station.~~

~~(7) "Grips, clips, and carrier testing." Testing shall be completed according to section ANSI B77.1 sections 2.3.4.3, 3.3.4.3, 4.3.4.3, and ANSI B77.2 section 2.3.4.4 except as modified by this rule.~~

~~(a) Testing personnel performing non-destructive testing (NDT) inspections (i.e., manufacturer, inspection agency, other personnel, or in-house personnel) shall be qualified in accordance with nationally recognized NDT personnel qualifications standards: ANSI/ASNT CP189, SNT-TC-1A, MIL STD 410, NAS 410, or equivalent. Certification of qualification of personnel performing testing shall be provided.~~

~~(b) Testing personnel shall certify to the owner or area operator that the passenger ropeway components tested were non-destructively tested in accordance with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer.~~

~~(c) Sampling size and method of obtaining the sample shall comply with the Governing Standard or the manufacturer's requirement, whichever is more stringent.~~

~~(d) Rejection rate and retest procedures shall comply with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer.~~

~~(e) Types of inspections to be performed and the procedures to be used shall comply with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer.~~

~~(f) Criteria for acceptance/rejection of samples shall comply with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer.~~

~~(8)(6) "Wire rope inspection." Inspections shall be performed according to ANSI B77.1 Annex A.4.1 and ANSI B77.2 Annex A.4.1[3-4-1] and shall be performed by a competent inspector defined by the Governing Standard and who is approved by the Committee. The wire rope inspector shall certify to the owner or area operator whether the wire rope in its present condition meets requirements for continued operation.~~

~~(9) "Operation and maintenance." All installations shall comply with the Operation and Maintenance requirements of the Governing Standard. These requirements are stated in ANSI B77.1, 2.3, 3.3, 4.3, 5.3, 6.3, 7.3, and ANSI B77.2 2.3.]~~

~~(10)(7) "Audible warning devices." Requirements for audible warning devices on installations prior to April 17, 2007.~~

~~(a) Installations shall meet the requirements for audible warning devices as specified by ANSI B77.1-1999, [2-2-10]2.1.1.12, 3.1.1.12[3-2-10].~~

~~(b) Installations prior to April 17, 2007 ANSI B77.1-1999 Section 4.1.1.12[4-2-10] is modified by the following requirement: The aerial lift shall incorporate an audible warning device that signals an impending start of the aerial lift. After the start button is pressed, the device shall sound an audible alarm for a minimum of two seconds before the aerial lift begins to move. The audible device shall be heard inside and outside all terminals and machine rooms above the ambient noise level.~~

~~(11)(8) "Conveyor Standards." Requirements for installations prior to May 11, 2018.~~

~~(a) Loading and unloading area requirements of ANSI B77.1 section 7.1.1.9 shall also accommodate the use of adaptive devices.~~

~~(b) Power units referred to in ANSI B77.1 section 7.1.2.1 may not have reverse capability.~~

~~(c) "Power supply cords" referred to in ANSI B77.1 section 7.2.1.5.6 shall be protected from snow grooming, skiers, and other equipment and shall be ground fault protected.~~

~~(d) For installations prior to May 11, 2018 [F]he belt transition entry stop device referred to in ANSI B77.1 section 7.2.3.3 shall include redundant (double) sensors or an equivalent system submitted by a qualified engineer to prevent operation in the faulted condition. Each sensor shall be part of an independent control circuit that can initiate an emergency shutdown of the conveyor. The device shall be so designed and maintained that no single point of failure can cause the entry stop device to malfunction. The device shall not be remotely resettable and shall require the operator to reset the device prior to restarting the conveyor.~~

~~(12) "Dynamic Testing Logs." Maintenance logs shall include documentation of the dynamic testing.]~~

~~(13)(9) "Air Space Requirements." ANSI B77.1, section 2.1.1.4, 3.1.1.4, 4.1.1.4, 5.1.1.4, and 6.1.1.4 and ANSI B77.2 section 2.1.1.4 shall also include the following: No structure (temporary or permanent) shall be permitted to encroach into the air space of the~~



ropeway. Ropeways and Structures that were both constructed prior to November 1, 2006 do not need to comply with this requirement.

~~[(14)](10)~~ "Portable Ropeways." Portable ropeways shall not be considered new ropeways when moved to different locations but remaining under the jurisdiction of the same operator.

~~[(15)](11)~~ "Tows Requirements."

~~[(a)]~~ The requirements of ANSI B77.1 section 6.2.3.2.b) shall also require the stop gate to extend across the incoming and outgoing rope.

~~[(b)]~~ Handle Tows shall have stop gates above and below the rope.

~~[(16)]~~ "Existing Installations - Annex F" ANSI B77.1-2011 Section 1.2.4.1 Existing installations is modified by the following: Operation and maintenance is not required to comply with normative Annex F Combustion engine(s) and fuel handling.].

### R920-50-11. Applicable Provisions.

Installations shall comply with the "Revised and Additional Provisions" of R920-50-10 in the categories listed below, on or before the date specified. These provisions establish the minimum requirement.

(1) The following apply to all ropeways:

(a) New installations and relocated installations R920-50-10(1);

~~[(b)]~~ Fire detection R920-50-10(6); effective November 1, 1995;]

~~[(e)](b)~~ Wire rope inspection R920-50-10(8)(6); and

~~[(d)]~~ Operation and maintenance R920-50-10(9).

~~[(c)]~~ Existing Installations - Annex F R920-50-10(16); effective June 7, 2012.].

(2) The following provisions apply to an Aerial Tramway:

(a) Auxiliary drives R920-50-10(2); effective November 1, 1994;

(b) Electronic speed-regulated drives R920-50-10(3); effective November 1, 1994;

(c) Friction type brakes R920-50-10(5); effective November 1, 1995;

~~[(d)]~~ Grips, clips, and carrier testing R920-50-10(7);]

~~[(e)](d)~~ Audible warning devices R920-50-10(4)(7); effective November 1, 2001;]

~~[(f)]~~ Dynamic testing logs R920-50-10(12);] and

~~[(g)](e)~~ Air space requirements R920-50-10(13)(9); effective November 1, 2006.

(3) The following provisions apply to a Detachable Grip Aerial Lift:

(a) Auxiliary drives R920-50-10(2); effective November 1, 1994;

(b) Electronic speed-regulated drives R920-50-10(3); effective November 1, 1994;

(c) Rope position monitoring R920-50-10(4); effective November 1, 1994;

(d) Friction type brakes R920-50-10(5); effective November 1, 1995;

~~[(e)]~~ Grips, clips, and carrier testing R920-50-10(7);]

~~[(f)]~~ Audible warning devices R920-50-10(4)(7);]

~~[(g)]~~ Dynamic testing logs R920-50-10(12);] and

~~[(h)]~~ Air space requirements R920-50-10(13)(9); effective November 1, 2006.

(4) The following provisions apply to a Fixed Grip Aerial Lift:

(a) Auxiliary Drives R920-50-10(2); effective November 1, 1994;

(b) Electronic speed-regulated drives R920-50-10(3); effective November 1, 1994;

(c) Friction type brakes R920-50-10(5); effective November 1, 1995;

~~[(d)]~~ Grips, clips, and carrier testing R920-50-10(7);]

~~[(e)]~~ Audible warning devices R920-50-10(4)(7);]

~~[(f)]~~ Dynamic testing logs R920-50-10(12);] and

~~[(g)]~~ Air space requirements R920-50-10(13)(9); effective November 1, 2006.

(5) The following provisions apply to a Surface Lift:

(a) Electronic speed-regulated drives R920-50-10(3); effective November 1, 1994;

(b) Friction type brakes R920-50-10(5); effective November 1, 1995; and

(c) Air space requirements R920-50-10(13)(9); effective November 1, 2006.

(6) The following provisions apply to a Rope Tow:

(a) Electronic speed-regulated drives R920-50-10(3); effective November 1, 1994;

(b) Friction type brakes R920-50-10(5); effective November 1, 1995;

(c) Air space requirements R920-50-10(13)(9); effective November 1, 2006;

(d) Tow requirements R920-50-10(15)(11); and

(e) Portable Ropeways R920-50-10(14)(10).

(7) The following provisions apply to a Conveyor:

(a) Conveyor standards R920-50-10(11)(8); and

(b) Portable Ropeways R920-50-10(14)(10).

### R920-50-12. Exceptions to Standards.

(1) In the event that the ropeway does not conform with the governing standards and the Ropeway Operation Safety Rule, the Committee may issue a certificate of registration with an exception. Two types of exceptions may be granted after a Request for Exception from Standards is submitted.

(a) Annual Exception - This type of exception must be reviewed annually by the Committee. This type of exception is subject to cancellation at any time pursuant to a determination by the Committee that a change is necessary.

(b) Limited Exception - This type of exception is granted only for a fixed time period to be determined by the Committee.

(2) The nature of the exception shall be stated in the Request for Exception from Standards.

(3) The Committee shall, as expeditiously as possible, and within thirty (30) days of receipt of a Request for Exception from Standards, notify the operator in writing of its action on the Request.

(4) The Request for Exception from Standards shall include the following information:

(a) Reasons for requesting an exception;

(b) Identification of the ~~[manner in which]~~ way the ropeway does not conform to the governing standards or this rule; and

(c) Procedures, with estimated time and cost, which would be required to bring the ropeway into conformance.

(5) Except as required in R920-50-12(7), the Committee shall issue a Certification of Registration with an exception if the operator satisfies the requirements stated in R920-50-12(4) and [also] supplies the following for new or existing ropeways:

(a) New Ropeways.

(i) A design certification by a qualified engineer attesting that the ropeway is so designed and equipped that its devices or methods provide features that are comparable in performance and safety to those that meet requirements set forth in the Governing Standard and this rule.

(ii) Any known items that require a Request for Exception from Standards for Passenger Ropeways must be submitted to the Committee before work begins.

(b) Existing Ropeways.

(i) A design certification by a qualified engineer attesting that the ropeway is so designed and equipped that its devices or methods provide features that are comparable in performance and safety to the requirements of the Governing Standard and this rule.

(ii) A statement by the operator certifying that the ropeway feature for which the exception is requested has been operated safely and without any passenger ropeway incident, as defined in R920-50-3[(47)](23) item (a) or (g), for at least 2 years prior to the date of the Request for Exception from Standards.

(6) In exceptional circumstances, the Committee may issue a certificate of registration with an exception even if the operator does not satisfy the requirements defined in the Governing Standard or this rule if the Committee determines that the ropeway is so designed and equipped that its devices or methods provide features that are comparable in performance and safety.

(7) Where doubt exists as to the safety of a ropeway, the Committee may require an inspection to ascertain that the ropeway is so designed and equipped that its devices or methods provide features that are comparable in performance and safety to those of the governing standards and this rule.

(8) The issuance of a certificate of registration with an annual exception shall not bind the Committee to issue such a certificate for the ropeway involved in subsequent years, nor to issue such a certificate for another ropeway of same or similar design.

**R920-50-13. Operation of Ropeways.**

(1) Every passenger ropeway incident shall be reported to the Committee regardless of the time of year in which it occurs and regardless of whether [or not] the ropeway was open to the public at the time of the incident. The operator shall meet the requirements stated in R920-50-14.

(2) When a ropeway is modified the ropeway operator shall notify the Committee, or its appointed representative. The operator shall meet the requirements stated in R920-50-15.

**R920-50-14. Incidents.**

(1) Reporting of Incidents.

(a) Every passenger ropeway incident, as defined in R920-50-3[(48)](23) shall be verbally reported to the Committee, or the Committee's appointed representative, as soon as reasonably possible, but no later than twenty-four (24) hours after the time of the incident. A written report shall be delivered to the Committee within five (5) days of the incident.

(b) The reports required by this section are to be maintained for administrative enforcement, licensing and certification purposes

only. The reports are "protected" records under the Government Records Management Act, Section 63G-2-305 and are also governed by Section 63G-2-207.

(2) Suspension of Operations. When a passenger ropeway incident, as defined in R920-50-3[(47)](23) (a) or (g), occurs, the owner or area operator of the ropeway shall suspend operation of the ropeway and shall notify the Committee through the Committee's appointed representative. The owner or area operator of the ropeway, with the Committee or the Committee's appointed representative, shall perform a joint incident inspection of the ropeway. The inspection shall precede any authorization to resume public operation of the passenger ropeway.

**R920-50-15. Modification of a Ropeway.**

(1) The Committee, or its appointed representative shall determine the certifications that will be required.

(2) Depending on the nature and extent of the modification the Committee, or its appointed representative may require an Acceptance Inspection and Test.

(3) The following certifications may be required: design; construction, and As-Built profile.

(4) The certifications must be submitted by a qualified engineer and attached to the cover of the modification documents. The modification documents shall include the drawings, descriptions, or specifications pertaining to the affected systems and their connections with existing systems.

(5) A revised lift data form shall be submitted.

(6) The ropeway shall not resume operating until authorized by the Committee, or its appointed representative.

**R920-50-16. Inspections and Testing.**

(1) Inspections shall verify that the intent of the design and operational requirements imposed by the Governing Standard and this rule are met. The Committee may order other inspections in accordance with Section 72-11-211. Ropeway inspectors may inspect ropeways at any time during the operation of the ropeway (spot check). All reports, logs, etc. shall be made available to them upon request.

(2) Acceptance Inspection and Test.

(a) The Committee, or its appointed representative, will schedule acceptance inspection and test as the procedures are received.

(3) Annual General Inspection.

All existing ropeway shall have an annual general inspection.

(a) A ropeway inspector shall make the inspection.

(b) The inspection shall occur prior to approval of any registration application.

(c) A report signed by the Ropeway Inspector listing items found either deficient or in noncompliance shall be filed with the owner.

(d) The report shall include the name and address of the inspector and the date of the inspection.

(e) The area operator shall notify the Committee, or its appointed representative of the annual general inspection. The area operator should give a 7[-]-day[s] notice of the inspection.

(f) The owner shall correct all deficiencies and noncompliance items listed in the Ropeway Inspector's report.

(4) Incident Inspection.

Incident inspections shall occur as required in R920-50-14.

(5) Operational Inspection.

An [Ø]operational inspection[s] may be made periodically during each season of use.

(a) A ropeway inspector shall make the inspection.

(b) A report signed by the Ropeway Inspector listing items found either deficient or in noncompliance shall be filed with the owner.

(c) The report shall include the name and address of the inspector and the date of the inspection.

(d) The owner shall correct all deficiencies and noncompliance items listed in the Ropeway Inspector's report.

(6) Pre-operational Inspection.

A pre-operational inspection is required for new and modified lifts.

(a) A ropeway inspector shall make the inspection.

(b) The inspection shall occur prior to approval of any registration application.

(c) A report signed by the Ropeway Inspector listing items found either deficient or in noncompliance shall be filed with the owner.

(d) The report shall include the name and address of the inspector and the date of the inspection.

(e) If the inspection does not take place at the acceptance inspection and testing the area operator shall notify the Committee, or its appointed representative of the inspection. The area operator should give a 7[-]day[s] notice of the inspection.

(f) The owner shall correct all deficiencies and noncompliance items listed in the Ropeway Inspector's report.

#### **R920-50-17. Ropeway Inspector and Qualified Engineer.**

(1) General.

(a) Any person performing inspection services must be a "ropeway inspector" as required by this rule, and any person performing design services must be a "qualified engineer", as required by this rule.

(b) The Committee shall maintain up-to-date lists of qualified engineers and ropeway inspectors, which lists shall be open to inspection by the public.

(c) Any person desiring to be approved by the Committee as a ropeway inspector or qualified engineer shall submit a written request to the Committee enumerating his or her professional experience and attesting as far as possible to meeting the requirements stated in R920-50-17(2).

(2) Requirements.

(a) Applicant shall satisfy the Committee that by his or her education, training and experience gained by participation in ropeway inspections or designs as a principal or an assistant to a recognized ropeway inspector or ropeway designer, he or she is qualified to be, respectively, an approved inspector or designer or both.

(b) Applicant shall satisfy the Committee that he has a working familiarity and understanding of drawings and design data such as are furnished to design, construct, test, and inspect passenger ropeways, and that he or she has an understanding and working knowledge of the governing standard and this rule.

(c) The Committee may approve qualifications based on experience gained by an applicant through work under direct supervision of a qualified ropeway inspector or qualified ropeway designer.

(d) The Committee may approve employees of the state or individuals retained by the state as qualified ropeway inspectors. Such

engineers may be given certain assignments where time is of the essence or a private engineer is not available or willing to undertake the inspection or investigation. It shall be the policy of the Committee to use the services and talents of qualified private engineers wherever possible.

(3) Revocation or suspension of approval as ropeway inspector or qualified engineer.

The committee may revoke or suspend the approval of any qualified engineer or ropeway inspector who is found by the committee to have:

(a) practiced any fraud, misrepresentation, or deceit in applying for approval;

(b) caused damage to another by gross negligence in the practice of passenger ropeway designing, construction, or inspection; or

(c) been engaged in acts of unlawful or unprofessional conduct.

#### **R920-50-18. Violations.**

The Committee may address violations of this rule pursuant to Utah Code Sections 72-11-212 and 72-11-213.

#### **R920-50-19. Administrative Procedures.**

Appeals from orders issued pursuant to any provision of this rule shall be governed by R907-1.

**KEY: transportation safety, tramways, ropeways, tramway permits**

**Date of Enactment or Last Substantive Amendment: [~~October 10, 2017~~2019]**

**Notice of Continuation: July 6, 2017**

**Authorizing, and Implemented or Interpreted Law: 72-11-201 through 72-11-216**

## Transportation, Preconstruction **R930-7** Utility Accommodation

### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 43445

FILED: 12/14/2018

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** In these proposed amendments, the Utah Department of Transportation (Department) seeks to update and fine-tune Rule R930-7. This rule prescribes conditions under which utility and non-utility facilities may be accommodated within the Department's right of way and sets forth the state's regulations covering the placement and relocation of facilities in conflict with the construction and maintenance of highways. In its 2018 General Session, the Legislature passed S.B. 189, which enacted Title 54, Chapter 21, Small Wireless Facilities Deployment Act (Act). The Act permits a wireless provider to deploy a small wireless facility

and any associated utility pole within a right-of-way under certain conditions; permits the Department to establish a permitting process for the deployment of a small wireless facility and any associated utility pole under certain conditions; describes a wireless provider's access to an authority pole within the Department's right-of-way; sets rates and fees for the placement of a small wireless facility and a utility pole; describes the implementation of requirements in relation to agreements and ordinances; and permits the Department or a local government to adopt indemnification, insurance, or bonding requirements for a small wireless facility permit, under certain conditions. These proposed amendments conform Rule R930-7 to the requirements of the Act, and make use of many of the definitions stated in the Act. The Department is proposing these amendments to accommodate the projected increase in demand for encroachment permits to access its right-of-way that development of fifth-generation (5G) mobile broadband technology is certain to cause while complying with the requirements of the Act.

**SUMMARY OF THE RULE OR CHANGE:** The principal objective of these updates will achieve the following beneficial outcomes: 1) remove language that is against Federal regulation (Federal Communications Commission) (Subsections R930-7-1(2), R930-7-3(32), and R930-7-6(1)(a) (c)); 2) add a definition for "Buffer Zone" as it relates to a utility company's requirements for cover (Subsection R930-7-3(8)); 3) add a definition for "Small Wireless Facility" and requirements for necessary agreements in compliance with Small Wireless Facilities Deployment Act, Title 54, Chapter 21 (Subsections R930-7-3(48) and R930-7-6(1)(b)); 4) provide proper definition reference for "Utility Facility" and "Utility Company" (Subsections R930-7-3 (56) and (57)); 5) add a requirement for a non-utility license agreement for non-defined facilities (Subsection R930-7-6(2)(b)); 6) add a provision for additional insurance for small canal companies who cannot post the required SULA bond (Subsection R930-7-6(2)(e)); 7) strengthen the language related to depth of bury requirements giving regions additional authority to require deeper than minimum depths when necessary and remove redundant language (Subsection R930-7-8(1)(c)(iii)); 8) enhance minimum depth of bury table to clarify location requirements, measurements to/from and buffer zone depths if required by utility company (Subsection R930-7-8(1)(c)(v) Table 2); and 9) correct stylistic grammar throughout.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 72-6-116(2)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** The Department estimates its budget and the state's budget will likely experience a fiscal impact related to these proposed amendments. The Department is proposing these amendments to accommodate the projected increase in demand for encroachment permits to access its right-of-way that development of fifth-generation

(5G) mobile broadband technology is certain to cause. Utility companies may need to construct new infrastructure in the Department's right-of-way to accommodate the new technology. However, it is not possible to estimate what this impact will be with any degree of accuracy at present.

◆ **LOCAL GOVERNMENTS:** The Department does not believe these proposed amendments will lead to fiscal impact for local governments unless the local government in question is bearing the costs of installing a utility facility in the Department's right-of-way. However, because the cost of the impact a local government may incur in such instances will vary based on geographic location and attendant variables it is not possible to estimate what the compliance costs will be with any degree of accuracy at present.

◆ **SMALL BUSINESSES:** The Department believes these proposed amendments may lead to compliance costs for small businesses if an entity installing a utility facility on the Department's right-of-way is able and determines to pass all or a portion of the compliance costs it incurs to such other persons, such as small businesses. Moreover, if the utility seeking to install a utility facility in right-of-way belonging to the Department is a small business and it cannot pass costs incurred that may be attributable to these rule changes to customers or others it may experience a fiscal impact. However, it is impossible to estimate what such compliance costs might be with any accuracy at present.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Department believes these proposed amendments may lead to compliance costs for persons other than businesses and local governments if the entity installing a utility facility on the Department's right-of-way is able and determines to pass all or a portion of the compliance costs it incurs to such other persons. However, it is impossible to estimate what such compliance costs might be with any accuracy at present.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The Department believes these proposed amendments may lead to compliance costs for persons other than businesses and local governments if the entity installing a utility facility on the Department's right-of-way is able and determines to pass all or a portion of the compliance costs it incurs to such other persons. However, it is impossible to estimate what such compliance costs might be with any accuracy at present.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** These proposed amendments to Rule R930-7 may lead to fiscal impacts on businesses.

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

TRANSPORTATION  
PRECONSTRUCTION  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W  
SALT LAKE CITY, UT 84119-5998  
or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

- ◆ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at [cnewman@utah.gov](mailto:cnewman@utah.gov)
- ◆ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at [jimpalmer@utah.gov](mailto:jimpalmer@utah.gov)
- ◆ Josh Dangel by Internet E-mail at [jdangel@utah.gov](mailto:jdangel@utah.gov)
- ◆ Linda Hull by phone at 801-965-4253, or by Internet E-mail at [lhull@utah.gov](mailto:lhull@utah.gov)

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 01/31/2019**

**THIS RULE MAY BECOME EFFECTIVE ON: 02/07/2019**

**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 Persons	\$0	\$0	\$0
<b>Total Fiscal Costs:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
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
<b>Total Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*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 that the utilities and telecommunications industries in Utah are the only businesses that may experience a material fiscal impact resulting from enactment of this proposed amendment. This fiscal impact may be positive or negative, depending upon the specific facility or right of way impacted and how we define fiscal impact.

A) The utilities industry is comprised of establishments involved in:

- i) Electric power generation, transmission, and distribution, NAICS of 221112 for generation, and 221122 for distribution;
- ii) Natural gas distribution, NAICS of 221210; and
- iii) Water distribution and irrigation systems, NAICS 221310, Sewer systems, NAICS 221320.

b) The telecommunications industry is comprised of establishments involved in:

- i) Wired Telecommunications Carriers NAICS of 517311; and
- ii) Wireless Telecommunications Carriers (except Satellite), NAICS of 517312.

2) The Department of Workforce Services (DWS) Firm Find Data includes information about firms within the seven industries identified by the NAICS industry code, which data on numbers of employees by firm follows:

- a) Electric power generation, transmission, and distribution, NAICS of 221112 for generation, lists 16 firms total, 11 are small businesses; and 221122 for distribution; lists 57 firms total, 52 are small businesses;
- b) Natural gas distribution, NAICS of 221210, lists 46 firms total, 40 are small businesses;
- c) Water distribution and irrigation systems, NAICS 221310, lists 182 firms total, 177 are small businesses;
- d) Sewer systems, NAICS 221320, lists 48 firms total, 46 are small businesses;
- e) Wired Telecommunications Carriers NAICS of 517311, lists 150 firms total, 135 are small businesses; and
- f) Wireless Telecommunications Carriers (except Satellite), NAICS of 517312, lists 56 firms, 55 are small businesses.

3) Of these 555 firms in the seven possibly affected industries, 39 are non-small businesses and 516 are small businesses, as defined by Utah Code Section 63G-3-102(19). For a complete list of these firms, contact the Department.

4) The Department does not believe this proposed amendment will lead to any compliance costs for local governments unless the local government in question is bearing the costs of installing a utility facility in UDOT right of way. However, because the cost of the impact a local government may incur in such instances will vary based on geographic location and attendant variables it is not possible to estimate what the compliance costs will be with any degree of accuracy at present.

5) The Department believes this proposed amendment may lead to compliance costs for persons other than businesses and local governments if the entity installing a utility facility on UDOT's right of way is able and determines to pass all or a portion of the compliance costs it incurs to such other persons. However, it is impossible to estimate what such compliance costs might be with any accuracy at present.

6) The Department estimates that its budget and the state's budget will likely experience a fiscal impact related to this proposed amendment. The Department is proposing this amendment to accommodate the projected increase in demand for encroachment permits to access its right of way that development of fifth-generation (5G) mobile broadband technology is certain to cause. It is not possible to estimate what this impact will be with any degree of accuracy at present.

7) Carlos Braceras, executive director of the Department has reviewed and approved this fiscal analysis.

**R930. Transportation, Preconstruction.****R930-7. Utility Accommodation.****R930-7-1. Purpose.**

(1) The purpose of this rule is to:

- maximize public safety;
- provide for efficient highway operations and maintenance of roadways;
- maximize aesthetic quality;
- minimize future conflicts between the highway system and utility companies serving the ~~general~~ public; and
- ensure that use and occupancy by utility companies do not impair or increase the cost of future highway construction, expansion, or maintenance or interfere with any right of way reserved for these purposes.

(2) This rule prescribes conditions under which utility facilities may be accommodated ~~on~~ within the right of way and sets forth the state's regulations covering the placement and relocation of utility facilities in conflict with the construction and maintenance of highways. ~~General installation requirements, general and definitive design requirements, and utility construction and inspection requirements apply to indirect and private facilities within the right of way. Within UDOT's sole discretion, indirect and private facilities may be allowed on UDOT's right of way by lease.~~

(3) This rule should be interpreted to achieve maximum lawful public use of the right of way for transportation purposes and to ensure that utility installations and operations affecting state right of way are accomplished in accordance with state and federal laws and regulations. It is in the public interest for utility facilities to be accommodated within rights of way when the accommodation does not adversely affect public safety, the integrity of highway features, or occupy space within the ~~right of way~~ right of way that conflicts with current or future transportation purposes or uses. ~~or future use of the highway.~~ The permitted use and occupancy of right of way for non-highway purposes, such as utilities, is subordinate to the primary and highest interest for transportation and safety of the traveling public. Utility facilities may be required to relocate outside of the right of way to accommodate UDOT's projects.

(4) This rule is provided to facilitate the establishment of consistent expectations and effective working relationships between UDOT and utility companies through continuous communication, coordination, and ~~;~~ cooperation.

(5) Through the Code of Federal Regulations (23 CFR ~~Part~~ Section 645.215(a)), the U.S. Department of Transportation requires each state to submit a statement to the Federal Highway Administration (FHWA) on the authority of utility companies to use and occupy the right of way of state highways, the state highway agency's power to regulate the use, and the policies the state employs or proposes to employ for accommodating utilities within the right of way of Federal-aid highways under its jurisdiction. This rule demonstrates compliance to FHWA.

**R930-7-2. Authority and Source Documents.**

This rule is enacted under the authority of Utah Code Section 72-6-116(2), wherein UDOT is authorized and ~~given~~ the assigned responsibility to regulate and make rules for the installation, construction, maintenance, repair, renewal, system upgrade, and relocation of utility facilities within state owned and administered highway[s] rights of way, including ordering their relocation as may become necessary.

(1) Utah Code provides for the accommodation of utility facilities within the right of way and provides UDOT ~~the~~ authority to promulgate rules and regulations for administering those provisions. Accordingly, this rule has been developed pursuant to the following state and federal laws, codes, regulations, policies:

(a) Utah Code ~~;~~ Title 54, Public Utilities, Section 54-3-29;

(b) American Association of State Highway and Transportation Officials (AASHTO) publications, A Guide for Accommodating Utilities within Highway Right of Way and A Policy on the Accommodation of Utilities within Freeway Right of Way (2005); and

(c) AASHTO publications, Roadside Design Guide, 2011, and A Policy on Geometric -Design of Highways and Streets, 2011.

(2) This rule incorporates by reference 23 CFR Section 645, Subpart B, (November 22, 2000).

(3) UDOT has secured ~~the~~ authority from FHWA to issue permits for the use or occupancy of the right of way by utility facilities on Federal-aid highways. The use of Federal-aid highway right of way by utilities shall be in accordance with 23 CFR Section 645.215.

**R930-7-3. Definitions.**

(1) "Abandoned facility" is a utility facility that is not in use, no longer actively providing a service and is physically disconnected from the operating facility that is still in use and still actively providing a service. Abandoned facilities remain the property of the utility company.

(2) "Access control" is the regulation of public access to and from properties abutting the highway facilities. The two basic types of access control are:

(a) "No access (NA)" means access to through-traffic lanes is not allowed except at interchanges. Crossings at ~~[-]grade~~ and direct driveway connections are prohibited.

(b) "Limited access (LA)" means access to selected public roads may be provided. There may be some crossings at ~~[-]grade~~ and some private driveway connections.

(3) "Administrative citation" is a letter from UDOT to a utility company citing one or more non-compliance items and proper redress requirements such as action on the appropriate bond, revocation of permit, and revocation of a license agreement.

(4) "AASHTO" is the American Association of State Highway and Transportation Officials.

(5) "Backfill" means the replacement of soil removed during construction. It may also denote material placed over or around structures and utilities.

(6) "Bedding" means the composition and shaping of soil or other suitable material to support a pipe, conduit, casing, or utility tunnel.

(7) "Boring" means the operation by which carriers or casings are pushed or jacked under highways without disturbing the highway structure or prism. Bores are carved progressively ahead of the leading edge of the advancing pipe as soil is mucked back through the pipe.

(8) "Buffer Zone" means the area composed of material such as sand, flowable fill, concrete, etc. surrounding a Utility facility where no compaction or encroachment is allowed.

(~~8~~9) "Carrier" means a pipe directly enclosing a transmitted fluid (liquid, gas, or slurry).

(~~9~~10) "Casing" is a larger pipe, conduit, or duct enclosing a carrier.

(1[0]1) "Clear Zone" means the total roadside border area, starting at the edge of the traveled way, available for safe use by errant vehicles. This area may consist of a shoulder, a recoverable slope, a non-recoverable slope, and a clear run-out area. The desired width is dependent upon traffic volumes, speeds, and roadside geometry.

(1[1]2) "Coating" is material applied to or wrapped around a pipe.

(1[2]3) "Conduit" is an enclosed tubular casing for the protection of wires and cables.

(1[3]4) "Depth of bury (cover)" means the depth from ground, sidewalk, or roadway surface to top of pipe, conduit, casing, cable, utility tunnel, or similar facility.

(1[4]5) "Deviation" means a granted permission to depart from the standards and requirements of this rule.

(1[5]6) "Emergency work" is utility company work required to prevent loss of life or significant damage to property.

(1[6]7) "Encasement" is a structural element surrounding a carrier or casing.

(1[7]8) "Encroachment" means entry within the ~~unauthorized use of~~ highway right of way.

(1[8]9) "Encroachment permit" is a document that specifies the requirements and conditions for performing authorized work within ~~on~~ the highway right of way.

(1[9]20) "Environmentally protected areas" are areas that include, but are not limited to, wetlands, flood plains, stream channels, rivers, threatened or endangered species, archaeological sites, and historic sites.

(2[0]1) "Expressway" is a divided arterial highway for through traffic with partial control of access and generally with grade separations at major intersections.

(2[1]2) "Federal-aid highways" are highways eligible to receive Federal-aid.

(2[2]3) "FHWA" is the Federal Highway Administration.

(2[3]4) "Flexible carrier pipe" is a plastic, fiberglass, or metallic pipe having a large diameter to wall thickness ratio and which can be deformed without undue stress.

(2[4]5) "Flowable fill" is low strength flowable concrete as defined in UDOT Standard Specification 03575.

(2[5]6) "Freeway" is an expressway with full control of access.

(2[6]7) "Frontage road" is a local street or road auxiliary to and located on the side of an arterial highway for service to abutting property and adjacent areas and for control of access.

(2[7]8) "Grade" is the rate or percent of change in slope, either ascending or descending, measured along the centerline of a roadway or access.

(2[8]9) "Grounded" means electrically connected to earth or to some extended conducting body that serves instead of the earth, whether the connection is intentional or accidental.

([29]30) "Grout" is a cement mortar or slurry of fine sand or clay.

(3[0]1) "Highway, street, or road" are general terms denoting a public way for the transportation of people, materials, and goods, but primarily for vehicular travel, including the entire area within the right of way.

(3[1]2) "Horizontal directional drilling" (HDD), also known as directional boring and directional drilling, is a method of installing underground pipes and conduits from the surface along a prescribed bore path. The process is used for installing telecommunications and

power cable conduits, water lines, sewer lines, gas lines, oil lines, product pipelines, and casings used for environmental remediation. It is used for crossing waterways, roadways, congested areas, environmentally protected areas, and any area where other methods are not feasible.

~~[(32) "Indirect facilities" are facilities owned by a utility company or entity that does not directly serve the public and the facilities provide services to or are rented to other utility companies.]~~

(33) "Interstate highway system" (Interstate) is the Dwight D. Eisenhower National System of Interstate and Defense Highways as defined in the Federal-aid Highway Act of 1956 and any supplemental acts or amendments.

(34) "License Agreement or Statewide Utility License Agreement" is a document by which UDOT licenses the use and occupancy, with conditions, of highway rights of way for utility facilities.

(35) "Manhole" or "utility access hole" is an opening in an underground system that workers or others may enter for the purpose of making installations, removals, inspections, repairs, connections, and tests.

(36) "Median" is the portion of a divided highway separating the traveled ways for traffic in opposite directions.

(37) "MUTCD (Utah MUTCD)" means the current version of Utah Manual on Uniform Traffic Control Devices referenced in R920-1.

(38) "Pavement structure" is the combination of sub-base, base course, and surface course placed on a sub-grade to support the traffic load.

(39) "Permit" means encroachment permit.

(40) "Pipe" is a tubular product made as a production item for the transmission of liquid or gaseous substances. Cylinders formed from plate material in the fabrication of auxiliary equipment are not pipe as defined here.

(41) "Pipeline" is a continuous carrier used primarily for the transportation of liquids, gases, or solids from one point to another using either gravity or pressure flow.

(42) "Plowing" means the direct burial of utility lines by means of a mechanism that breaks the ground, places the utility line, and closes the break in the ground in a single operation.

(43) "Practicable" means reasonably capable of being accomplished or feasible as determined by UDOT.

(44) "Relocate" means the adjustment of utility facilities when found by UDOT to be necessary for construction or maintenance of a highway. It includes removing and reinstalling the facility, including necessary temporary facilities, acquiring the necessary ~~right of way~~ right of way on the new location, moving, rearranging or changing the type of existing facilities and taking any necessary safety and protective measures. It also means constructing a replacement facility that is both functionally equivalent to the existing facility and necessary for continuous operation of the utility service, the project economy, or sequence of highway construction.

(45) "Right of way" is a general term denoting land, property, or interest therein, usually in a strip acquired for or devoted to transportation purposes.

(46) "Roadside" is a general term denoting the area between the outer edge of the roadway shoulder and the right of way limits.

(47) "Roadway" is the portion of a highway, including shoulders, for vehicular use. A divided highway has two or more roadways.

(48) "Small Wireless Facility" means as defined in Utah Code Section 54-21-101.

(4[8]9) "Slope" is the relative steepness of the terrain expressed as a ratio or percentage. Slopes may be categorized as positive or negative and as parallel or cross slopes in relation to the direction of traffic.

(149)50) "State [h]Highways" are those highways designated as State Highways in Title 72, Chapter 4, Designation of State Highways.

(5[0]1) "Structure" means any device used to convey vehicles, pedestrians, animals, waterways or other materials over highways, streams, canyons, or other obstacles. It also includes buildings, signs, and UDOT facilities with foundations.

(5[+2) "Subsurface Utility Engineering (SUE)" is the management of certain risks associated with utility mapping at appropriate quality levels, utility coordination, utility relocation, communication of utility data, utility relocation cost estimates, implementation of utility accommodation policies, and utility design. SUE tools include traditional records, site surveys, and new technologies such as surface geophysical methods and non-destructive vacuum excavation, to provide quality levels of information. The SUE process for collecting and depicting information on existing subsurface utility [F]facilities is described in ASCE Standard 38-02, Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data.

(5[2]3) "Trenched" means installed in a narrow open excavation.

(5[3]4) "Trenchless (Untrenched)" means installed without breaking the ground or pavement surface by a construction method such as directional drilling, boring, tunneling, jacking, or auguring.

(5[4]5) "UDOT" is the Utah Department of Transportation and where referenced to be contacted, submitted to, approved by, accepted by or otherwise engaged, means an authorized representative.

(5[5]6) "Utility" or "U[+u]tility facility" means as defined in Utah Code Section 72-6-116. [~~privately, publicly, cooperatively, or municipally owned pipelines, facilities, or systems for producing, transmitting, or distributing communications, power, electricity, light, heat, gas, oil, petroleum products, cable television, water, sewer, steam, waste, storm water not connected with highway drainage, and other similar commodities, which directly service the public.~~]

(5[6]7) "Utility appurtenances" include but are not limited to pedestals, manholes, vents, drains, rigid markers, meter pits, sprinkler pits, valve pits, and regulator pits.

(5[7]8) "Utility company" means as defined in Utah Code Section 72-6-116a. [~~is a privately, cooperatively, or publicly owned utility, including utilities owned by political subdivisions, and where referenced includes authorized representatives, contractors, and agents.~~]

(5[8]9) "Vent" is an appurtenance designed to discharge gaseous contaminants from a casing.

#### **R930-7-4. Scope.**

(1) This rule supersedes portions of Manual of Accommodation of Utility Facilities and the Control and Protection of State Highway Rights of Way including Section 5 and portions relating to utility accommodation or that refer to utilities in the right of way or percent of reimbursement, which are part of R930-6 at the time of enactment of this rule.

(2) Regulations, laws, or orders of public authority or industry code prescribing a higher degree of protection or construction than provided by this rule shall govern.

#### **R930-7-5. Application.**

(1) This rule applies to all utility facilities [~~privately, cooperatively, and publicly owned utility companies, including utility companies owned by political subdivisions, and shall include telecommunication, gas, oil, petroleum, electricity, cable television, water, sewer, data and video transmission lines, drainage and irrigation systems, and other similar utilities to be located, accommodated, adjusted or~~] relocated within, on, along, across, over, through, or under the highway right of way. This rule does not apply to utility facilities that are required for UDOT highway purposes. This rule applies to underground, surface, or overhead facilities, either singularly or in combination, including bridge attachments.

(2) This rule applies to all highway projects [~~Federal aid highway projects~~] including local government projects. [~~In compliance with 23 CFR 645.209(g) local governments are required to enter into formal agreements with UDOT that provide for a degree of protection to the highway at least equal to the protection provided by this rule.~~]

#### **R930-7-6. General Installation Requirements.**

(1) General.

(a) Utility companies [~~with facilities directly serving the public~~] desiring to use the right of way under the jurisdiction of UDOT for the installation or maintenance of any utility facility must be licensed to do so by entering into a Statewide Utility License Agreement (SULA) with UDOT. This License Agreement sets forth the procedures and conditions for the issuance of encroachment permits for all installations statewide. Utility [E]ncroachment permits are not issued without an executed SULA. [~~License Agreement first being executed.~~] UDOT may impose additional restrictions or requirements for [~~License Agreements~~] SULAs or utility encroachment permits.

(b) Utility companies desiring to use the right of way to install Small Wireless Facilities shall also enter into a Non-Exclusive Installation and Occupancy Agreement with UDOT prior to the issuance of a permit.

([b]c) A permitted facility shall, if necessary, be modified by the utility company to improve safety or facilitate alteration or maintenance of the right of way as determined by UDOT.

[~~(e) Companies or entities that do not provide direct utility service to the public are prohibited from installing or constructing longitudinal facilities or site towers or poles within the right of way by permit. UDOT will not issue any permits for this type of facilities.~~]

(2) License Agreements or Statewide Utility License Agreements.

(a) Agreements are executed by UDOT and utility companies to set forth the terms and conditions for the accommodation and maintenance of utility facilities within the right of way. A License Agreement is required for[;] but does not guarantee the approval of encroachment permits.

(b) Companies who have facilities that are not defined as a Utility under Utah Code 72-6-116 or who's facilities serve the Company only, are required to enter into a non-Utility License Agreement with UDOT for crossings only and may not be installed.



longitudinally. The companies with this type of facilities are still required to comply with the requirements of this Rule.

(b)c As part of executing a License Agreement with UDOT, owners of facilities located in the right of way are required to post a continuous bond in the amount of \$100,000, naming UDOT as the insured, to guarantee satisfactory performance. The Statewide Railroad and Utilities Director~~[Utilities Engineer]~~ may approve a lesser amount.

(e)d Political Subdivisions are~~[A public utility is]~~ exempt from the bond requirements described in this section if the political subdivision~~[public utility]~~:

(i) is a member of the Utah Local Governments Trust~~[municipal insurance pool]~~;

(ii) is self-insured or~~[a political subdivision; or~~

~~—] at UDOT's option~~ carries liability insurance with minimum coverage of \$1,000,000 per occurrence and as more specifically described in its License Agreement. This option requires prior UDOT approval.

(e) For small canal companies that cannot obtain the required bond, UDOT may allow the canal to carry liability insurance with minimum coverage of \$1,000,000 per occurrence and as more specifically described in its License Agreement. This option requires prior UDOT approval.

(d)f Upon discovery of utility caused damage to the highway or to the right of way, UDOT may opt to exercise its bonding rights in recovering costs incurred to restore the highway or right of way. The utility company is liable for all restoration costs incurred ~~[as a result]~~ because of damages caused by its utility, and its liability is not limited to the amount of the bond.

(e)g License agreements may be terminated at any time by either party upon 30 days advance written notice to the other. Permits previously issued and approved under a terminated agreement are not affected and remain in effect on the same terms and conditions set forth in the agreement and permits. The obligation to maintain the \$100,000 bond continues until the utility company's facilities are removed from UDOT's right of way.

### (3) Emergency Work.

(a) In all emergency work situations, the utility company or its representative shall contact UDOT immediately and on the first business day shall contact UDOT to complete a formal permit. Failure to contact UDOT for an emergency work situation and obtain an encroachment permit within the stated time ~~[period is considered to be]~~ is a violation of the terms and conditions of the utility company's license agreement. At the discretion of the utility company, emergency work may be performed by a bonded contractor, public agency, or a utility company. None of the provisions of this rule are waived for emergency work except for the requirement of a prior permit.

### (4) One Call Requirements.

(a) Underground facilities are not permitted within the right of way unless the utility company subscribes to Blue Stakes of Utah and other appropriate "call-before-you-dig" systems, or otherwise provides utility plans as detailed in Section R930-7-11(6)(a) of this rule.

### (5) Preservation of New Pavement.

(a) Cuts or open excavations on newly constructed, paved, or overlaid highways are not allowed for two years. If an emergency cut or excavation occurs, the responsible utility company shall comply with any special conditions imposed by UDOT regarding restoration of the roadway.

### (6) Encroachment Permits.

#### (a) Encroachment Permits on State Highways.

Utility companies shall obtain an encroachment permit from UDOT for the installation and maintenance of utility facilities on the right of way pursuant to R930-6-4. Encroachment permits are approved or disapproved by UDOT. Applications for encroachment permits are submitted to the Region Permits Officers by the utility company or its contractor. No utility company or utility company contractor shall begin any utility work on the right of way until an approved encroachment permit is issued by UDOT and the utility company is authorized to proceed in writing. Prior to the issuance of encroachment permits, fees are assessed to cover related costs incurred by UDOT including costs for planning, coordination, and utility plan review.

If the utility company expects work to significantly impact travel lane capacity, UDOT recommends the utility company contact the appropriate Region Permit Office to discuss concepts in advance of submitting an encroachment permit application.

Utility companies shall electronically submit a detailed plan of work~~[two sets of plans]~~ depicting the proposed installation. The plans shall be sized as required by UDOT and include utility company identification, work location, utility type and size, type of construction, depth of bury, vertical and horizontal location of facilities relative to the centerline of road, location of all appurtenances, trench details, right of way limits, and traffic control plans. Traffic control plans shall conform to the Utah MUTCD as outlined in ~~[Section]~~ rule R930-7-7(1) (d), are mandatory for each instance of utility construction or maintenance~~[-]~~ and shall be attached to each permit application.

Utility companies may authorize their contractors to obtain permits on their behalf. All terms and conditions set forth in the License Agreement apply. The utility company's construction forces or the utility contractor shall always carry a copy of the approved permit ~~[at all times]~~ while working on the right of way.

#### (b) Bonding and Liability Insurance Requirements.

(i) Individual (one-time use) Encroachment Permit Bonding Requirements. As authorized by Sub-section 72-7-102(3)(b)(i) this rule requires encroachment permit applicants to post a Performance and Warranty Bond, using UDOT's approved bond form, for a period of three years from the date of beginning of utility construction work or two years from the end of utility construction work, whichever provides the longer period of coverage. A separate Performance and Warranty Bond is required for each individual encroachment permit. Political subdivisions of the state are not required to post a bond unless the political subdivision fails to meet the terms and conditions of previous permits issued as determined by UDOT. The amount of the bond is determined by the UDOT Region Permits Officer based on the scope of work being performed but will not be less than \$10,000.

(ii) Statewide (multiple use) Encroachment Permit Bonding Option. In lieu of posting multiple individual one-time use bonds, encroachment permit applicants who routinely acquire encroachment permits may elect to post a statewide performance and warranty bond, using UDOT's approved bond form. A statewide bond satisfies bonding requirements for permitted utility construction work in all UDOT Regions. The bond amount is determined by UDOT but will not be less than \$100,000. This statewide encroachment permit bond is in addition to the continuous bond for the License Agreement.

(iii) Inspection Bond. UDOT may require an additional inspection bond to ensure payment for UDOT field review and inspection costs before an encroachment permit is granted.

(iv) Proceeds Against the Bond. UDOT may proceed against the bond to recover all expenses incurred if payment is not received from the permit applicant within 45 calendar days of receiving an invoice. Upon discovery of utility caused damage to the highway or to the right of way, UDOT may opt to exercise its bonding rights in recovering costs incurred to restore the highway or right of way due to utility caused damages. Failure by the utility company to maintain a valid bond in the amounts required shall be cause for denying issuance of future permits and for the removal of the utility from the right of way.

(v) Liability Insurance Requirements. Permit applicants are also required to provide a certificate of liability insurance in the minimum amounts of \$1,000,000 per occurrence and \$[2]3,000,000 in aggregate. Failure to meet this requirement will result in application denial. Liability insurance coverage is required throughout the life of the permit and cancellation will result in permit revocation.

(vi) Information about bond forms and liability insurance requirements are available on UDOT's website at: <http://www.udot.utah.gov/go/encroachmentpermit>

(c) Assignment of Permits. Permits shall not be assigned without the prior written consent of UDOT. All assignees shall be required to execute a License Agreement.

(d) Indemnification. Permit holders performing utility work on the right of way shall ~~at all times,~~ always indemnify, defend and hold harmless UDOT, its employees, and the State of Utah from responsibility for any damage or liability arising from their construction, maintenance, repair, or any other related operation during the work or as a result of the work. Permit holders shall also be responsible for the completion, restoration, and maintenance of any excavation for a period of three years unless UDOT requires a longer period of indemnification due to specific or unique circumstances.

(e) Cancellation of Permits and Termination of License Agreement. The following situations will cause the cancellation of permits, ~~and/or~~ termination of the License Agreement, or both:

(i) A utility company's failure to maintain a valid bond in the amount required;

(ii) A utility company's failure to comply with the terms and conditions of the License Agreement;

(iii) A utility company's failure to comply with the requirements of the encroachment permit; and

(iv) A utility company's failure to pay any sum of money for costs incurred by UDOT in association with plan review application, installation or construction review, permit fees, inspection, as-built plan submittals, reconstruction, repair, or maintenance of the utility facilities, or any other costs associated with the Department's approved fee schedule.

When the permit is canceled, UDOT also may remove the facilities and restore the highway and right of way at the sole expense of the utility company. Prior to any cancellation, UDOT shall notify the utility company in writing, setting forth the violations, and will provide the utility company a reasonable time to correct the violations to the satisfaction of UDOT. UDOT may also not issue any further permits to utility companies that do not comply with this rule, permit requirements, or the Statewide License Agreement.

### **R930-7-7. General Design Requirements.**

#### (1) General.

(a) Joint use of state right of way may impact both the highway and the utility. Each utility company requesting the use of right of way for the accommodation of its facilities is responsible for the proper planning, engineering, design, construction, and maintenance of ~~its facilities installed within the right of way~~ proposed installations. The utility company shall coordinate with UDOT and

develop its projects to meet design standards and to optimize safety, cost effectiveness, and efficiency of operations for both the utility company and the state. Utility companies are directed to the following AASHTO publications for assistance:

(i) Roadside Design Guide;

(ii) A Policy on Geometric Design of Highways and Streets;

(iii) A Guide for Accommodating Utilities within Highway Right of Way; and

(iv) A Policy on the Accommodation of Utilities within Freeway Right of Way.

(b) ~~[The utility company is responsible for the design, construction, and maintenance of its facilities installed within the right of way.]~~ All elements of ~~these~~ the utility facilities including materials used, installation methods, and locations shall be subject to review and approval by UDOT.

(c) Plans, Drawings and Specifications. The utility company shall provide UDOT with comprehensive plans, drawings and specifications as may be required for all proposed utility facilities within the right of way. Utility plan submittals shall contain physical features of the utility site including, but not limited to the following:

(i) highway route number;

(ii) highway mile post locations;

(iii) map with route and site location;

(iv) existing features such as manholes, structures, drainage facilities, other utilities, access controlled and right of way lines, center line of highway relative to the utility facility location, and relevant vertical information;

(v) plan and drawing scales; and

(vi) legend including definition of symbols used.

The plans, drawings, and specifications shall also contain administrative information, identification and type of materials to be used, relevant information on adjacent land classification and ownership, related permits and approvals if required, and identification of the responsible Engineer of Record.

(d) Traffic Control Plans. The utility company shall provide traffic control plans (TCP) that conform to the current Utah MUTCD and UDOT Traffic Control Standards and Specification.

(e) The utility company is responsible to ensure compliance with industry codes and standards, the conditions and special provisions specified in the permit, and applicable laws, rules and regulations of the State of Utah and the Code of Federal Regulations.

(f) All utility facility installations located in, on, along, across, over, through, or under the surface of the right of way, including attachments to highway structures, are the responsibility of the utility company and, as a minimum, shall meet the following utility industry and governmental requirements.

(i) Electric power and telecommunications facilities shall conform to the current applicable National Electric Safety Code.

(ii) Water, sewage and other effluent lines shall conform to the requirements of the American Public Works Association or the American Water Works Association.

(iii) Pressure pipelines shall conform to the current applicable sections of the standard code of pressure piping of the American National Standards Institute, 49 CFR 192, 193 and 195, and applicable industry codes.

(iv) Liquid petroleum pipelines shall conform to the current applicable recommended practice of the American Petroleum Institute for pipeline crossings under railroads and highways.

(v) Any pipelines carrying hazardous materials shall conform to the rules and regulations of the U.S. Department of Transportation governing the transmission of the materials.

(vi) Telecommunications with longitudinal installations within Interstate, Freeway and other Access Controlled Highway right of way shall conform to Utah Administrative Rule R907-64.

(2) Subsurface Utility Engineering.

(a) The use of Subsurface Utility Engineering (SUE) shall be required as an integral part of the design for new utility facility installations on the right of way when determined by UDOT to be warranted.

**R930-7-8. Definitive Design Requirements.**

(1) Location Requirements.

(a) Longitudinal Installations. The type of utility construction, vertical clearances, lateral location of poles and down guys, and related ground mounted utility facilities along roadways are factors of major importance in preserving a safe traffic environment, the appearance of the highway, and the efficiency and economy of highway construction and maintenance. Longitudinal utility facilities shall be located on a uniform alignment and as close to the right of way line as practicable. The joint use of pole lines is acceptable and encouraged; however, all installations shall be located so that all servicing may be performed with minimal traffic interference. The following additional requirements apply to longitudinal installations.

(i) Utility facilities shall be located ~~so as~~ to minimize the need for future utility relocations due to highway improvements, avoid risks to the highway, and not adversely impact environmentally protected areas.

(ii) The location of utility installations along urban streets with closely abutting structures such as buildings and signs generally requires special considerations. These considerations shall be resolved in a manner consistent with the prevailing limitations and as approved by UDOT.

(iii) The location of utility facilities and associated appurtenances shall be in accordance with the Americans with Disabilities Act.

(iv) The horizontal location of utility facilities and appurtenances within the right of way shall conform to the current edition of the AASHTO Roadside Design Guide.

(v) Adequate warning devices, barricades, and protective devices must be used to prevent traffic hazards. Where circumstances necessitate the excavation closer to the edge of pavement than established above, concrete barriers or other UDOT approved devices shall be installed for protection of traffic in accordance with UDOT Traffic Control Standards and UDOT's Supplemental Drawings.

(vi) There are greater restrictions on the accommodation of utility facilities within interstate, freeway, and other access~~[-]~~-controlled highway right of way. See ~~[Section]~~rule R930-7-10 for details.

(b) Overhead Installations.

(i) Minimal vertical clearances for installed overhead lines are 18 feet for crossings and longitudinal installations, and 23 feet for intersections. In addition, the vertical clearance for overhead lines above the highway and the vertical and lateral clearance from bridges and above ground UDOT facilities shall meet or exceed the current edition of the National Electrical Safety Code. Where overhead lines cross UDOT above ground facilities, including but not limited to signs, traffic signal heads, poles, and mast arms, vertical and lateral clearance shall meet OSHA working clearances for electrical lines in effect at the time of the installation which will accommodate maintenance work by UDOT personnel without having to discharge or shield the lines.

(ii) Utility companies planning to attach cable to other utility company poles shall obtain approval from the owner of the poles prior to a permit being issued by UDOT.

(iii) The utility facility shall conform to the current edition of the AASHTO Roadside Design Guide. Where there are existing curbed sections, utility facilities shall be located as far as practicable behind the face of curbs and, where feasible, behind sidewalks at locations that will not interfere with adjacent property use. In all cases there shall be a minimum of two feet clearance behind the face of the curb. All cases shall be resolved in a manner consistent with prevailing limitations and conditions.

(iv) Before locating a utility facility at other than the right of way line, consideration shall be given to designs using self-supporting, armless single pole construction, with vertical alignment of wires or cables, or other techniques permitted by government or industry codes that provide a safe traffic environment. Deviations from required clearances may be made where poles and guys can be shielded by existing traffic barriers or placed in areas that are inaccessible to vehicular traffic.

(v) Where irregular shaped portions of the right of way extend beyond or do not reach the normal right of way limits, variances in the location of utility facilities may be allowed to maintain a reasonably uniform alignment and thereby reduce the need for guys and anchors between poles and roadway.

(c) Subsurface Installations.

(i) Underground utilit~~ies~~y may be placed longitudinally outside of the pavement by plowing or open trench method. Underground utilit~~ies~~y shall be located on a uniform alignment and as near as practicable to the right of ~~[-]~~way line to provide a safe environment for traffic operations, preserve the integrity of the highway, and preserve space for future highway improvements or other utility facility installations. The allowable distance from the right of way line will generally depend upon the terrain and obstructions such as trees and other existing underground and overhead objects. On highways with frontage roads, longitudinal installations shall be located between the frontage roads and the right of way lines. Utility companies shall include the placement of markers referenced in ~~[Section]~~rule R930-7-11(5).

(ii) Unless UDOT grants a deviation, underground utility installations across existing roadways shall be performed by trenchless method in accordance with UDOT requirements and casings may be required. Bore [P]pits shall be located outside of the clear zone and at least 30 feet from the edge of the nearest through traffic lane and at least 20 feet from the edge of pavement on ramps. On low traffic roadways and frontage roads, as determined by UDOT, bore pits shall

be at least ten feet from the edge of pavement, five feet beyond toe of slope under fill sections and at least five feet from the face of curb and meet clear zone requirements from the edge of the traveled way whichever is greater. Bore pits shall be located and constructed [so as] to eliminate interference with highway structural footings. Shoring shall be used where necessary.

TABLE 1

Bore Pit Locations	Bore Pit Set Back	Outside Clear Zone
At least ten feet from the edge of pavement, five feet beyond toe of slope under fill sections and at least five feet from the face of curb	At least 30 feet from the edge of the nearest through traffic lane and at least 20 feet from the edge of pavement on ramps.	

- (iii) The depth of bury for all [utility] facilities under pavement, sidewalk, drainage features or existing ground surface shall meet the [be a] minimum requirements outlined in Table 2 or the Company shall install its facilities to the depth requirement stated in each individual permit. [of four feet below the top of pavement or existing grade including open drainage features. Where utility facilities are installed within 20 feet from the edge of pavement, the depth of bury shall be a minimum of five feet below top of grade so as to allow for installation of UDOT signs or delineators. Utility facilities under sidewalks shall be installed a minimum of three feet below the top of sidewalk.
- (iv) Utility facilities installed greater than 20 feet from the edge of pavement shall be installed a minimum depth of three feet below grade. Specific types of facilities such as high pressure gas lines or petroleum lines may require additional cover.]
- (v) All underground utilit[ies] installed in the right of way must meet the minimum standards for compaction as outlined in the current edition of the UDOT Standards and Specifications for Road and Bridge Construction.
- (vi) Where minimum depth of bury is not feasible, the facility shall be rerouted or, if permitted by UDOT, through the deviation process outlined in R930-7-13, shall be protected with a casing, encasement, concrete slab, or other suitable protective measures.

TABLE 2

[SUMMARY OF UDOT DEFINITIVE UTILITY REQUIREMENTS]  
 MINIMUM DEPTH OF BURY (Cover) For Underground Utility Facilities\*  
 [Longitudinal and Crossing Installations  
 All underground utilities (cased and uncased)]

Under Pavement Surface	Under Sidewalks	Under Ditch	Less than 20 ft. from edge of pavement	Greater than 20 ft. from edge of pavement
Min. of four ft. below top of pavement	Min. of three ft. below top of sidewalk	Min. of three ft. below top of point of ditch]	Min. of five ft. below low natural grade	Min. of three ft. below natural grade

Location	Under Pavement	Under Sidewalk	Under Ditch	Utility Location	Utility Location
				Less Than 20 ft. From Edge of Pavement	Greater Than 20 ft. From Edge of Pavement
Minimum Depth	4 ft.	3 ft.	3 ft.	5 ft.	3 ft.**
Measured From	Top of Pavement	Top of Sidewalk	Low point of Ditch	Ground Surface	Ground Surface
Measured To	Top of Utility Facility or Utility Buffer Zone (if required by Utility Company)				
	* Applies to longitudinal and crossing installations, cased and uncased.				
	** Specific types of facilities such as high pressure gas lines may require additional cover.				

- (d) Crossings.
  - (i) Utility crossings shall be at 90 degrees unless a deviation from this rule is approved by UDOT through the deviation process outlined in R930-7-13. Crossing installations under paved surfaces shall be by trenchless methods. Jetting by means of water or compressed air is not permitted.
  - (ii) Utility crossings shall be avoided in deep roadway cuts, near bridge footings, near retaining and noise walls, at highway cross drains where flow of water may be obstructed, in wet or rocky terrain where it is difficult to attain minimum cover, and through slopes under structures.
- (e) Median Installations.
  - (i) Overhead utility facilities such as poles, guys, or other related facilities shall not be located in highway medians. Deviations may be considered for crossings where wide medians provide for sufficient space to meet clear zone requirements from the edges of the travelled ways.
- (f) Appurtenances.
  - (i) Utility appurtenances shall be located outside the clear zone and as close to the right of way line as practicable. Where these requirements cannot be met, and no feasible alternative exists, a deviation to locate appurtenances within the clear zone in areas that are shielded by traffic barriers may be considered after the utility company provides written justification for such location for UDOT review through the deviation process outline in R930-7-13. Cabinets, regulator stations, and other similar utility components shall not be located on the right of way unless they are determined by UDOT to be sufficiently small to allow a deviation.
  - (ii) Manholes, valve pits, and similar appurtenances shall be installed so that their uppermost surfaces are flush with the adjacent undisturbed surface.
  - (iii) Utility access points and valve covers shall be located outside the roadway where practicable. In urbanized areas where no feasible alternative exists, [to locating utility access points and valve covers outside of the roadway exists.] the utility company must coordinate with UDOT to meet safety, operational, and maintenance requirements of both the utility company and UDOT.
  - (iv) Utility companies shall avoid placing manholes in the pavement of high speed and high[-]volume highways. Deviations may be considered after written justification for such location is submitted by the utility company and reviewed and approved by UDOT through the deviation process outline in R930-7-13. New

manhole installations shall be avoided at highway intersections and within the wheel path of traffic lanes.

(v) Vents, drains, markers, utility access holes, shafts, shut-offs, cross-connect boxes, pedestals, pad-mounted devices, and similar appurtenances shall be located along or across highway rights of way in accordance with the provisions of the Americans With Disabilities Act.

(2) Environmental Compliance.

(a) The utility company shall comply with all applicable state and federal environmental laws and regulations~~[-]~~ and shall obtain necessary permits. Environmental requirements include but are not limited to the following~~[-]~~:

(i) Water Quality. A "Storm Water General Permit for Construction Activities" is required from the Utah Division of Water Quality for disturbances of one or more acres of ground surface.

(ii) Wetlands and Other Waters of the U.S. A "Section 404 Permit" is required from the U.S. Army Corps of Engineers for any impact to a wetland or water of the U.S.

(iii) Threatened or Endangered (T and E) Species. Comply with the Endangered Species Act; avoid impacts to T and E species or obtain a Permit from the U. S. Fish and Wildlife Service.

(iv) Historic and Archaeological Resources. Comply with the "National Historic Preservation Act"; avoid impacts to historic and archaeological resources. If resources could be impacted, contact the Utah State Historic Preservation Office.

(b) The utility company is responsible for environmental impacts and violations resulting from construction activities performed by the utility company or its contractors.

(c) If UDOT discovers or is made aware of a violation by the utility company or a failure to comply with state and federal environmental laws, regulations and permits, UDOT may revoke the permit, notify appropriate agencies, or both.

(3) Installation of Utilities in Scenic Areas.

(a) The type, size, design, and construction of utility facilities in areas of natural beauty shall not materially alter the scenic quality, appearance, and views from the highway or roadsides. These areas include scenic strips, overlooks, rest areas, recreation areas, adjacent rights of way and highways passing through public parks, recreation areas, wildlife and waterfowl refuges, and historic sites. Utility installations in these areas shall not be permitted. Deviation from this requirement may be allowed if there is no reasonable or feasible alternative as determined by UDOT based on written justification submitted by the utility company through the deviation process outlined in R930-7-13. On Federal-aid highways, all decisions related to utility installations within these areas shall be subject to the provisions detailed in 23 CFR Section 645.209(h).

(i) New underground utility installations may be permitted within scenic strips, overlooks, scenic areas, or in the adjacent rights of way, when they do not require extensive removal, or alteration of trees, and other shrubbery visible to the highway user, or do not impair the scenic appearance of the area.

(ii) New overhead installations of ~~tele~~communication and electric power lines are not permitted in such locations unless there is no feasible and reasonable alternative as determined by UDOT through the deviation process outlined in R930-7-13. Overhead installations shall be justified to UDOT by demonstrating that other locations are not available and that underground facilities are not technically feasible, economical or are more detrimental to the scenic appearance of the area.

Any installation of overhead facilities shall be made at a location and in a manner that will not detract from the scenic quality of the area being traversed. The installation shall utilize a suitable design and use materials aesthetically compatible to the scenic area, as approved by UDOT.

(4) Casing and Encasement Requirements.

(a) General. A carrier pipe is sometimes installed inside of a larger diameter pipe defined as a casing. Casings are typically used to provide complete independence of the carrier pipe from the surrounding roadway structure, and to provide adequate protection to the roadway from leakage of a carrier pipeline. It also provides a means for insertion and replacement of carriers without access or disturbance to through-traffic roadways.

(b) Casing requirements for crossing installations.

(i) All pipelines under pressure crossing under the roadbed of highways shall be in casings unless the pipeline is welded steel, meets industry corrosion protection standards, complies with federal and state requirements, and meets accepted industry standards regarding wall thickness and operating stress levels. In some cases, UDOT may require a casing regardless of these exceptions if needed to protect the roadway, maintain public safety, or both.

(ii) In urban areas where space is limited for venting or where small pipelines are crossing, specifically intermediate high~~[-]~~ pressure lines, deviations for casing may be granted by UDOT.

(iii) Where a casing is required, it must be provided under medians, from top of back-slope to top of back-slope for cut sections, five feet beyond toe of slope under fill sections, five feet beyond face of curb in urban sections and all side streets, and five feet beyond any structure where the line passes under or through the structure. Deviations, outlined in R930-7-13, must be approved by UDOT. On freeways, expressways, and other access~~[-]~~-controlled highways, casings shall extend to the access control lines.

(iv) Utility installations by trenchless technologies, such as jacking, boring, or horizontal directional drilling methods, may be placed under highways without a casing pipe if approved by a UDOT through the deviation process outlined in R930-7-13 ~~representative~~.

(v) Where minimum depth of bury is not feasible, the facility shall be rerouted or protected with a casing, concrete slab, or other suitable measures as determined by UDOT through the deviation process outlined in R930-7-13.

(c) Casings shall be considered for the following conditions:

(i) as an expedient~~[ey]~~ method for~~[in]~~ the insertion, removal, replacement, or maintenance of carrier pipe crossings of freeways, expressways, and other access~~[-]~~-controlled highways, and at other locations where it is necessary to avoid open ~~trenched~~ construction;

(ii) as protection for carrier pipe from external loads or shock either during or after construction of the highway; and

(iii) as a means of conveying leaking fluids or gases away from the area directly beneath the roadway to a point of venting at or near the right of way line, or to a point of drainage in the highway ditch or a natural drainage way.

(d) UDOT may require casings for pressurized carriers or carriers of a flammable, corrosive, expansive, energized, or unstable material.

(e) Trenchless installations of coated carrier pipes shall be cased. Permission to deviate from this requirement may be granted where assurance is provided against damage to the protective coating.

(f) Encasement or other suitable protections shall be considered for pipelines with less than minimum cover, such as those near bridge footings or other highway structures, or across unstable or subsiding ground, or near other locations where hazardous conditions may exist.

(g) Rigid encasement or suitable bridging shall be used where support of pavement structure may be impaired by depression of flexible carrier pipe. Casings shall be designed to support the load of the highway and superimposed loads thereon and, as a minimum, shall be equal to or exceed the structural requirements of UDOT highway culverts in the UDOT Structures Design and Detailing Manual (SDDM)~~[Bridge Design Manual]~~.

(h) Casings shall be sealed at the ends using suitable material to prevent water and debris from entering the annular space between the casing and the carrier. Such installations shall include necessary appurtenances, such as vents and markers.

(5) Mechanical and Other Protective Measures for Uncased Installation.

(a) When highway pipeline crossings are installed without casings or encasement, the following are ~~[suggested]~~ controls for providing mechanical or other protection.

(i) The carrier pipe shall conform to utility material and design requirements and utility industry and government codes and standards. The carrier pipe shall be designed to support the load of the highway plus superimposed loads operating under all ranges of pressure from maximum internal to zero pressure. Such installations shall use a higher factor of safety in the design, construction, and testing than would normally be required for cased construction.

(ii) Suitable bridging, concrete slabs, or other appropriate measures shall be used to protect existing uncased pipelines which may be vulnerable to damage from construction or maintenance operations. Construction or maintenance activities shall not proceed until protective measures are approved by UDOT.

(b) Uncased crossings of welded steel pipelines carrying flammable, corrosive, expansive, energized, or unstable materials may be permitted if additional protective measures are taken in lieu of encasement. Such measures shall use a higher factor of safety in the design, construction, and testing of the uncased carrier pipe, including thicker wall pipe, radiograph testing of welds, hydrostatic testing, coating and wrapping, and cathodic protection.

#### **R930-7-9. Utilities on Highway Structures.**

(1) General.

(a) The installation of utility facilities on highway structures can adversely impact the integrity and capacity of the structure, the safe operation of traffic, maintenance efficiency, complexity to perform needed structure rehabilitation or replacement of the structure, and the aesthetic appeal of the structure. Utility facilities shall not be installed on highway structures except in extreme cases. When installation of utilities at an alternate location exceeds the cost of attaching to the structure by four times, UDOT will consider such an installation as described in paragraph (2) of this section, R930-7-9. ~~[The utility company shall submit documentation requesting installation on highway structures to the UDOT Structures Division for review and approval. Attachment of a utility facility will only be considered if the structure is adequate to support the additional load. This adequacy must be verified by a load rating completed by the utility company following UDOT's Load Rating Policies and~~

~~Procedures, submitted to UDOT along with the necessary documentation including calculations and a load rating model.]~~

(b) Installing utility facilities within 50 feet of structures may impact the design, installation, operation, maintenance and safety of the structures, and the utility facilities. Utility companies shall address potential impacts when projects are proposed to ensure compatibility between utility facilities and UDOT structures and to assure all relevant utility industry codes and UDOT structural requirements are adequately addressed.

(2) Installation on Highway Structures.

(a) The utility company shall submit documentation requesting installation on a highway structure to UDOT through UDOT's permitting system for review and possible approval.

(b) Attachment of a utility facility will only be considered if the structure is adequate to support the additional load and can accommodate the utility without compromising highway features. This adequacy must be verified by a load rating completed by the utility company in accordance with the current versions of the UDOT Structures Design and Detailing Manual and UDOT Bridge Management Manual including calculations.

(c) If UDOT allows a ~~[structure]~~ utility installation on a highway structure, it shall be at a location and of a design approved by UDOT ~~[subject to review and approval by UDOT's Structures Department. Utility installations on structures shall not be considered unless the structure is of a design that is adequate to support the additional load and can accommodate the utility without compromising highway features.]~~ In addition, the utility installation on a highway structure shall be subject to the following requirements~~[-]~~:

(i) Due to variations in highway structure designs, site-specific conditions, and other considerations, there is no standardized method by which utilities are installed on structures. Therefore, each proposed installation shall be considered on its individual merits and shall be individually designed for the specific structure.

(ii) Where installations of pipelines carrying hazardous materials are allowed, the pipeline shall be cased. The casing shall be open or vented at each end ~~[so as]~~ to prevent possible build-up of pressure and to detect leakage. Where located near streams, casings shall be designed and installed so that leakage does not compromise the stream. If a deviation from this Rule, R930-7, is allowed for no casing, additional protective measures shall be used including higher standards for design, safety, construction and testing of the pipeline than would normally be required for cased construction.

(iii) All pipeline installations carrying gas or liquid under pressure which by their nature may cause damage or injury if leaked, shall be installed with emergency shutoff valves. Such valves shall be placed within an effective distance on each side of the structure, as approved by UDOT, and shall be automatic if required by UDOT.

(iv) Utility installations on highway structures shall not reduce vertical clearances above rivers, streams, roadway surfaces or rails. Installations should be designed to occupy a position beneath the deck in an interior bay of a girder or beam, or within a cell of a box girder bridge. Installations shall always be above the bottom of girders on a girder bridge or above the bottom of the bottom cord of a truss bridge. Utility installations outside of a bridge structure are unsightly and susceptible to damage and will only be approved by UDOT if there is no reasonable alternative.

(v) All utility facilities installed on highway structures shall be constructed of durable materials, designed with a long~~[-]~~-life

expectancy, and must be installed in a manner that will minimize routine servicing and maintenance.

(vi) Utility facility mountings shall be of sufficient strength to carry the weight of the utility and shall be of a design and type that will not rattle or loosen due to vibrations caused by vehicular traffic. Acceptable utility installation methods are hangers or roller assemblies suspended either from inserts from the underside of the bridge floor or from hanger rods clamped to the flange of a superstructure member. Bolting through the bridge floor is not permitted. Where there are transverse floor beams sufficiently removed from the underside of the deck, the utility placement shall allow adequate clearance to enable full inspection of both the deck and the utility line. UDOT may consider a proposal to support the utility line on top of the floor beams.

(vii) ~~[Communication]~~Telecommunication and electric power line installations shall be suitably insulated, grounded, and preferably carried in protective conduit or pipe from the point of exit from the ground to re-entry. Cable shall be carried to a manhole located beyond the back-wall of the structure. Access manholes are not allowed in a bridge deck.

(viii) Utility installations shall provide for lineal expansion and contraction due to temperature variations in conjunction with bridge movement.

(ix) All utility facility clearances from structure members must conform to all governing codes and shall not render any portion of the structure inaccessible for maintenance purposes.

(x) The utility company shall be responsible for restoration or repair of any portion of a structure or highway damaged by utility facility installation, maintenance or use.

(xi) The expansion of an existing utility facility carried by an existing structure may be permitted if the expansion does not adversely impact the performance and load carrying capacity of the structure and otherwise complies with this rule.

(xii) All components of the utility attachment shall be protected from corrosion. Steel components shall be stainless, galvanized or painted in accordance with the current UDOT Standard Specifications for Highway and Bridge Construction.

(3) Utility Company Responsibilities.

(a) It is the responsibility of the utility company to obtain approval from UDOT for a highway structure installation. The utility company shall know~~[ascertain the extent of]~~ UDOT's requirements prior to initiating the design for installation. A Utah registered Professional or Structural Engineer shall be responsible for the design if the installation is allowed. The utility company must prepare and submit complete design documents showing all details of the proposed highway structure installation~~[work]~~. These documents shall include plans, calculations, updated load rating with a Virtis load rating model, the permit application, and any other necessary information. The utility company shall be responsible for protecting, maintaining or relocating its utility installation, including the arrangement of service interruptions, to accommodate future UDOT structure work.

(b) All materials incorporated in the design must be certifiable for quality and strength and full specifications must be provided in support of the design.

(c) Adequate written justification must support the need for installing the utility facility on the structure and demonstrate that there is no viable cost-effective alternative.

(d) Design documents are required to meet requirements of the current versions of the AASHTO LRFD Bridge Design Specifications and UDOT Structures Design and Detailing Manual.

~~[All components of the utility attachment shall be protected from corrosion. Steel components shall be stainless, galvanized or painted in accordance with the current UDOT Standard Specifications for Highway and Bridge Construction.]~~

**R930-7-10. Utilities within Interstate, Freeway and Access Controlled ~~[Right-of-Way]~~Right of Way.**

(1) General Provisions. There are two basic types of access control.

No Access -- provides access only at interchanges~~[does not allow access to the through-traffic lanes except at interchanges]~~. Crossings at grade and direct driveway connections are prohibited. Access is controlled by fencing. This is typical of interstates and freeways.

Limited Access - provides access to selected roads. There may be some crossings at grade and some private driveway connections. This is typical of expressways and certain other highways.

(2) Factors UDOT may consider for allowing Utility accommodation within access controlled right of way include distance between distribution points, terrain, cost, and prior existence.

(3) Longitudinal telecommunication installations may be allowed under Rule R907-64 and Utah Code Section 72-7-108.

(4) Pursuant to FHWA regulations, UDOT may allow longitudinal accommodation of utility facilities but with greater restrictions within no access and limited access highway right of way as follows:

(a) ~~[No access:—]~~Longitudinal installations [on highways] within no access highway right of way are not permitted except in cases where no other feasible location exists and under strictly controlled circumstances. FHWA approval is required for installations on interstate ~~[facilities]~~roadways. Longitudinal telecommunication facilities are allowed pursuant to Utah Code Section 72-7-108.~~[, and]~~

(b) ~~[Limited Access:—]~~Longitudinal installations [on highways] within limited access highway right of way are generally not permitted.

(5) Utility facilities ~~[are allowed to]~~may cross no access and limited access highway ~~[right-of-way]~~right of way but with additional requirements as noted below in Subsection R930-7-10(7).

(6) Longitudinal Utility Facilities.

(a) In addition to the requirements in Subsection R930-7-8(1)(a), the following requirements apply~~[-]~~:

(i) Service connections are not permitted within no access highway right of way. Service connections are not permitted within limited access highway right of way unless no reasonable alternative exists as demonstrated by the utility company and as reviewed and approved by UDOT through the deviation process outlined in R930-7-13.

(ii) Service, maintenance, and operation of utilities installed along and within no access highway right of way may not be conducted from the through-traffic roadways or ramps. All maintenance activities must be accessed from a point approved by UDOT and FHWA.

(iii) An existing utility facility within the right of way acquired for an interstate, freeway, or access~~[-]~~controlled highway project may remain if it can be serviced, maintained, and operated without access from the through-traffic roadways or ramps, and it does not adversely affect the safety, design, construction, operation,

maintenance, or stability of the interstate, freeway, or access[-]-controlled highway. Otherwise, it shall be relocated.

(iv) Where approval for installation is permitted, utility installations and related components shall be buried parallel to the interstate, freeway, or access[-]-controlled highway and shall be located within five feet of the outer most right of way limits. Utility appurtenances shall be located as close as possible to the right of way line.

(v) An existing utility carried on an interstate, freeway, or access[-]-controlled highway structure crossing a major valley or river may be permitted by UDOT to continue to be carried at the time the route is improved if the utility facility is serviced without interference to the traveling public.

(7) Utility Crossings.

(a) In addition to the requirements in Subsection R930-7-8(1)(d), the following requirements apply.

(i) A utility following a crossroad or street which is carried over or under an interstate, freeway, or access[-]-controlled highway must cross the interstate, freeway, or access[-]-controlled highway at the location of the crossroad or street in such a manner that the utility can be serviced without access from the through-traffic roadways or ramps.

(ii) Overhead utility lines crossing an interstate, freeway, or access[-]-controlled highway shall be adjusted so that supporting structures are located outside access control lines. In no case shall the supporting poles be placed within the clear zone. Where required for support, intermediate supporting poles may be placed in medians of sufficient width that provide the clear zone from the edges of both travelled ways. If additional lanes are planned, the clear zone shall be determined from the ultimate edges of the travelled way. When right of way lines and access control lines are not the same, such as when frontage roads are provided, supporting poles may be ~~located~~ in the area between them.

(iii) At interchange areas, supports for overhead utility facilities will be permitted only if located beyond the clear zone of traffic lanes or ramps, sight distance is not impaired, and can be safely accessed.

(iv) Manholes and other points of access to underground utilities may be permitted within the right of way of an interstate, freeway, or access[-]-controlled highway if they can be serviced or maintained without access from the through-traffic roadways or ramps. When right of way lines and access control lines are not the same, such as when frontage roads are provided, manholes and other points of access may be ~~located~~ in the area between them.

(v) Where a casing is not otherwise required, it shall be considered as expedient in the insertion, removal, replacement, or maintenance of carrier pipes crossing interstate, freeways, or access[-]-controlled highways. Casings shall extend to the access control lines. See Subsection R930-7-8(4).

(8) Longitudinal Telecommunications Installation.

(a) Installation must comply with R907-64.

(9) Wireless Telecommunications Facilities.

(a) Facilities must comply with R907-64.

**R930-7-11. Utility Construction and Inspection.**

(1) General Provisions.

(a) The method used for utility construction work is generally determined by local conditions. The location, terrain, obstructions, soil conditions, topography, and UDOT standards to

maintain the integrity and safety of the right of way and roadway are important considerations for the proper placing of utilities. Familiarity and compliance with this rule will facilitate the construction process for utility companies.

(b) UDOT may perform routine inspection of utility construction work to monitor compliance with the license agreement, encroachment permit and with state and federal regulations. A permit may be revoked for cause if a utility company or contractor is not complying with the terms and limitations of the permit which will require a new permit at the contractor's expense to proceed with the utility construction work.

(c) Costs associated with the inspection are the responsibility of the utility company. Failure to pay inspection invoices issued by UDOT may result in revocation of the permit and may require the posting of an inspection bond on future permit applications.

(2) Utility Construction and Maintenance.

(a) ~~The utility company shall not begin any utility construction work on UDOT right of way until the permit is issued and notice to proceed is given to the utility company by UDOT. After notice to proceed is received, the utility company shall complete construction in accordance with UDOT requirements. [No utility construction work by a utility company or a utility company's contractor may begin until a written encroachment permit has been issued to the utility company by UDOT.]~~

(b) Traffic control for utility construction and maintenance operations shall conform to UDOT's current accepted Utah MUTCD or UDOT Traffic Control Plans, whichever is more restrictive. All utility construction and maintenance operations shall be planned to keep interference with traffic to an absolute minimum. On heavily traveled highways, utility operations interfering with traffic shall not be conducted during periods of peak traffic flow. This work shall be planned so that closures of intersecting streets, road approaches, or other access points are held to a minimum.

(c) ~~[The utility company shall not begin any work on UDOT right of way until the permit is issued and notice to proceed is given to the utility company by UDOT. After notice to proceed is received, the utility company shall complete construction in accordance with UDOT requirements.]~~

(d) ~~When [highway] utility construction work [or maintenance activities] involves existing underground utility facilities, the utility company or Utility contractor shall comply with Utah Code Title 54, Chapter 8a, Damage to Underground Utility Facilities.~~

(e) ~~[d] Utility construction work shall be completed within the number of days specified in the approved permit. When the Utility construction work is not completed within the specified time UDOT has the option of extending the time or revoking the permit and acting on the appropriate bond to pay for completion of the Utility construction work. All time extensions granted by UDOT shall be in writing.~~

(f) ~~[e] Disturbance of areas within highway [right of way] right of way during utility construction work shall be kept to a minimum and all right of way shall be restored to the satisfaction of UDOT. All utility construction work methods used within the highway right of way shall be performed in accordance with current Standard Specifications for Highway and Bridge Construction, UDOT Permit Excavation Handbook, the provisions of this rule, and encroachment permit requirements. Unsatisfactory utility construction work, as determined by UDOT's inspector, shall promptly be corrected~~



to comply with appropriate standards and specifications. UDOT may issue written notification that identifies the deficiencies and the ~~[period of]~~ time to cure or correct the deficiencies. If the restoration is not performed within the specified time, UDOT may perform or have performed the corrective work and the utility company shall be responsible for all costs incurred.

(g) The utility company shall avoid disturbing or damaging existing highway drainage facilities and is responsible for repairs, including restoration of ditch flow lines. Wherever necessary, the utility company shall provide drainage away from its own facilities to avoid damage to the highway.

(h) The utility company is prohibited from spraying, cutting or trimming trees or other landscape elements unless specific written permission is obtained from UDOT. The approval of an encroachment permit does not include approval of such work unless the cutting, spraying, and trimming is clearly indicated on the permit application. In general, when permission is given, only light trimming will be permitted. When tree removal is approved, the stump shall be removed, and the hole properly backfilled to natural ground density or restored as otherwise approved by UDOT. The work site shall be left clean and trash free. All debris shall be removed. Reseeding shall be performed in accordance with UDOT's approved schedule.

(i) UDOT may require that any abandoned utility pipe or conduit be removed, capped, or filled with an appropriate material acceptable to UDOT.

(j) All utility facilities located within the highway ~~[on]~~ rights of way shall be adequately maintained. Any physical modifications, relocations, additions, excavations, or impedances of traffic within the highway right of way shall require the submittal of a new encroachment permit application. No Utility construction work may begin until the new encroachment permit is approved.

(k) Restoration of the highway right of way disturbed by excavation, grading work, or other activities shall include reseeding and restoration of existing landscaping. All areas which are denuded of vegetation ~~[as a result]~~ because of construction or maintenance shall be reseeded, which is subject to inspection and acceptance by UDOT.

(3) Open Trench Construction Traversing Highways.

(a) Open trench utility installations are not permitted unless an acceptable trenchless method is unfeasible such as in unsuitable soil conditions or extremely difficult rock. UDOT may also grant a deviation from requiring trenchless construction where older pavement is severely deteriorated.

(b) Open trench construction on highway[s] rights of way is limited to areas where traffic impacts are minimal. Any pavement structure broken, disturbed, cut or otherwise damaged in any way shall be removed and replaced to a design equal to or greater than the surrounding undisturbed pavement structure, or as otherwise determined by UDOT.

(c) For open trench installations, the utility company is responsible for the restoration and maintenance of the pavement structure for three years as outlined in Section R930-7-6(6)(b), unless a deviation from this rule as outlined in R930-7-13 is granted by UDOT. When the utility company or its contractor performing the Utility construction work is not equipped, ~~[to]~~ or fails to properly repair the damage to the pavement structure, UDOT will repair the damage and bill the utility company for the actual costs incurred, including any administrative costs. All pavement restoration work performed by the

utility company shall be completed within 48 hours after completion of the excavation and backfill.

(d) All open trench utility installations shall conform to the applicable provisions of the current UDOT Standard Specifications for Road and Bridge Construction.

(e) It is the utility company's responsibility to restore the structural integrity of the road bed, secure the utility facility against deformation and leakage, assure that the utility trench does not become a drainage channel, and that the backfilled trench doesn't impede or alter road drainage.

(f) Trenches shall be cut to have vertical faces. Maximum width shall be two feet or the outside diameter of the pipe plus one and one-half feet on each side. All trenches shall be shored where necessary and shall meet OSHA requirements.

(g) Bedding shall be provided to a depth of one-half the diameter of the pipe and shall consist of granular material, free from rocks, lumps, clods, cobbles, or frozen materials, and shall be graded to a firm surface without abrupt change in bearing value. Unstable soils and rock ledges shall be sub-excavated from beneath the bedding zone and replaced with suitable granular material.

(h) Backfill shall meet the current UDOT Standard Specification 02056 Embankment, Borrow and Backfill and 03575 Flowable Fill. Additional specifications may be required by UDOT.

(i) Pavement replacement may be performed by either the utility company or a contractor engaged by the utility company. The Region Permits Officer will determine pavement replacement requirements. The utility company is liable for three years from the date of completion of the pavement replacement for the cost of repairs if the backfill subsides or the patched pavement fails.

(j) Where a utility company fails to properly repair any damage to the pavement structure, UDOT may repair the damage and the costs, including administrative costs, will be the responsibility of the utility company.

(4) Trenchless Utility Construction.

(a) Trenchless utility installations are required for all utility crossings of highways or roadways, where practicable. This construction method is required to avoid disturbing the pavement surface, particularly where underground utilities exist on major highways, expressways, or freeways. Only UDOT approved methods may be used to install a utility facility under a highway.

(b) All trenchless pipeline installations shall extend under and across the entire roadway prism to a point five feet beyond the toes of the fore-slopes, borrow ditch bottom, or across the access controlled right of way lines, but never less than 15 feet from the edge of pavement or a ramp.

(c) Water jetting or tunneling may not be used. Water-assisted or wet boring may be permitted if the utility company can demonstrate to UDOT through the deviation process outlined in R930-7-13 that the operation will not adversely impact the roadway and subgrade.

(d) The size of a trenchless operation shall be restricted to the minimum size necessary for the ~~[utility]~~ pipeline installation and shall not exceed the ~~[utility facility]~~ pipeline diameter by more than 5% unless otherwise required based on equipment and product manufacturer's specifications. Grout or flowable fill backfill shall be used for carriers or casings and for over-breaks, unused holes or abandoned carriers or casings. The composition of the grout shall be cement mortar, a slurry of fine sand or other fine granular materials.

(e) Portals including surface openings and bore pits shall be established safely beyond the highway surface and the clear zone [se as] to avoid impairing the roadway during installation of the pipeline.

(f) Where a bulkhead seals the pipeline portal, the portal shall be suitably offset from the surfaced area of the highway. Shoring and bulkheading shall conform to applicable federal, state, and local jurisdiction construction and safety standards. Where a bulkhead is not installed in the pipeline, the portal shall be offset no less than the vertical difference in elevation between the surfaced area of the highway and the bottom of the bore pit.

(g) The utility company shall follow manufacturer's guidelines and industry standards for equipment set-up and operation. The utility company shall assess soil conditions to determine the most appropriate installation technique. Subsurface bore paths shall be tracked and recorded by the utility company, and all failed bores shall be appropriately abandoned and backfilled by the utility company.

(h) Drilling fluids shall be prepared and used according to fluid and drilling equipment manufacturer's guidelines. The utility company shall use fluid containment pits at both bore entry and exits points[;] and shall use appropriate operational controls so as to avoid heaving or loss of drilling fluids from the bore. Antifreeze additives shall be non-toxic and biodegradable products.

(i) The utility company shall dispose of drilling fluids and other materials in permitted facilities that accept the types of chemicals and wastes used in the trenchless operations.

(5) Utility Markers.

(a) The location of utility facilities within highway right of way presents certain risks to construction and maintenance activities, construction personnel, and to the facility itself when work in and around the area of the utility facility is in progress. To minimize risk and maximize safety, it is the utility company's responsibility to provide identification markers and tracer wire [or detectable warning tape] for all buried facilities located within the highway right of way.

(b) A trace wire, metallic tape, or other accepted industry material approved by UDOT for locating utilities with geophysical equipment shall be properly installed with all non-metallic underground [lines] utility facilities.

(c) The utility company shall place permanent markers identifying the location of underground utility facilities, whether they are crossing the highway right of way or installed longitudinally along the highway right of way. Markers shall not interfere with highway safety and maintenance operations. Preferably, markers ~~shall be~~ [are to be] located at the right of way line if that location will provide adequate warning. The telephone number for one-call notification services to request marking the line location prior to excavation, and for emergency response, shall appear on the marker.

(d) The utility company shall maintain its markers in good condition. Color faded markers shall be replaced as necessary so that their visibility to maintenance crews and others is not impaired.

(6) GPS Requirements.

(a) It is the responsibility of the utility company to produce and maintain a set of certified reproducible plans and an electronic file showing the location of all its utility facilities within the highway right of way including overhead facilities and crossing points. The utility company is responsible to maintain an accurate file to be used by UDOT for future planning to avoid utility conflicts. These plans shall also include appropriate vertical and horizontal ties to the highway survey control.

(b) For new and relocated facility installations, the utility company shall use a survey grade Global Positioning System (GPS) to survey their facility locations and submit an electronic file to UDOT. Specific requirements for survey data will be determined by UDOT. The location survey points shall include major junction points, manholes, valves, changes in line or grade, and any other significant feature that will facilitate installation approval and future planning activities.

(c) If the utility company fails to provide UDOT with a set of plans and files showing the surveyed utility locations upon request then the utility company is required to secure the actual locations of their facilities at no cost to UDOT. If the utility company fails to provide the utility location information requested within ten days, UDOT may hire a Subsurface Utility Engineering (SUE) consultant to locate the utilities at the utility company's expense.

**R930-7-12. Maintenance Responsibility.**

The utility company is responsible for maintenance and liability of its utility facilities and appurtenances on UDOT right of way or on UDOT property including facilities installed without a Statewide Utility License Agreement or permit, whether operational, out of service, or abandoned.

**R930-7-13. Deviations.**

(1) Deviations from provisions of this rule may be allowed if they do not violate state and federal statutes, law, or regulations and UDOT has determined the use of the right of way will be for the public good without compromising the transportation purposes of the right of way.

(2) Requests for deviations with limited impact may be considered by UDOT on an individual basis, upon justification submitted by the utility company. UDOT will not consider cost to the utility company as the primary deciding factor in granting a deviation.

(3) Requests for significant deviations must demonstrate extreme hardship and unusual conditions and provide justification for the deviation. Requests must demonstrate that alternative measures can be specified and implemented and still fulfill the intent of state and federal statute and regulations. Requests for these deviations must include the following:

(a) formal request by the utility company; and

(b) an evaluation of the direct and indirect design, safety, environmental, and economic impacts associated with granting a deviation.

(4) In order for UDOT to grant a significant deviation the following approvals are necessary:

(a) formal recommendation for approval by the UDOT Region Preconstruction Engineer and Permits Officer or the officer's supervisor, as applicable;

(b) formal recommendation for approval from the UDOT Region Director or designee;

(c) concurrence of the UDOT Statewide Railroad and Utilities Director [Engineer]; and

(d) FHWA concurrence if the deviation applies to a utility facility located within a Federal-aid highway right of way.

(5) For UDOT projects that are solely state funded, UDOT may deviate from the utility relocation regulations contained in the Code of Federal Regulations by reimbursing a utility company for replacement of existing buildings with functionally equivalent buildings, if the following requirements are met:

- (a) the utility company owns the property in fee that UDOT needs to acquire for its project;
- (b) the utility company owns operational facilities located upon, below or above the property;
- (c) the utility company owns a building on the property that provides maintenance services for the utility facility;
- (d) a property purchase in accordance with 49 CFR 24 will not adequately compensate the utility company's costs to relocate and functionally re-establish the maintenance facility; and
- (e) the deviation promotes the public interest.

**R930-7-14. Enforcement.**

(1) This rule is subject to enforcement pursuant to and as provided for in Utah Code, and may include, but not be limited to the following:

- (a) administrative citations, in letter form, citing non-compliance items and proper redress requirements, including notice that UDOT may take whatever action is necessary to rectify the

situation and subsequently submit a claim against the appropriate bond to recover from the utility company actual costs incurred by UDOT;

- (b) increased bonding levels to recoup potential restoration costs on current or future utility projects;
- (c) denial of future permits until past non-compliance is resolved;
- (d) termination of the License Agreement; and
- (e) legal action to secure reimbursement from the utility company for costs incurred by UDOT due to damages to the right of way or noncompliance with the permit, rule or License Agreement.

**KEY:** ~~right-of-way~~ **right of way, utilities, utility accommodation**  
**Date of Enactment or Last Substantive Amendment:** ~~October 24, 2016~~ **2019**  
**Notice of Continuation:** **September 12, 2017**  
**Authorizing, and Implemented or Interpreted Law:** **72-6-116(2)**

**End of the Notices of Proposed Rules Section**



# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at <https://rules.utah.gov/>. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

**REVIEWS** are governed by Section 63G-3-305.

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## Education, Administration **R277-495** Required Policies for Electronic Devices in Public Schools

### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 43426  
FILED: 12/07/2018

### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized by Subsection 53G-8-202(2)(c)(i), which directs the State Superintendent of Public Instruction to develop a discipline policy model for elementary and secondary public schools, and 47 CFR, Part 54, Children's Internet Protection Act, which requires schools and libraries that have computers with internet access to certify they have internet safety policies and technology protection measures in place to receive discounted internet access and services.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments 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 all local education agencies (LEAs) and public

schools to adopt policies, individually or collectively as school districts or consortia of charter schools, governing the possession and use of electronic devices, both LEA-owned and privately-owned, while on public school premises or participating in school activities, for LEA-owned devices, wherever the devices are used. 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](mailto:angie.stallings@schools.utah.gov)

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

EFFECTIVE: 12/07/2018

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## Health, Disease Control and Prevention, Environmental Services **R392-101** Food Safety Manager Certification

### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 43436  
FILED: 12/12/2018

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Rule R392-101 is authorized under Section 26-15a-103, which requires the Department of Health (Department) to establish statewide uniform standards for certified food safety managers by rule, and to approve food safety certification examinations.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department sought comments from the local health departments in Utah, as well as local and national restaurant associations, and food safety manager training providers located in Utah. The Department received no comments in opposition to a continuation of Rule R392-101. Two individuals from one local health department (Davis County Health Department) provided comments, asking the Department to consider a revision of select regulatory requirements as summarized: 1) Section R392-101-3 uses an outdated term ("potentially hazardous food"). To be consistent with Rule R392-100, this term should be replaced with the term "Time/Temperature Control for Safety Food". 2) This rule should require an examinee to demonstrate knowledge that bare hand contact is prohibited with ready-to-eat food. 3) This rule should require an examinee to demonstrate knowledge in the practice of using time as a public health control. 4) This rule should state the authority of a local health officer to deny, revoke, or suspend a food safety manager certificate for specific conditions stated in the rule. 5) Subsection R392-101-4(2) is too vague. This rule should clearly specify the process of instructor certification. 6) The regulatory provisions under Section R392-101-7 are confusing and unclear. The various local health departments are implementing the requirements in many different ways, which is causing confusion and complaints from food safety managers. 7) The rule exemptions listed in this rule are not as comprehensive as the exemptions listed in Section 26-15a-10, nor does this rule make reference to that statutory provision.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department recommends the continuation of Rule R392-101, Food Safety Manager Certification. This rule complies with statute by accomplishing the following important functions: 1) it establishes statewide uniform standards for certified food safety managers; 2) it defines the examination content required to ensure an examinee demonstrates sufficient knowledge in food protection management; and 3) it facilitates the implementation of the Food Safety Manager Certification Act. The Department received no comments in opposition to the continuation of R392-101. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 HEALTH  
 DISEASE CONTROL AND PREVENTION,  
 ENVIRONMENTAL SERVICES  
 CANNON HEALTH BLDG  
 288 N 1460 W  
 SALT LAKE CITY, UT 84116-3231  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Chris Nelson by phone at 801-538-6739, or by Internet E-mail at [chrisnelson@utah.gov](mailto:chrisnelson@utah.gov)

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 12/12/2018

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**Health, Family Health and  
 Preparedness, Children with Special  
 Health Care Needs  
 R398-4  
 Cytomegalovirus Public Health Initiative**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 43421  
 FILED: 12/06/2018

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 26-10-10 created the requirement for public education and testing for cytomegalovirus (CMV). This rule outlines how the testing and education for CMV will be implemented.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section 26-10-10 was created to provide public education and testing for cytomegalovirus. This statute is still in effect. Therefore, this rule should be continued.

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

CHILDREN WITH SPECIAL HEALTH CARE NEEDS  
44 N MARIO CAPECCHI DR  
SALT LAKE CITY, UT 84113  
or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Joyce McStotts by phone at 801-584-8239, by FAX at 801-584-8488, or by Internet E-mail at jmcstotts@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 12/06/2018

**Human Services, Recovery Services  
R527-275  
Passport Release**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 43440  
FILED: 12/14/2018

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 62A-11-107 gives the Office of Recovery Services (ORS) the authority to adopt, amend, and enforce rules necessary to carry out its responsibilities under state law. 22 CFR 51.60 states that the Department of Human Services (Department) may not issue/may refuse to issue a passport if the applicant has been certified by the Secretary of Health and Human Services as owing child support arrears in an amount as determined by statute. 22 CFR 51.70 details the time frames and restrictions as to when a person whose passport has been denied or revoked is entitled to a hearing, and when the provisions are not applicable to an individual. 22 CFR 51.71 provides specific information about who conducts the hearings, who may appear, and witnesses information. 22 CFR 51.72 states that a qualified reporter will make a complete verbatim transcript of the hearing, and that transcript and documents received by the hearing officer will constitute the record of hearing. 22 CFR 51.73 outlines the privacy of the hearing. 22 CFR 51.74 states that the Deputy Assistant Secretary for Passport Services decides whether to uphold the denial or revocation of the passport, and that the Department will promptly notify the person in writing of the decision.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments received 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: This rule should be continued because the federal regulations that are incorporated by reference are still in effect and this rule is reflected in current policy, procedures, and practices of the ORS. In addition, this rule informs the public of the criteria used by ORS to release a passport that has been previously denied.

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

HUMAN SERVICES  
RECOVERY SERVICES  
515 E 100 S  
SALT LAKE CITY, UT 84102-4211  
or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Casey Cole by phone at 801-741-7523, by FAX at 801-536-8509, or by Internet E-mail at cacole@utah.gov

◆ Jonah Shaw by phone at 801-538-4219, by FAX at 801-538-3942, or by Internet E-mail at jshaw@utah.gov

AUTHORIZED BY: Liesa Stockdale, Director

EFFECTIVE: 12/14/2018

**Human Services, Services for People  
with Disabilities  
R539-10  
Short-Term Limited Waiting List  
Services**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 43434  
FILED: 12/11/2018

**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: The purpose of this rule is to continue to set forth procedures for how the Divisions of Services for People with Disabilities (DSPD) will determine the use of non-lapsing funds to provide short-term, limited services codified in Subsections 62A-5-102(7)(c) and (d).

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: None that justify making notice through the five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Subsection 62A-5-102(7) authorizes and requires that DSPD provide one-time funded services. Rule R538-10 details eligibility and selection for participation in the short-term limited waiting list services program. Therefore, this rule should be continued.

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

HUMAN SERVICES  
SERVICES FOR PEOPLE WITH DISABILITIES  
195 N 1950 W 3RD FLR  
SALT LAKE CITY, UT 84116  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Amy Huppi by phone at 801-538-4154, or by Internet E-mail at amyhuppi@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: Ann Williamson, Executive Director

EFFECTIVE: 12/11/2018

**Natural Resources, Water Rights  
R655-13  
Stream Alteration**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 43424  
FILED: 12/07/2018

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 73-3-29 establishes and clarifies the procedures necessary to obtain approval by the state engineer for any project that proposes to alter a natural stream within the state of Utah. Approval does not grant access, authorize trespass, or supersede property rights. Additional procedures may be required to comply with other governing state statute, federal law, federal regulation, or local ordinance.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received in the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is still required for processing and acceptance by the state engineer. Therefore, this rule should be continued.

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

NATURAL RESOURCES  
WATER RIGHTS  
ROOM 220  
1594 W NORTH TEMPLE  
SALT LAKE CITY, UT 84116-3154  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Marianne Burbidge by phone at 801-538-7370, by FAX at 801-538-7467, or by Internet E-mail at marianneburbidge@utah.gov

AUTHORIZED BY: Kent Jones, State Engineer/Director

EFFECTIVE: 12/07/2018

**Transportation, Program Development  
R926-11  
Clean Fuel Vehicle Decal Program**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 43446  
FILED: 12/14/2018

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Sections 41-6a-702 and 72-6-121 authorize this rule, which establishes procedures for regulating access to high occupancy vehicle lanes by vehicles with a clean fuel vehicle decal regardless of the number of occupants.

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 Department of Transportation still has a program that allows the use of high occupancy vehicle lanes by vehicles with a clean fuel vehicle decal regardless of the number of occupants. This rule is still necessary to regulate this program. Therefore, this rule should be continued.

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

TRANSPORTATION  
PROGRAM DEVELOPMENT  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W  
SALT LAKE CITY, UT 84119-5998  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at [cwnewman@utah.gov](mailto:cwnewman@utah.gov)
- ◆ Eileen McCown by phone at 801-965-4030, or by Internet E-mail at [emccown@utah.gov](mailto:emccown@utah.gov)
- ◆ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at [jimpalmer@utah.gov](mailto:jimpalmer@utah.gov)
- ◆ Josh Dangel by Internet E-mail at [jdangel@utah.gov](mailto:jdangel@utah.gov)
- ◆ Linda Hull by phone at 801-965-4253, or by Internet E-mail at [lhull@utah.gov](mailto:lhull@utah.gov)

AUTHORIZED BY: Carlos Braceras, Executive Director

EFFECTIVE: 12/14/2018

Transportation Commission,  
Administration  
**R940-3**

Procedures for Transportation  
Infrastructure Loan Fund Assistance

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 43447

FILED: 12/14/2018

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is enacted under the provisions of Section 72-2-203. The purpose of this rule is to establish procedures and standards for making loans and assistance through the Transportation Infrastructure Loan Fund.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: 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 Department of Transportation is still required to review and approve loans and assistance made through the Transportation Infrastructure Loan Fund. This rule is needed to regulate that process. Therefore, this rule should be continued.

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

TRANSPORTATION COMMISSION  
ADMINISTRATION  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W  
SALT LAKE CITY, UT 84119  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at [cwnewman@utah.gov](mailto:cwnewman@utah.gov)
- ◆ Eileen McCown by phone at 801-965-4030, or by Internet E-mail at [emccown@utah.gov](mailto:emccown@utah.gov)
- ◆ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at [jimpalmer@utah.gov](mailto:jimpalmer@utah.gov)
- ◆ Linda Hull by phone at 801-965-4253, or by Internet E-mail at [lhull@utah.gov](mailto:lhull@utah.gov)

AUTHORIZED BY: Carlos Braceras, Executive Director

EFFECTIVE: 12/14/2018

**End of the Five-Year Notices of Review and Statements of Continuation Section**



## NOTICES OF RULE EFFECTIVE DATES

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State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

**NOTICES OF EFFECTIVE DATE** are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

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### Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal & Reenact

REP = Repeal

### Commerce

Occupational and Professional Licensing

No. 43249 (AMD): R156-15. Health Facility Administrator Act Rule

Published: 11/01/2018

Effective: 12/10/2018

No. 43250 (AMD): R156-20a-302a. Qualifications for Licensure - Education Requirements

Published: 11/01/2018

Effective: 12/10/2018

No. 43251 (AMD): R156-78B. Prelitigation Panel Review Rule

Published: 11/01/2018

Effective: 12/10/2018

### Real Estate

No. 43123 (AMD): R162-2e-205. Division Service Fees -- AMC Registry Fee

Published: 08/15/2018

Effective: 12/12/2018

No. 43123 (CPR): R162-2e-205. Division Service Fees -- AMC Registry Fee

Published: 11/01/2018

Effective: 12/12/2018

### Education

Administration

No. 43273 (NEW): R277-301. Educator Licensing

Published: 11/01/2018

Effective: 12/10/2018

No. 43274 (NEW): R277-303. Educator Preparation Programs

Published: 11/01/2018

Effective: 12/10/2018

No. 43272 (AMD): R277-444. Distribution of Money to Arts and Science Organizations

Published: 11/01/2018

Effective: 12/10/2018

No. 43266 (AMD): R277-477. Distributions of Funds from the Trust Earnings Account and Administration of the School LAND Trust Program

Published: 11/01/2018

Effective: 12/10/2018

No. 43267 (AMD): R277-487. Public School Data Confidentiality and Disclosure

Published: 11/01/2018

Effective: 12/10/2018

No. 43271 (AMD): R277-488. Critical Languages and Dual Language Immersion Program

Published: 11/01/2018

Effective: 12/10/2018

No. 43268 (AMD): R277-491. School Community Councils

Published: 11/01/2018

Effective: 12/10/2018

No. 43278 (AMD): R277-496. K-3 Reading Software Licenses

Published: 11/01/2018

Effective: 12/10/2018

No. 43276 (AMD): R277-620. Suicide Prevention Programs

Published: 11/01/2018

Effective: 12/10/2018

Environmental Quality

Drinking Water

No. 43209 (AMD): R309-105-12. Cross Connection Control  
Published: 10/01/2018  
Effective: 01/01/2019

No. 43210 (R&R): R309-305. Certification Rules for  
Backflow Technicians  
Published: 10/01/2018  
Effective: 01/01/2019

Health

Family Health and Preparedness, Children with Special  
Health Care Needs

No. 43226 (AMD): R398-2. Newborn Hearing Screening  
Published: 10/15/2018  
Effective: 12/03/2018

Health Care Financing, Coverage and Reimbursement Policy

No. 43227 (AMD): R414-516. Nursing Facility Non-State  
Government-Owned Upper Payment Limit Quality  
Improvement Program  
Published: 10/15/2018  
Effective: 12/06/2018

Family Health and Preparedness, Emergency Medical  
Services

No. 43257 (AMD): R426-3. Licensure  
Published: 11/01/2018  
Effective: 12/12/2018

No. 43258 (AMD): R426-4. Operations

Published: 11/01/2018  
Effective: 12/12/2018

No. 43259 (NEW): R426-10. Air Ambulance Licensure and  
Operations

Published: 11/01/2018  
Effective: 12/12/2018

Disease Control and Prevention, Laboratory Services

No. 43256 (AMD): R438-15. Newborn Screening  
Published: 11/01/2018  
Effective: 01/01/2019

Natural Resources

Wildlife Resources

No. 43230 (AMD): R657-13. Taking Fish and Crayfish  
Published: 11/01/2018  
Effective: 12/10/2018

Public Safety

Highway Patrol

No. 43104 (AMD): R714-160. Equipment Standards for  
Passenger Vehicle and Light Truck Safety Inspections  
Published: 08/15/2018  
Effective: 12/06/2018

Tax Commission

Auditing

No. 43262 (AMD): R865-19S-85. Sales and Use Tax  
Exemptions for Certain Purchases by a Manufacturing Facility  
Pursuant to Utah Code Ann. Section 59-12-104  
Published: 11/01/2018  
Effective: 12/13/2018

No. 43263 (AMD): R865-19S-121. Sales and Use Tax

Exemptions for Certain Purchases by a Mining Facility  
Pursuant to Utah Code Ann. Section 59-12-104  
Published: 11/01/2018  
Effective: 12/13/2018

No. 43264 (AMD): 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

Published: 11/01/2018  
Effective: 12/13/2018

Property Tax

No. 43261 (AMD): 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  
Published: 11/01/2018  
Effective: 12/13/2018

Transportation

Motor Carrier

No. 43254 (AMD): R909-2. Utah Size and Weight Rule  
Published: 11/01/2018  
Effective: 12/12/2018

Operations, Traffic and Safety

No. 43255 (R&R): R920-30. State Safety Oversight  
Published: 11/01/2018  
Effective: 12/12/2018

**End of the Notices of Rule Effective Dates Section**

**2018 RULES INDEX  
BY AGENCY (CODE NUMBER)  
AND  
BY KEYWORD (SUBJECT)**

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The Rules Index is a cumulative index that reflects all effective changes to Utah's administrative rules. The current Index lists changes made effective from January 2, 2018 through December 14, 2018. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules Index of Changes. Nonsubstantive changes, while not published in the Bulletin, do become part of the Utah Administrative Code (Code) and are included in this Index, as well as 120-Day (Emergency) rules that do not become part of the Code. The rules are indexed by Agency (Code Number) and Keyword (Subject).

**Editor's Note: Due to technical issues, the Keyword Index is not included in this Bulletin.**

Questions regarding the index and the information it contains should be addressed to the Office of Administrative Rules (801-538-3003).

A copy of the **RULES INDEX** is available for public inspection at the Office of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Office's web site (<https://rules.utah.gov/>).

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**RULES INDEX - BY AGENCY (CODE NUMBER)**

**ABBREVIATIONS**

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b>ADMINISTRATIVE SERVICES</b>					
<u>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
R25-10	State Entities' Posting of Financial Information to the Utah Public Notice Website	43403	5YR	11/20/2018	2018-24/43
<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
R37-4	Adjusted Utah Governmental Immunity Act Limitations on Judgments	43236	EMR	10/29/2018	2018-21/137

AGRICULTURE AND FOOD

Administration

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
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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
R68-24	Industrial Hemp Research Pilot Program for Growers	43145	NEW	10/31/2018	2018-17/6
R68-25	Industrial Hemp Research Pilot Program for Processors	43146	NEW	10/31/2018	2018-17/9
R68-26	Industrial Hemp Product Registration and Labeling	43147	NEW	10/31/2018	2018-17/14

Regulatory Services

R70-630	Water Vending Machine	43449	5YR	12/17/2018	Not Printed
R70-940	Standards and Testing of Motor Fuel	42422	R&R	02/22/2018	2018-2/6

ALCOHOLIC BEVERAGE CONTROL

Administration

R81-1-11	Multiple-Licensed Facility Storage and Service	43336	AMD	12/24/2018	2018-22/6
R81-1-24	Responsible Alcohol Service Plan	43337	REP	12/24/2018	2018-22/8
R81-1-25	Sexually-Oriented Entertainers and Stage Approvals	43338	AMD	12/24/2018	2018-22/10
R81-1-27	Label Approvals	43339	AMD	12/24/2018	2018-22/12
R81-4-4	Verification of Proof of Age by Applicable Licensees	43340	AMD	12/24/2018	2018-22/15
R81-4A	Restaurant Liquor Licenses	43341	AMD	12/24/2018	2018-22/17
R81-4C	Limited Restaurant Licenses	43057	5YR	07/03/2018	2018-15/100
R81-4C	Limited Restaurant Licenses	43342	AMD	12/24/2018	2018-22/21
R81-4D	On-Premise Banquet License	43058	5YR	07/03/2018	2018-15/101
R81-4E	Resort Licenses	43344	AMD	12/24/2018	2018-22/25
R81-5	Club Licenses	43345	AMD	12/24/2018	2018-22/29
R81-7-5	Additional Consideration for Event Permits	43349	NSC	11/13/2018	Not Printed
R81-10	Off-Premise Beer Retailers	42931	5YR	05/23/2018	2018-12/44
R81-10	Off-Premise Beer Retailers	43348	AMD	12/24/2018	2018-22/33
R81-10A-2	Licensing	43346	AMD	12/24/2018	2018-22/36
R81-10C	Beer-Only Restaurant Licenses	43343	AMD	12/24/2018	2018-22/37
R81-10D-6	Age Verification - Taverns	43347	AMD	12/24/2018	2018-22/40

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

RULES INDEX

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  
 R152-21 Credit Services Organizations Act Rule 43280 5YR 10/16/2018 2018-22/169  
 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

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  
 R156-1 General Rule of the Division of Occupational and Professional Licensing 43188 AMD 11/08/2018 2018-19/4  
 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  
 R156-15 Health Facility Administrator Act Rule 43249 AMD 12/10/2018 2018-21/4  
 R156-15-308 License By Endorsement 43433 NSC 12/21/2018 Not Printed  
 R156-20a-302a Qualifications for Licensure - Education Requirements 43250 AMD 12/10/2018 2018-21/9  
 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 2018-21/141  
 R156-44a Nurse Midwife Practice Act Rule 43171 5YR 08/28/2018 2018-18/33  
 R156-46a Hearing Instrument Specialist Licensing Act Rule 43364 5YR 11/08/2018 2018-23/125  
 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
R156-78B	Prelitigation Panel Review Rule	43251	AMD	12/10/2018	2018-21/12
R156-81	Retired Volunteer Health Care Practitioner Act Rule	43411	5YR	11/27/2018	2018-24/43

Real Estate

R162-2c	Utah Residential Mortgage Practices and Licensing Rules	42809	AMD	07/13/2018	2018-10/27
R162-2e	Appraisal Management Company Administrative Rules	43165	AMD	11/05/2018	2018-18/6
R162-2e-205	Division Service Fees -- AMC Registry Fee	43123	AMD	12/12/2018	2018-16/10
R162-2e-205	Division Service Fees -- AMC Registry Fee	43123	CPR	12/12/2018	2018-21/132
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
R277-106	Utah Professional Practices Advisory Commission Appointment Process	43190	AMD	11/07/2018	2018-19/11
R277-107	Educational Services Outside of Educator's Regular Employment	42910	5YR	05/11/2018	2018-11/57
R277-107	Educational Services Outside of Educator's Regular Employment	42915	AMD	07/09/2018	2018-11/12
R277-108	Annual Assurance of Compliance by Local School Boards	42754	NSC	04/12/2018	Not Printed
R277-108	Annual Assurance of Compliance by Local School Boards	43225	AMD	11/29/2018	2018-20/13
R277-109	Legislative Reporting and Accountability	42755	NSC	04/12/2018	Not Printed
R277-110	Educator Salary Adjustment	42756	NSC	04/12/2018	Not Printed
R277-113	LEA Fiscal and Auditing Policies	42849	EXD	04/24/2018	2018-10/159
R277-113	LEA Fiscal and Auditing Policies	42857	NEW	06/22/2018	2018-10/28
R277-114	Corrective Action and Withdrawal or Reduction of Program Funds	42757	NSC	04/12/2018	Not Printed
R277-116	Audit Procedure	42609	AMD	04/09/2018	2018-5/14
R277-117	Utah State Board of Education Protected Documents	42758	NSC	04/12/2018	Not Printed
R277-119	Discretionary Funds	42759	NSC	04/12/2018	Not Printed
R277-120	Licensing of Material Developed with Public Education Funds	42760	NSC	04/12/2018	Not Printed
R277-121	Board Waiver of Administrative Rules	42761	NSC	04/12/2018	Not Printed
R277-122	Board of Education Procurement	42608	AMD	04/09/2018	2018-5/19

RULES INDEX

R277-122	Board of Education Procurement	42780	NSC	04/13/2018	Not Printed
R277-210	Utah Professional Practices Advisory Commission (UPPAC), Definitions	42771	NSC	04/13/2018	Not Printed
R277-211	Utah Professional Practices Advisory Commission (UPPAC), Rules of Procedure: Notification to Educators, Complaints and Final Disciplinary Actions	42772	NSC	04/13/2018	Not Printed
R277-212	UPPAC Hearing Procedures and Reports	42773	NSC	04/13/2018	Not Printed
R277-213	Request for Licensure Reinstatement and Reinstatement Procedures	42774	NSC	04/13/2018	Not Printed
R277-214	Utah Professional Practices Advisory Commission Criminal Background Review	42775	NSC	04/13/2018	Not Printed
R277-215	Utah Professional Practices Advisory Commission (UPPAC), Disciplinary Rebuttable Presumptions	42776	NSC	04/13/2018	Not Printed
R277-216	Surrender of License with UPPAC Investigation Pending	42777	NSC	04/13/2018	Not Printed
R277-301	Educator Licensing	43273	NEW	12/10/2018	2018-21/16
R277-303	Educator Preparation Programs	43274	NEW	12/10/2018	2018-21/21
R277-400	School Facility Emergency and Safety	42878	NSC	05/17/2018	Not Printed
R277-400	School Facility Emergency and Safety	43138	AMD	10/16/2018	2018-17/32
R277-401	Child Abuse-Neglect Reporting by Education Personnel	42879	NSC	05/17/2018	Not Printed
R277-402	School Readiness Initiative	42880	NSC	05/17/2018	Not Printed
R277-403	Student Reading Proficiency and Notice to Parents	42881	NSC	05/17/2018	Not Printed
R277-403	Student Reading Proficiency and Notice to Parents	42963	REP	08/07/2018	2018-13/3
R277-404	Requirements for Assessments of Student Achievement	42479	AMD	03/14/2018	2018-3/5
R277-406	K-3 Reading Improvement Program and the State Reading Goal	42882	NSC	05/17/2018	Not Printed
R277-406	K-3 Reading Improvement Program and the State Reading Goal	42956	5YR	06/07/2018	2018-13/139
R277-406	K-3 Reading Improvement Program and the State Reading Goal	42997	AMD	08/07/2018	2018-13/5
R277-407	School Fees	42883	NSC	05/17/2018	Not Printed
R277-409	Public School Membership in Associations	42884	NSC	05/17/2018	Not Printed
R277-410	Accreditation of Schools	42885	NSC	05/17/2018	Not Printed
R277-411	School District Sponsored School Seminars on Youth Protection-Related Issues	42962	REP	08/07/2018	2018-13/8
R277-412	State Capitol Visit Program	42886	NSC	05/17/2018	Not Printed
R277-412	State Capitol Visit Program	43194	5YR	09/13/2018	2018-19/98
R277-415	School Nurses Matching Funds	42480	NEW	03/14/2018	2018-3/11
R277-417	Prohibiting LEAs and Third Party Providers from Offering Incentives or Disbursement for Enrollment or Participation	42887	NSC	05/17/2018	Not Printed
R277-418	Distance, Blended, Online, or Competency Based Learning Program	42888	NSC	05/17/2018	Not Printed
R277-419	Pupil Accounting	42889	NSC	05/17/2018	Not Printed
R277-419-2	Definitions	43132	AMD	10/16/2018	2018-17/38
R277-420	Aiding Financially Distressed School Districts	42890	NSC	05/17/2018	Not Printed
R277-421	Out-of-State Tuition Reimbursement	42891	NSC	05/17/2018	Not Printed
R277-422	State Supported Voted Local Levy, Board Local Levy and Reading Improvement Program	42892	NSC	05/17/2018	Not Printed
R277-424	Indirect Costs for State Programs	42893	NSC	05/17/2018	Not Printed
R277-426	Definition of Private and Non-Profit Schools for Federal Program Services	42894	NSC	05/17/2018	Not Printed
R277-433	Disposal of Textbooks in the Public Schools	42895	NSC	05/17/2018	Not Printed
R277-436	Gang Prevention and Intervention Programs in the Schools	42907	5YR	05/11/2018	2018-11/57
R277-436	Gang Prevention and Intervention Programs in the Schools	42916	AMD	07/09/2018	2018-11/21
R277-437	Student Enrollment Options	42896	NSC	05/17/2018	Not Printed
R277-437	Student Enrollment Options	43240	5YR	10/05/2018	2018-21/142
R277-438	Dual Enrollment	42897	NSC	05/17/2018	Not Printed

R277-444	Distribution of Money to Arts and Science Organizations	42898	NSC	05/17/2018	Not Printed
R277-444	Distribution of Money to Arts and Science Organizations	43272	AMD	12/10/2018	2018-21/24
R277-445	Classifying Small Schools as Necessarily Existent	42899	NSC	05/17/2018	Not Printed
R277-454	Construction Management of School Building Projects	42900	NSC	05/17/2018	Not Printed
R277-459	Teacher Supplies and Materials Appropriation	42901	NSC	05/17/2018	Not Printed
R277-460	Distribution of Substance Abuse Prevention Account	42902	NSC	05/17/2018	Not Printed
R277-461	Elementary School Counselor Grant Program	42923	NEW	07/09/2018	2018-11/25
R277-462	Comprehensive Counseling and Guidance Program	42903	NSC	05/17/2018	Not Printed
R277-463	Class Size Average and Pupil-Teacher Ratio Reporting	42996	AMD	08/07/2018	2018-13/10
R277-468	Parent/Guardian Review of Public Education Curriculum and Review of Complaint Process	42904	NSC	05/17/2018	Not Printed
R277-469	Instructional Materials Commission Operating Procedures	42322	AMD	01/09/2018	2017-23/4
R277-469	Instructional Materials Commission Operating Procedures	43018	NSC	07/06/2018	Not Printed
R277-470	Charter Schools - General Provisions	43082	5YR	07/13/2018	2018-15/101
R277-470	Charter Schools - General Provisions	42991	AMD	08/07/2018	2018-13/13
R277-471	School Construction Oversight, Inspections, Training and Reporting	43019	NSC	07/06/2018	Not Printed
R277-472	Charter School Student Enrollment and Transfers and School District Capacity Information	43020	NSC	07/06/2018	Not Printed
R277-474	School Instruction and Human Sexuality	43021	NSC	07/06/2018	Not Printed
R277-474	School Instruction and Human Sexuality	43202	AMD	11/07/2018	2018-19/18
R277-475	Patriotic, Civic and Character Education	43022	NSC	07/06/2018	Not Printed
R277-477	Distributions of Funds from the Interest and Dividends Account and Administration of the School LAND Trust Program	42800	AMD	06/07/2018	2018-9/13
R277-477	Distributions of Funds from the Trust Earnings Account and Administration of the School LAND Trust Program	43266	AMD	12/10/2018	2018-21/29
R277-479	Funding for Charter School Students With Disabilities on an IEP	43023	NSC	07/06/2018	Not Printed
R277-480	Charter School Revolving Account	43025	NSC	07/06/2018	Not Printed
R277-481	Charter School Oversight, Monitoring and Appeals	43083	5YR	07/13/2018	2018-15/102
R277-481	Charter School Oversight, Monitoring and Appeals	42992	AMD	08/07/2018	2018-13/16
R277-482	Charter School Timelines and Approval Processes	42610	AMD	04/09/2018	2018-5/22
R277-485	Loss of Enrollment	43026	NSC	07/06/2018	Not Printed
R277-486	Professional Staff Cost Program	43027	NSC	07/06/2018	Not Printed
R277-487	Public School Data Confidentiality and Disclosure	43267	AMD	12/10/2018	2018-21/35
R277-488	Critical Languages and Dual Language Immersion Program	43028	NSC	07/06/2018	Not Printed
R277-488	Critical Languages and Dual Language Immersion Program	43271	AMD	12/10/2018	2018-21/41
R277-489	Kindergarten Entry and Exit Assessment - Early Intervention Program	43029	NSC	07/06/2018	Not Printed
R277-490	Beverly Taylor Sorenson Elementary Arts Learning Program (BTSALP)	42471	5YR	01/12/2018	2018-3/70
R277-490	Beverly Taylor Sorenson Elementary Arts Learning Program (BTSALP)	42481	AMD	03/14/2018	2018-3/13
R277-490	Beverly Taylor Sorenson Elementary Arts Learning Program (BTSALP)	43030	NSC	07/06/2018	Not Printed
R277-491	School Community Councils	43268	AMD	12/10/2018	2018-21/44
R277-491-4	School Community Council Principal Responsibilities	42323	AMD	01/09/2018	2017-23/9

RULES INDEX

R277-492	Utah Science Technology and Research Initiative (USTAR) Centers Program	43084	5YR	07/13/2018	2018-15/102
R277-492	Utah Science Technology and Research Initiative (USTAR) Centers Program	42998	AMD	08/07/2018	2018-13/20
R277-493	Kindergarten Supplemental Enrichment Program	42803	AMD	06/07/2018	2018-9/18
R277-494	Charter, Online, Home, and Private School Student Participation in Extracurricular or Co-curricular School Activities	43031	NSC	07/06/2018	Not Printed
R277-495	Required Policies for Electronic Devices in Public Schools	43032	NSC	07/06/2018	Not Printed
R277-495	Required Policies for Electronic Devices in Public Schools	43426	5YR	12/07/2018	Not Printed
R277-496	K-3 Reading Software Licenses	43033	NSC	07/06/2018	Not Printed
R277-496	K-3 Reading Software Licenses	43278	AMD	12/10/2018	2018-21/47
R277-497	School Grading System	42999	AMD	08/07/2018	2018-13/24
R277-498	Grant for Math Teaching Training	43034	NSC	07/06/2018	Not Printed
R277-499	Seal of Biliteracy	43035	NSC	07/06/2018	Not Printed
R277-500	Educator Licensing Renewal, Timelines, and Required Fingerprint Background Checks	43296	NSC	10/25/2018	Not Printed
R277-502	Educator Licensing and Data Retention	42697	AMD	05/08/2018	2018-7/19
R277-503	Licensing Routes	43297	NSC	10/25/2018	Not Printed
R277-504	Early Childhood, Elementary, Secondary, Special Education (K-12), and Preschool Special Education (Birth-Age 5) Licensure	43298	NSC	10/25/2018	Not Printed
R277-505	Education Leadership License Areas of Concentration and Programs	43050	NSC	07/06/2018	Not Printed
R277-506	School Psychologists, School Social Workers, School Counselors, Communication Disorders (Audiologists), Speech-Language Pathologists, and Speech-Language Technicians Licenses and Programs	43051	NSC	07/06/2018	Not Printed
R277-507	Driver Education Endorsement	43049	NSC	07/06/2018	Not Printed
R277-508	Employment of Substitute Teachers	42762	5YR	04/02/2018	2018-8/145
R277-508	Employment of Substitute Teachers	42698	AMD	05/08/2018	2018-7/24
R277-508	Employment of Substitute Teachers	43299	NSC	10/25/2018	Not Printed
R277-509	Licensure of Student Teachers and Interns	43052	NSC	07/06/2018	Not Printed
R277-510	Educator Licensing - Highly Qualified Assignment	43300	NSC	10/25/2018	Not Printed
R277-510	Educator Licensing - Highly Qualified Assignment	43193	REP	11/07/2018	2018-19/22
R277-511	Academic Pathway to Teaching (APT) Level 1 License	43301	NSC	10/25/2018	Not Printed
R277-512	Online Licensure	43302	NSC	10/25/2018	Not Printed
R277-513	Teacher Leader	43303	NSC	10/25/2018	Not Printed
R277-514	Deaf Education in Public Schools	43304	NSC	10/25/2018	Not Printed
R277-515	Utah Educator Professional Standards	42324	AMD	01/09/2018	2017-23/11
R277-515	Utah Educator Professional Standards	43305	NSC	10/25/2018	Not Printed
R277-516	Professional Standards and Training for Non-licensed Employees and Volunteers	43306	NSC	10/25/2018	Not Printed
R277-517	LEA Codes of Conduct	43307	NSC	10/25/2018	Not Printed
R277-518	Career and Technical Education Licenses	42618	5YR	02/26/2018	2018-6/47
R277-518	Career and Technical Education Licenses	43308	NSC	10/25/2018	Not Printed
R277-519	Educator Professional Learning Procedures and Credit	42325	AMD	01/09/2018	2017-23/16
R277-519	Educator Professional Learning Procedures and USBE Credit	43309	NSC	10/25/2018	Not Printed
R277-520	Appropriate Licensing and Assignment of Teachers	43310	NSC	10/25/2018	Not Printed
R277-521	National Board Certification Reimbursement	42699	AMD	05/08/2018	2018-7/26
R277-522	Entry Years Enhancements (EYE) for Quality Teaching - Level 1 Utah Teachers	43311	NSC	10/25/2018	Not Printed
R277-523	Teacher Salary Supplement Program	42804	NEW	06/07/2018	2018-9/21
R277-524	Paraprofessional/Paraeducator Programs, Assignments, and Qualifications	43312	NSC	10/25/2018	Not Printed
R277-525	Special Educator Stipends	42957	5YR	06/07/2018	2018-13/139
R277-525	Special Educator Stipends	42993	AMD	08/07/2018	2018-13/28

R277-526	Paraeducator to Teacher Scholarship Program	43313	NSC	10/25/2018	Not Printed
R277-527	International Guest Teachers	43195	5YR	09/13/2018	2018-19/98
R277-527	International Guest Teachers	43314	NSC	10/25/2018	Not Printed
R277-527	International Guest Teachers	43201	AMD	11/07/2018	2018-19/25
R277-528	Use of Public Education Job Enhancement Program (PEJEP) Funds	43315	NSC	10/25/2018	Not Printed
R277-530	Utah Effective Educator Standards	43316	NSC	10/25/2018	Not Printed
R277-530-3	Board Expectations for Effective Teaching, Educational Leadership, and Educational School Counselor Standards	42439	NSC	01/25/2018	Not Printed
R277-531	Public Educator Evaluation Requirements (PEER)	43317	NSC	10/25/2018	Not Printed
R277-532	Local Board Policies for Evaluation of Non-Licensed Public Education Employees (Classified Employees)	42763	5YR	04/02/2018	2018-8/146
R277-532	Local Board Policies for Evaluation of Non-Licensed Public Education Employees (Classified Employees)	42700	AMD	05/08/2018	2018-7/29
R277-533	District Educator Evaluation Systems	42806	AMD	06/07/2018	2018-9/23
R277-600	Student Transportation Standards and Procedures	43060	NSC	07/26/2018	Not Printed
R277-601	Standards for Utah School Buses and Operations	43061	NSC	07/26/2018	Not Printed
R277-602	Special Needs Scholarships - Funding and Procedures	43062	NSC	07/26/2018	Not Printed
R277-602	Special Needs Scholarships - Funding and Procedures	43140	AMD	10/16/2018	2018-17/42
R277-603	Autism Awareness Restricted Account Distribution	43063	NSC	07/26/2018	Not Printed
R277-605	Coaching Standards and Athletic Clinics	43064	NSC	07/26/2018	Not Printed
R277-607	Truancy Prevention	43065	NSC	07/26/2018	Not Printed
R277-608	Prohibition of Corporal Punishment in Utah's Public Schools	43066	NSC	07/26/2018	Not Printed
R277-609	Standards for LEA Discipline Plans and Emergency Safety Interventions	42701	AMD	05/08/2018	2018-7/31
R277-610	Released-Time Classes and Public Schools	42621	5YR	02/26/2018	2018-6/47
R277-610	Released-Time Classes and Public Schools	42611	AMD	04/09/2018	2018-5/26
R277-611	Certified Volunteer Instructors and Material Approval Requirements and Process for Firearm Safety in the Public Schools	43070	NSC	07/26/2018	Not Printed
R277-612	Foreign Exchange Students	43071	NSC	07/26/2018	Not Printed
R277-613	LEA Bullying, Cyber-bullying, Hazing and Harassment Policies and Training	42921	R&R	07/09/2018	2018-11/27
R277-613	LEA Bullying, Cyber-bullying, Hazing and Harassment Policies and Training	43131	5YR	08/02/2018	2018-17/71
R277-614	Athletes and Students with Head Injuries	42908	5YR	05/11/2018	2018-11/58
R277-614	Athletes and Students with Head Injuries	42917	AMD	07/09/2018	2018-11/34
R277-615	Standards and Procedures for Student Searches	43072	NSC	07/26/2018	Not Printed
R277-616	Education for Homeless and Emancipated Students	43073	NSC	07/26/2018	Not Printed
R277-617	Smart School Technology Program	42958	5YR	06/07/2018	2018-13/140
R277-617	Smart School Technology Program	42994	AMD	08/07/2018	2018-13/30
R277-619	Student Leadership Skills Development	43085	5YR	07/13/2018	2018-15/103
R277-619	Student Leadership Skills Development	42995	AMD	08/07/2018	2018-13/33
R277-620	Suicide Prevention Programs	43239	5YR	10/05/2018	2018-21/142
R277-620	Suicide Prevention Programs	43276	AMD	12/10/2018	2018-21/49
R277-621	District of Residence	42326	NEW	01/09/2018	2017-23/17
R277-700	The Elementary and Secondary School General Core	42482	AMD	03/14/2018	2018-3/16
R277-702	Procedures for the Utah High School Completion Diploma	43074	NSC	07/26/2018	Not Printed
R277-703	Centennial Scholarship for Early Graduation	43153	NSC	08/31/2018	Not Printed
R277-704	Financial and Economic Literacy: Integration into Core Curriculum and Financial and Economic Literacy Student Passports	43154	NSC	08/31/2018	Not Printed

RULES INDEX

R277-704	Financial and Economic Literacy: Integration into Core Curriculum and Financial and Economic Literacy Student Passports	43357	5YR	11/05/2018	2018-23/126
R277-705	Secondary School Completion and Diplomas	42394	AMD	02/28/2018	2018-1/5
R277-705	Secondary School Completion and Diplomas	43155	NSC	08/31/2018	Not Printed
R277-706	Public Education Regional Service Centers	43156	NSC	08/31/2018	Not Printed
R277-706	Public Education Regional Service Centers	43291	NSC	10/25/2018	Not Printed
R277-708	Enhancement for At-Risk Students	42483	AMD	03/14/2018	2018-3/23
R277-708	Enhancement for At-Risk Students	43292	NSC	10/25/2018	Not Printed
R277-708	Enhancement for At-Risk Students	43191	AMD	11/07/2018	2018-19/27
R277-709	Education Programs Serving Youth in Custody	42619	5YR	02/26/2018	2018-6/48
R277-709	Education Programs Serving Youth in Custody	42613	AMD	04/09/2018	2018-5/34
R277-710	Intergenerational Poverty Interventions in Public Schools	43283	NSC	10/25/2018	Not Printed
R277-711	High Quality School Readiness Expansion	43284	NSC	10/25/2018	Not Printed
R277-712	Competency-based Grant Programs	43285	NSC	10/25/2018	Not Printed
R277-713	Concurrent Enrollment of High School Students in College Courses	43286	NSC	10/25/2018	Not Printed
R277-714	Dissemination of Information About Juvenile Offenders	43287	NSC	10/25/2018	Not Printed
R277-715	Out-of-School Time Program Standards	43288	NSC	10/25/2018	Not Printed
R277-716	Alternative Language Services for Utah Students	43289	NSC	10/25/2018	Not Printed
R277-717	High School Course Grading Requirements	42484	AMD	03/14/2018	2018-3/26
R277-717	High School Course Grading Requirements	43290	NSC	10/25/2018	Not Printed
R277-718	Out-of-School Time Program Quality Improvement Grants	43139	NEW	10/16/2018	2018-17/49
R277-719	Standards for Selling Foods Outside of the Reimbursable Meal in Schools	42620	5YR	02/26/2018	2018-6/48
R277-719	Standards for Selling Foods Outside of the Reimbursable Meal in Schools	42614	AMD	04/09/2018	2018-5/39
R277-724	Criteria for Sponsors Recruiting Day Care Facilities in the Child and Adult Care Food Program	43293	NSC	10/25/2018	Not Printed
R277-725	Electronic High School	42805	REP	06/07/2018	2018-9/33
R277-733	Adult Education Programs	43294	NSC	10/25/2018	Not Printed
R277-735	Corrections Education Programs	43295	NSC	10/25/2018	Not Printed
R277-746	Driver Education Programs for Utah Schools	42764	5YR	04/02/2018	2018-8/146
R277-746	Driver Education Programs for Utah Schools	42702	AMD	05/08/2018	2018-7/36
R277-750	Education Programs for Students with Disabilities	43120	NSC	08/01/2018	Not Printed
R277-751	Special Education Extended School Year (ESY)	42765	5YR	04/02/2018	2018-8/147
R277-751	Special Education Extended School Year (ESY)	42703	AMD	05/08/2018	2018-7/38
R277-752	Special Education Intensive Services Fund	43119	NSC	08/01/2018	Not Printed
R277-753	LEA Reporting Requirements for Section 504 Students	43118	NSC	08/01/2018	Not Printed
R277-800	Utah Schools for the Deaf and the Blind	43117	NSC	08/01/2018	Not Printed
R277-801	Services for Students who are Deaf, Hard of Hearing, Blind, Visually Impaired, and Deafblind	42801	AMD	06/07/2018	2018-9/35
R277-911	Secondary Career and Technical Education	43108	NSC	08/01/2018	Not Printed
R277-914	Career and Technical Student Organizations	43109	NSC	08/01/2018	Not Printed
R277-915	Work-based Learning Programs	43110	NSC	08/01/2018	Not Printed
R277-916	College and Career Awareness	43111	NSC	08/01/2018	Not Printed
R277-920	Implementation of the School Turnaround and Leadership Development Act	42327	AMD	01/09/2018	2017-23/19
R277-920	School Improvement - Implementation of the School Turnaround and Leadership Development Act	43112	NSC	08/01/2018	Not Printed
R277-921	Strengthening College and Career Readiness Program	43113	NSC	08/01/2018	Not Printed
R277-922	Digital Teaching and Learning Grant Program	43114	NSC	08/01/2018	Not Printed
R277-923	American Indian and Alaskan Native Education State Plan Pilot Programs	43115	NSC	08/01/2018	Not Printed

R277-924	Partnerships for Student Success Grant Program	43116	NSC	08/01/2018	Not Printed
ENVIRONMENTAL QUALITY					
<u>Administration</u>					
R305-4	Clean Fuels and Vehicle Technology Fund Grand and Loan Program	42979	5YR	06/13/2018	2018-13/140
R305-7	Administrative Procedures	42781	AMD	11/01/2018	2018-9/40
R305-7	Administrative Procedures	42781	CPR	11/01/2018	2018-17/66
<u>Air Quality</u>					
R307-101	General Requirements	43367	5YR	11/13/2018	2018-23/126
R307-101-2	Definitions	42676	AMD	08/02/2018	2018-7/41
R307-101-2	Definitions	42676	CPR	08/02/2018	2018-13/118
R307-101-3	Version of Code of Federal Regulations Incorporated by Reference	42433	AMD	05/23/2018	2018-3/28
R307-102	General Requirements: Broadly Applicable Requirements	42546	EXT	01/31/2018	2018-4/111
R307-102	General Requirements: Broadly Applicable Requirements	42639	5YR	03/08/2018	2018-7/161
R307-107	General Requirements: Breakdowns	42640	5YR	03/08/2018	2018-7/162
R307-110-12	Section IX, Control Measures for Area and Point Sources, Part C, Carbon Monoxide	42673	AMD	06/07/2018	2018-7/49
R307-115	General Conformity	42548	EXT	01/31/2018	2018-4/111
R307-115	General Conformity	42641	5YR	03/08/2018	2018-7/163
R307-123	General Requirements: Clean Fuels and Vehicle Technology Grant and Loan Program	42642	5YR	03/08/2018	2018-7/163
R307-150	Emission Inventories	42107	AMD	03/05/2018	2017-19/55
R307-150	Emission Inventories	42107	CPR	03/05/2018	2018-3/46
R307-150	Emission Inventories	43368	5YR	11/13/2018	2018-23/127
R307-170	Continuous Emission Monitoring Program	42550	EXT	01/31/2018	2018-4/111
R307-170	Continuous Emission Monitoring Program	42643	5YR	03/08/2018	2018-7/164
R307-208	Outdoor Wood Boilers	42644	5YR	03/08/2018	2018-7/164
R307-210	Standards of Performance for New Stationary Sources	42434	AMD	05/23/2018	2018-3/29
R307-214	National Emission Standards for Hazardous Air Pollutants	42435	AMD	05/23/2018	2018-3/30
R307-220	Emission Standards: Plan for Designated Facilities	42553	EXT	01/31/2018	2018-4/111
R307-220	Emission Standards: Plan for Designated Facilities	42645	5YR	03/08/2018	2018-7/165
R307-221	Emission Standards: Emission Controls for Existing Municipal Solid Waste Landfills	42552	EXT	01/31/2018	2018-4/112
R307-221	Emission Standards: Emission Controls for Existing Municipal Solid Waste Landfills	42646	5YR	03/08/2018	2018-7/166
R307-222	Emission Standards: Existing Incinerators for Hospital, Medical, Infectious Waste	42532	EXT	01/31/2018	2018-4/112
R307-222	Emission Standards: Existing Incinerators for Hospital, Medical, Infectious Waste	42647	5YR	03/08/2018	2018-7/166
R307-223	Emission Standards: Existing Small Municipal Waste Combustion Units	42533	EXT	01/31/2018	2018-4/112
R307-223	Emission Standards: Existing Small Municipal Waste Combustion Units	42648	5YR	03/08/2018	2018-7/167
R307-224	Mercury Emission Standards: Coal-Fired Electric Generating Units	42534	EXT	01/31/2018	2018-4/112
R307-224	Mercury Emission Standards: Coal-Fired Electric Generating Units	42649	5YR	03/08/2018	2018-7/167
R307-250	Western Backstop Sulfur Dioxide Trading Program	42535	EXT	01/31/2018	2018-4/113
R307-250	Western Backstop Sulfur Dioxide Trading Program	42650	5YR	03/08/2018	2018-7/168
R307-303	Commercial Cooking	42651	5YR	03/08/2018	2018-7/168
R307-312	Aggregate Processing Operations for PM2.5 Nonattainment Areas	42536	EXT	01/31/2018	2018-4/113
R307-312	Aggregate Processing Operations for PM2.5 Nonattainment Areas	42652	5YR	03/08/2018	2018-7/169

RULES INDEX

R307-342	Adhesives and Sealants	42653	5YR	03/08/2018	2018-7/170
R307-343-4	VOC Content Limits	42938	NSC	06/12/2018	Not Printed
R307-344	Paper, Film, and Foil Coatings	42537	EXT	01/31/2018	2018-4/113
R307-344	Paper, Film, and Foil Coatings	42654	5YR	03/08/2018	2018-7/170
R307-345	Fabric and Vinyl Coatings	42538	EXT	01/31/2018	2018-4/113
R307-345	Fabric and Vinyl Coatings	42655	5YR	03/08/2018	2018-7/171
R307-346	Metal Furniture Surface Coatings	42539	EXT	01/31/2018	2018-4/114
R307-346	Metal Furniture Surface Coatings	42656	5YR	03/08/2018	2018-7/171
R307-347	Large Appliance Surface Coatings	42541	EXT	01/31/2018	2018-4/114
R307-347	Large Appliance Surface Coatings	42657	5YR	03/08/2018	2018-7/172
R307-348	Magnet Wire Coatings	42543	EXT	01/31/2018	2018-4/114
R307-348	Magnet Wire Coatings	42659	5YR	03/08/2018	2018-7/172
R307-349	Flat Wood Panel Coatings	42540	EXT	01/31/2018	2018-4/114
R307-349	Flat Wood Paneling Coatings	42660	5YR	03/08/2018	2018-7/173
R307-350	Miscellaneous Metal Parts and Products Coatings	42542	EXT	01/31/2018	2018-4/114
R307-350	Miscellaneous Metal Parts and Products Coatings	42661	5YR	03/08/2018	2018-7/174
R307-351	Graphic Arts	42544	EXT	01/31/2018	2018-4/115
R307-351	Graphic Arts	42662	5YR	03/08/2018	2018-7/174
R307-352	Metal Container, Closure, and Coil Coatings	42545	EXT	01/31/2018	2018-4/115
R307-352	Metal Container, Closure, and Coil Coatings	42663	5YR	03/08/2018	2018-7/175
R307-353	Plastic Parts Coatings	42664	5YR	03/08/2018	2018-7/176
R307-354	Automotive Refinishing Coatings	42547	EXT	01/31/2018	2018-4/115
R307-354	Automotive Refinishing Coatings	42665	5YR	03/08/2018	2018-7/176
R307-355	Control of Emissions from Aerospace Manufacture and Rework Facilities	42549	EXT	01/31/2018	2018-4/115
R307-355	Aerospace Manufacture and Rework Facilities Exemptions	42666	5YR	03/08/2018	2018-7/177
R307-355-3	Exemptions	42370	AMD	03/08/2018	2018-1/10
R307-356	Appliance Pilot Light	42430	EXT	01/02/2018	2018-2/59
R307-356	Appliance Pilot Light	42667	5YR	03/08/2018	2018-7/177
R307-357	Consumer Products	42668	5YR	03/08/2018	2018-7/178
R307-361	Architectural Coatings	43238	5YR	10/04/2018	2018-21/143
R307-401	Permit: New and Modified Sources	42108	AMD	03/05/2018	2017-19/58
R307-401	Permit: New and Modified Sources	42108	CPR	03/05/2018	2018-3/49
R307-401	Permit: New and Modified Sources	42574	NSC	03/05/2018	Not Printed
R307-403	Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas	42675	AMD	08/02/2018	2018-7/50
R307-403	Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas	42675	CPR	08/02/2018	2018-13/126
R307-405	Permits: Major Sources in Attainment or Unclassified Areas (PSD)	43369	5YR	11/13/2018	2018-23/127
R307-504	Oil and Gas Industry: Tank Truck Loading	42109	AMD	03/05/2018	2017-19/70
R307-504	Oil and Gas Industry: Tank Truck Loading	42109	CPR	03/05/2018	2018-3/56
R307-505	Oil and Gas Industry: Registration Requirements	42110	NEW	01/26/2018	2017-19/71
R307-506	Oil and Gas Industry: Storage Vessels	42111	NEW	03/05/2018	2017-19/73
R307-506	Oil and Gas Industry: Storage Vessels	42111	CPR	03/05/2018	2018-3/58
R307-507	Oil and Gas Industry: Dehydrators	42112	NEW	03/05/2018	2017-19/75
R307-507	Oil and Gas Industry: Dehydrators	42112	CPR	03/05/2018	2018-3/60
R307-508	Oil and Gas Industry: VOC Control Devices	42113	NEW	03/05/2018	2017-19/77
R307-508	Oil and Gas Industry: VOC Control Devices	42113	CPR	03/05/2018	2018-3/62
R307-509	Oil and Gas Industry: Leak Detection and Repair Requirements	42114	NEW	03/05/2018	2017-19/79
R307-509	Oil and Gas Industry: Leak Detection and Repair Requirements	42114	CPR	03/05/2018	2018-3/63
R307-510	Oil and Gas Industry: Natural Gas Engine Requirements	42115	NEW	03/05/2018	2017-19/81
R307-510	Oil and Gas Industry: Natural Gas Engine Requirements	42115	CPR	03/05/2018	2018-3/65
R307-510	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
R307-840	Lead-Based Paint Program Purpose, Applicability, and Definitions	43370	5YR	11/13/2018	2018-23/128



Drinking Water

R309-105-12	Cross Connection Control	43209	AMD	01/01/2019	2018-19/34
R309-305	Certification Rules for Backflow Technicians	43210	R&R	01/01/2019	2018-19/38

Waste Management and Radiation Control, Radiation

R313-25	License Requirements for Land Disposal of Radioactive Waste – General Provisions	42204	AMD	04/09/2018	2017-21/83
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

Waste Management and Radiation Control, Waste Management

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
R315-301-7	Self-Inspection of Solid Waste Management Facility	43207	AMD	11/09/2018	2018-19/46
R315-302	Solid Waste Facility Location Standards, General Facility Requirements, and Closure Requirements	42453	5YR	01/12/2018	2018-3/72
R315-303	Landfilling Standards	42454	5YR	01/12/2018	2018-3/72
R315-304	Industrial Solid Waste Landfill Requirements	42455	5YR	01/12/2018	2018-3/73
R315-305	Class IV and VI Landfill Requirements	42456	5YR	01/12/2018	2018-3/74
R315-306	Incinerator Standards	42457	5YR	01/12/2018	2018-3/74
R315-307	Landtreatment Disposal Standards	42458	5YR	01/12/2018	2018-3/75
R315-308	Ground Water Monitoring Requirements	42459	5YR	01/12/2018	2018-3/75
R315-309	Financial Assurance	42460	5YR	01/12/2018	2018-3/76
R315-310	Permit Requirements for Solid Waste Facilities	42461	5YR	01/12/2018	2018-3/77
R315-311	Permit Approval For Solid Waste Disposal, Waste Tire Storage, Energy Recovery, And Incinerator Facilities	42462	5YR	01/12/2018	2018-3/77
R315-312	Recycling and Composting Facility Standards	42463	5YR	01/12/2018	2018-3/78
R315-313	Transfer Stations and Drop Box Facilities	42464	5YR	01/12/2018	2018-3/79
R315-314	Facility Standards for Piles Used for Storage and Treatment	42465	5YR	01/12/2018	2018-3/79
R315-315	Special Waste Requirements	42466	5YR	01/12/2018	2018-3/80
R315-316	Infectious Waste Requirements	42467	5YR	01/12/2018	2018-3/80
R315-317	Other Processes, Variances, Violations, and Petition for Rule Change	42468	5YR	01/12/2018	2018-3/81
R315-318	Permit by Rule	42469	5YR	01/12/2018	2018-3/82
R315-320	Waste Tire Transporter and Recycler Requirements	42470	5YR	01/12/2018	2018-3/82

Water Quality

R317-1-7	TMDLs	42692	AMD	05/24/2018	2018-7/56
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

RULES INDEX

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
R317-101	Utah Wastewater Project Assistance Program	42705	5YR	03/20/2018	2018-8/147

FINANCIAL INSTITUTIONS

Administration

R331-20	Designation of Adjudicative Proceedings as Informal	43161	5YR	08/23/2018	2018-18/33
R331-21	Rule Governing Establishment of and Participation in Collective Investment Funds by Trust Companies	43163	5YR	08/23/2018	2018-18/34
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	2018-21/143

Nondepository Lenders

R343-9	Deferred Deposit Lenders Registration with the Nationwide Database	43176	REP	10/22/2018	2018-18/9
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GOVERNOR

Criminal and Juvenile Justice (State Commission on)

R356-2-10	Evaluation Criteria	42337	AMD	04/02/2018	2017-24/13
R356-4	Juvenile Confinement	42055	NEW	01/02/2018	2017-18/26

Criminal and Juvenile Justice (State Commission on), Indigent Defense Commission

R364-1	Conflicts of Interest for Indigent Defense Commission Members	42351	NEW	01/29/2018	2017-24/14
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Economic Development

R357-3	Economic Development Tax Increment Financing Tax Credit	42940	EXD	05/31/2018	2018-12/47
R357-3	Economic Development Tax Increment Financing Rule	43335	NEW	12/24/2018	2018-22/103
R357-4	Government Procurement Private Proposal Program	43180	REP	10/24/2018	2018-18/11
R357-5	Motion Picture Incentive	42922	AMD	07/09/2018	2018-11/37
R357-14	Electronic Meetings	43224	R&R	12/17/2018	2018-20/16
R357-15	Enterprise Zone Tax Credit	43350	AMD	12/24/2018	2018-22/105
R357-16	Utah Outdoor Recreation Infrastructure Grant	42332	AMD	01/17/2018	2017-23/25
R357-16	Utah Outdoor Recreation Infrastructure Grant	42633	NSC	03/14/2018	Not Printed
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

Economic Development, Consumer Health Exchange

R358-1	Electronic Standards for Transmitting Information through the Health Insurance Exchange	43179	REP	10/25/2018	2018-18/14
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HEALTH

Administration

R380-40	Local Health Department Minimum Performance Standards	42863	AMD	07/03/2018	2018-10/34
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
R380-300	Employee Background Screening	43144	NEW	10/22/2018	2018-17/56

Center for Health Data, Health Care Statistics

R428-1 Health Data Plan and Incorporated Documents 42728 AMD 05/25/2018 2018-8/104

Center for Health Data, Vital Records and Statistics

R436-1 Duties of the Department of Health 42704 5YR 03/19/2018 2018-8/149

R436-2 Infants of Unknown Parentage; Foundling Registration 42706 5YR 03/20/2018 2018-8/149

R436-3 Amendment of Vital Records 42707 5YR 03/20/2018 2018-8/150

R436-4 Delayed Registration of Birth 42708 5YR 03/20/2018 2018-8/150

R436-6 Delayed Registration of Birth or Death 42339 REP 04/03/2018 2017-24/20

R436-7 Death Registration 42713 5YR 03/21/2018 2018-8/151

R436-8 Authorization for Final Disposition of Deceased Persons 42709 5YR 03/20/2018 2018-8/151

R436-9 Persons and Institutions Required to Keep Monthly Listings of Vital Statistics Events 42712 5YR 03/21/2018 2018-8/152

R436-10 Birth and Death Certificates 42710 5YR 03/20/2018 2018-8/152

R436-12 Certified Copies of Vital Statistics Records 42714 5YR 03/21/2018 2018-8/153

R436-13 Disclosure of Records 42715 5YR 03/21/2018 2018-8/153

R436-14 Copies of Data From Vital Records 42716 5YR 03/21/2018 2018-8/154

R436-15 Fees 42717 5YR 03/21/2018 2018-8/154

R436-16 Violation of Rules 42718 5YR 03/21/2018 2018-8/155

R436-17 Review and Approval of Research Requests 42719 5YR 03/21/2018 2018-8/155

Child Care Center Licensing Committee

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

R381-100 Child Care Centers 42725 AMD 08/10/2018 2018-8/33

Children's Health Insurance Program

R382-1 Benefits and Administration 42790 5YR 04/11/2018 2018-9/70

R382-3 Accountable Care Organization Incentives to Appropriately Use Emergency Room Services in the Children's Health Insurance Program 43376 5YR 11/14/2018 2018-23/129

R382-10 Eligibility 42791 5YR 04/11/2018 2018-9/70

Disease Control and Prevention, Environmental Services

R392-100 Food Service Sanitation 42684 AMD 05/18/2018 2018-7/93

R392-101 Food Safety Manager Certification 43436 5YR 12/12/2018 Not Printed

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

R392-800 General Sanitation in Public Places 43182 NEW 11/14/2018 2018-19/48

Disease Control and Prevention, Epidemiology

R386-702 Communicable Disease Rule 42285 AMD 01/02/2018 2017-22/31

Disease Control and Prevention, Health Promotion

R384-201 School-Based Vision Screening for Students in Public Schools 42569 EXT 02/08/2018 2018-5/161

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

RULES INDEX

Disease Control and Prevention, Immunization

R396-100 Immunization Rule for Students 42947 5YR 06/07/2018 2018-13/141

Disease Control and Prevention, Laboratory Services

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  
 R438-13 Rules for the Certification of Institutions to Obtain Impounded Animals in the State of Utah 43185 AMD 11/07/2018 2018-19/62  
 R438-13 Rules for the Certification of Institutions to Obtain Impounded Animals in the State of Utah 43360 5YR 11/07/2018 2018-23/132  
 R438-15 Newborn Screening 42282 NEW 01/29/2018 2017-22/60  
 R438-15 Newborn Screening 43256 AMD 01/01/2019 2018-21/84

Disease Control and Prevention; HIV/AIDS, Tuberculosis Control/Refugee Health

R388-805 Ryan White Part B Program 42328 AMD 02/01/2018 2017-23/28

Family Health and Preparedness, Child Care Licensing

R430-1 General Licensing, Certificate, and Enforcement Provisions, Child Care Facilities 43107 REP 10/15/2018 2018-16/14  
 R430-6 Background Screening 43106 REP 10/15/2018 2018-16/18  
 R430-8 Exemptions From Child Care Licensing 42745 R&R 08/10/2018 2018-8/106  
 R430-50 Residential Certificate Child Care 42877 5YR 05/09/2018 2018-11/58  
 R430-50 Residential Certificate Child Care 42734 AMD 08/10/2018 2018-8/112  
 R430-90 Licensed Family Child Care 42876 5YR 05/09/2018 2018-11/59  
 R430-90 Licensed Family Child Care 42733 AMD 08/10/2018 2018-8/125

Family Health and Preparedness, Children with Special Health Care Needs

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  
 R398-2 Newborn Hearing Screening 43226 AMD 12/03/2018 2018-20/23  
 R398-3 Children's Hearing Aid Program 43205 5YR 09/14/2018 2018-19/99  
 R398-4 Cytomegalovirus Public Health Initiative 43421 5YR 12/06/2018 Not Printed  
 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

Family Health and Preparedness, Emergency Medical Services

R426-1 General Definitions 42554 AMD 04/19/2018 2018-4/43  
 R426-1 General Definitions 43242 5YR 10/09/2018 2018-21/144  
 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 2018-21/144  
 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 2018-21/145  
 R426-3 Licensure 43257 AMD 12/12/2018 2018-21/65  
 R426-4 Operations 43245 5YR 10/09/2018 2018-21/145  
 R426-4 Operations 43258 AMD 12/12/2018 2018-21/71  
 R426-5 Emergency Medical Services Training and Certification Standards 43203 AMD 11/07/2018 2018-19/52  
 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 2018-21/146  
 R426-10 Air Ambulance Licensure and Operations 43259 NEW 12/12/2018 2018-21/75

Family Health and Preparedness, Licensing

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  
 R432-2 General Licensing Provisions 42521 5YR 01/29/2018 2018-4/98  
 R432-2 General Licensing Provisions 43005 AMD 08/27/2018 2018-13/43

R432-2-5	Requirements for a Satellite Service Operation	42397	AMD	03/22/2018	2018-2/9
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
R432-950	Mammography Quality Assurance	43136	AMD	10/23/2018	2018-17/59
<u>Family Health and Preparedness, Primary Care and Rural Health</u>					
R434-150	Adverse Events from the Administration of Sedation or Anesthesia; Recording and Reporting	42334	NEW	04/14/2018	2017-24/18
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>					
R410-14	Administrative Hearing Procedures	42517	EMR	01/29/2018	2018-4/81
R410-14	Administrative Hearing Procedures	42746	AMD	05/29/2018	2018-8/95
<u>Health Care Financing, Coverage and Reimbursement Policy</u>					
R414-1-5	Incorporations by Reference	42631	AMD	05/08/2018	2018-6/6
R414-1B	Payment for Limited Abortion Services	43390	5YR	11/15/2018	2018-23/129
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
R414-4x	Policy Statement on Denial of Payment to Medicaid Provider When Client Fails to Keep Scheduled Appointment	42306	REP	01/19/2018	2017-23/49
R414-9	Federally Qualified Health Centers and Rural Health Clinics	43122	5YR	07/27/2018	2018-16/33
R414-11	Podiatric Services	43391	5YR	11/15/2018	2018-23/130
R414-14	Home Health Services	43361	5YR	11/07/2018	2018-23/130
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
R414-52	Optometry Services	42782	5YR	04/10/2018	2018-9/71
R414-53	Eyeglasses Services	42783	5YR	04/10/2018	2018-9/71
R414-54	Speech-Language Pathology Services	43377	5YR	11/14/2018	2018-23/131
R414-55	Medicaid Policy for Hospital Emergency Department Copayment Procedures	43036	REP	09/04/2018	2018-14/43
R414-60	Medicaid Policy for Pharmacy Program	42626	AMD	05/01/2018	2018-6/13
R414-60A	Drug Utilization Review Board	42787	AMD	06/27/2018	2018-9/61
R414-60B	Preferred Drug List	42788	AMD	06/27/2018	2018-9/63
R414-61-2	Incorporation by Reference	42936	AMD	07/27/2018	2018-12/14
R414-90	Diabetes Self-Management Training	43389	5YR	11/15/2018	2018-23/131
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
R414-304	Income and Budgeting	42443	5YR	01/08/2018	2018-3/85
R414-305	Resources	42444	5YR	01/08/2018	2018-3/85
R414-306	Program Benefits and Date of Eligibility	42445	5YR	01/08/2018	2018-3/86

RULES INDEX

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
R414-311	Targeted Adult Medicaid	42489	EMR	01/19/2018	2018-4/90
R414-311	Targeted Adult Medicaid	42629	NEW	05/08/2018	2018-6/20
R414-401	Nursing Care Facility Assessment	43388	5YR	11/15/2018	2018-23/132
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
R414-510	Intermediate Care Facility for Persons with Intellectual Disabilities Transition Program	42941	R&R	07/27/2018	2018-12/16
R414-511	Medicaid Accountable Care Organization Incentives to Appropriately Use Emergency Room Services	43204	5YR	09/14/2018	2018-19/100
R414-516	Nursing Facility Non-State Government-Owned Upper Payment Limit Quality Improvement Program	43227	AMD	12/06/2018	2018-20/26
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

HUMAN RESOURCE MANAGEMENT

Administration

R477-1	Definitions	42810	AMD	07/01/2018	2018-10/51
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
R477-10	Employee Development	42818	AMD	07/01/2018	2018-10/87
R477-11	Discipline	42819	AMD	07/01/2018	2018-10/89
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

HUMAN SERVICES

Administration

R495-879	Parental Support for Children in Care	43094	5YR	07/17/2018	2018-16/33
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

Administration, Administrative Services, Licensing

R501-1	General Provisions for Licensing	42216	AMD	02/23/2018	2017-21/111
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
R501-12	Foster Care Services	42217	AMD	02/23/2018	2017-21/120
R501-12	Foster Care Services	42862	AMD	07/01/2018	2018-10/101
R501-14	Human Service Program Background Screening	42233	AMD	02/23/2018	2017-21/130
R501-18	Recovery Residence Services	42234	AMD	02/07/2018	2017-21/136

Aging and Adult Services

R510-105	"Out and About" Homebound Transportation Assistance Fund Rules	42485	5YR	01/17/2018	2018-4/102
R510-200	Long-Term Care Ombudsman Program Policy	42636	R&R	05/30/2018	2018-7/114

Child and Family Services

R512-41	Qualifying Adoptive Families and Adoption Placement	43269	5YR	10/15/2018	2018-21/147
R512-43	Adoption Assistance	43322	AMD	12/24/2018	2018-22/127
R512-75	Rules Governing Adjudication of Consumer Complaints	43270	5YR	10/15/2018	2018-21/147
R512-76	Expungement of DCFS Allegations	42829	NEW	06/21/2018	2018-10/110
R512-100	In-Home Services	42596	5YR	02/15/2018	2018-5/143
R512-200	Child Protective Services, Intake Services	42597	5YR	02/15/2018	2018-5/143
R512-201	Child Protective Services, Investigation Services	42598	5YR	02/15/2018	2018-5/144
R512-202	Child Protective Services, General Allegation Categories	42599	5YR	02/15/2018	2018-5/144
R512-300	Out-of-Home Services	42600	5YR	02/15/2018	2018-5/145
R512-301	Out-of-Home Services, Responsibilities Pertaining to a Parent or Guardian	42601	5YR	02/15/2018	2018-5/145
R512-302	Out-of-Home Services, Responsibilities Pertaining to an Out-of-Home Caregiver	42602	5YR	02/15/2018	2018-5/146
R512-305	Out-of-Home Services, Transition to Adult Living Services	42603	5YR	02/15/2018	2018-5/146
R512-306	Out-of-Home Services, Transition to Adult Living Services, Education and Training Voucher Program	43320	5YR	10/19/2018	2018-22/170
R512-306	Out-of-Home Services, Transition to Adult Living Services, Education and Training Voucher Program	43325	AMD	12/24/2018	2018-22/133
R512-309	Out-of-Home Services, Foster Parent Reimbursement of Motor Vehicle Insurance Coverage for Youth in Foster Care	42604	5YR	02/15/2018	2018-5/147
R512-500	Kinship Services, Placement and Background Screening	42605	5YR	02/15/2018	2018-5/147

Recovery Services

R527-38	Unenforceable Cases	43410	5YR	11/26/2018	2018-24/44
R527-201	Medical Support Services	43166	NSC	09/07/2018	Not Printed
R527-275	Passport Release	43440	5YR	12/14/2018	Not Printed
R527-303	Automatic Payment Withdrawal	42638	NEW	05/08/2018	2018-7/134
R527-920	Mandatory Disbursement to Obligor Through Electronic Funds Transfer	42720	5YR	03/23/2018	2018-8/156

Services for People with Disabilities

R539-1	Eligibility	42560	NSC	03/01/2018	Not Printed
R539-1	Eligibility	42926	NSC	06/01/2018	Not Printed
R539-10	Short-Term Limited Waiting List Services	43434	5YR	12/11/2018	Not Printed

Substance Abuse and Mental Health

R523-17	Behavioral Health Crisis Response Systems Standards	43213	NEW	11/15/2018	2018-19/66
R523-18	Mobile Crisis Outreach Teams Certification Standards	43214	NEW	11/15/2018	2018-19/73

Substance Abuse and Mental Health, State Hospital

R525-2	Patient Rights	42473	5YR	01/16/2018	2018-3/87
R525-3	Medication Treatment of Patients	42474	5YR	01/16/2018	2018-3/87
R525-3	Medication Treatment of Patients	42558	NSC	03/01/2018	Not Printed
R525-3	Medication Treatment of Patients	43128	NSC	08/09/2018	Not Printed
R525-4	Visitors	42475	5YR	01/16/2018	2018-3/88
R525-5	Background Checks	42476	5YR	01/16/2018	2018-3/88
R525-6	Prohibited Items and Devices	42477	5YR	01/16/2018	2018-3/89
R525-6	Prohibited Items and Devices	42557	NSC	03/01/2018	Not Printed
R525-7	Complaints/Suggestions/Concerns	42478	5YR	01/16/2018	2018-3/89

RULES INDEX

INSURANCE

Administration

R590-94	Rule Permitting Smoker/Nonsmoker Mortality Tables For Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits	42686	5YR	03/14/2018	2018-7/179
R590-102	Insurance Department Fee Payment Rule	42395	AMD	02/08/2018	2018-1/11
R590-154	Unfair Marketing Practices Rule; Misleading Names	42687	5YR	03/14/2018	2018-7/180
R590-157	Surplus Lines Insurance Premium Tax and Stamping Fee	42438	5YR	01/04/2018	2018-3/90
R590-160	Administrative Proceedings	43000	R&R	08/14/2018	2018-13/56
R590-160	Adjudicative Proceedings	43221	5YR	09/21/2018	2018-20/32
R590-161	Disability Income Policy Disclosure	43219	5YR	09/21/2018	2018-20/33
R590-162	Actuarial Opinion and Memorandum Rule	43220	5YR	09/21/2018	2018-20/33
R590-164	Uniform Health Billing Rule	43007	AMD	08/14/2018	2018-13/66
R590-186	Bail Bond Surety Business	43067	5YR	07/10/2018	2018-15/104
R590-218	Permitted Language for Reservation of Discretion Clauses	42437	5YR	01/04/2018	2018-3/90
R590-219	Credit Scoring	42875	5YR	05/04/2018	2018-11/59
R590-222	Life Settlements	42874	5YR	05/04/2018	2018-11/60
R590-223	Rule to Recognize the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits	42873	5YR	05/04/2018	2018-11/60
R590-238	Captive Insurance Companies	43009	NSC	07/03/2018	Not Printed
R590-243	Commercial Motor Vehicle Insurance Coverage	42436	5YR	01/04/2018	2018-3/91
R590-245	Self-Service Storage Insurance	43222	5YR	09/21/2018	2018-20/34
R590-246	Professional Employer Organization (PEO) License Application Rule	43133	5YR	08/03/2018	2018-17/72
R590-247	Universal Health Insurance Application Rule	42984	5YR	06/13/2018	2018-13/142
R590-250	PEO Assurance Organization Designation	43134	5YR	08/03/2018	2018-17/73
R590-251	Preneed Life Insurance Minimum Standards For Determining Reserve Liabilities And Nonforfeiture Values Rule	43135	5YR	08/03/2018	2018-17/73
R590-266-1	Authority	42319	AMD	01/10/2018	2017-23/66
R590-266-4	Utah Essential Health Benefits	42856	NSC	05/14/2018	Not Printed
R590-267	Personal Injury Protection Relative Value Study Rule	43323	5YR	10/24/2018	2018-22/170
R590-276	Record Retention for Foreign, Alien, Commercially Domiciled, Foreign Title and Foreign Fraternal	42214	NEW	04/23/2018	2017-21/165
R590-276	Record Retention for Foreign, Alien, Commercially Domiciled, Foreign Title and Foreign Fraternal	42214	CPR	04/23/2018	2018-6/44
R590-278	Consent Requests Under 18 USC 1033(e)(2)	43281	NEW	12/24/2018	2018-22/136
R590-279	Rule Designating Fraud Division Offices as a Secured Area	43282	NEW	12/24/2018	2018-22/138

Title and Escrow Commission

R592-7	Title Insurance Continuing Education Program	42711	R&R	07/30/2018	2018-8/138
R592-10	Title Insurance Regulation Assessment for Agency Title Insurance Producers and Title Insurers	43068	5YR	07/10/2018	2018-15/105
R592-10-5	Office Report	43187	AMD	11/09/2018	2018-19/78

JUDICIAL PERFORMANCE EVALUATION COMMISSION

Administration

R597-3	Judicial Performance Evaluations	43181	AMD	11/07/2018	2018-19/79
R597-5	Electronic Meetings	42262	NEW	01/02/2018	2017-22/68

LABOR COMMISSION

Adjudication

R602-4	Procedures for Termination of Temporary Total Disability Compensation Pursuant to Reemployment Under Section 34A-2-410.5	43127	5YR	08/01/2018	2018-16/34
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R602-5	Procedures for Resolving Disputes Regarding "Cooperation" and "Diligent Pursuit" Under Subsection 34A-2-413(6)(e)(iii) and Subsection 34A-2-413(9) Consistent with Utah Administrative Code Subsection R612-200-7(D)(4)	43126	5YR	08/01/2018	2018-16/35
R602-6	Procedures Applicable for Approval of Settlement Agreements in Workers' Compensation	43125	5YR	08/01/2018	2018-16/35
R602-7	Adjudication of Discrimination Claims	43408	5YR	11/26/2018	2018-24/44
R602-7	Adjudication of Discrimination Claims	43413	NSC	12/07/2018	Not Printed
R602-8	Adjudication of Utah Occupational Safety and Health Citation Claims	43409	5YR	11/26/2018	2018-24/45
R602-8	Adjudication of Utah Occupational Safety and Health Citation Claims	43412	NSC	12/07/2018	Not Printed
<u>Administration</u>					
R600-1	Declaratory Orders	42622	5YR	02/26/2018	2018-6/49
<u>Boiler, Elevator and Coal Mine Safety</u>					
R616-2-3	Safety Codes and Rules for Boilers and Pressure Vessels	42565	AMD	04/09/2018	2018-5/49
R616-3-3	Safety Codes for Elevators	42566	AMD	04/09/2018	2018-5/51
R616-3-4	Inspector Qualification	43164	AMD	10/22/2018	2018-18/23
<u>Industrial Accidents</u>					
R612-100	Workers' Compensation Rules - General Provisions	42561	5YR	02/08/2018	2018-5/148
R612-100-4	Designation as Informal Proceedings	42786	AMD	06/07/2018	2018-9/66
R612-200	Workers' Compensation Rules - Filing and Paying Claims	42562	5YR	02/08/2018	2018-5/149
R612-300	Workers' Compensation Rules - Medical Care	42563	5YR	02/08/2018	2018-5/149
R612-300	Workers' Compensation Rules - Medical Care	43351	AMD	01/01/2019	2018-22/139
R612-300-4	General Method for Computing Medical Fees	42567	AMD	04/09/2018	2018-5/46
R612-400	Workers' Compensation Insurance, Self-Insurance and Waivers	42564	5YR	02/08/2018	2018-5/150
R612-400-5	Premium Rates for the Uninsured Employers' Fund and the Employers' Reinsurance Fund	43215	AMD	01/01/2019	2018-20/28
<u>Occupational Safety and Health</u>					
R614-1-4	Incorporation of Federal Standards	43121	AMD	10/15/2018	2018-16/22
LIEUTENANT GOVERNOR					
<u>Administration</u>					
R622-1	Adjudicative Proceedings	43157	5YR	08/20/2018	2018-18/35
NATURAL RESOURCES					
<u>Administration</u>					
R634-3	Compensatory Mitigation Program	42309	NEW	03/26/2018	2017-23/67
R634-3	Compensatory Mitigation Program	42309	CPR	03/26/2018	2018-4/71
<u>Forestry, Fire and State Lands</u>					
R652-7	Public Petitions for Declaratory Orders	42977	5YR	06/11/2018	2018-13/152
R652-110	Off-Highway Vehicle Designations	42978	5YR	06/11/2018	2018-13/153
R652-123	Wildland Fire Suppression Cost Recovery Procedure	42928	NEW	07/23/2018	2018-12/22
<u>Oil, Gas and Mining: Administration</u>					
R642-200	Applicability	42495	5YR	01/24/2018	2018-4/102
<u>Oil, Gas and Mining: Coal</u>					
R645-101	Restrictions on State Employees	42496	5YR	01/24/2018	2018-4/103
R645-102	Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction	42497	5YR	01/24/2018	2018-4/103

RULES INDEX

R645-104	Protection of Employees	42498	5YR	01/24/2018	2018-4/104
R645-401	Inspection and Enforcement: Civil Penalties	42499	5YR	01/24/2018	2018-4/104
<u>Oil, Gas and Mining: Non-Coal</u>					
R647-1	Minerals Regulatory Program	42500	5YR	01/24/2018	2018-4/105
R647-2	Exploration	42501	5YR	01/24/2018	2018-4/105
R647-3	Small Mining Operations	42502	5YR	01/24/2018	2018-4/106
R647-4	Large Mining Operations	42503	5YR	01/24/2018	2018-4/106
R647-5	Administrative Procedures	42504	5YR	01/24/2018	2018-4/107
R647-6	Inspection and Enforcement: Division Authority and Procedures	42505	5YR	01/24/2018	2018-4/108
R647-7	Inspection and Enforcement: Civil Penalties	42506	5YR	01/24/2018	2018-4/108
R647-8	Inspection and Enforcement: Individual Civil Penalties	42507	5YR	01/24/2018	2018-4/109
<u>Oil, Gas and Mining: Oil and Gas</u>					
R649-6	Gas Processing and Waste Crude Oil Treatment	42508	5YR	01/24/2018	2018-4/109
<u>Parks and Recreation</u>					
R651-103	Electronic Meetings	42723	NEW	05/22/2018	2018-8/142
R651-103	Electronic Meetings	43417	NSC	12/07/2018	Not Printed
R651-406	Off-Highway Vehicle Registration Fees	42431	AMD	02/21/2018	2018-2/16
R651-407	Off-Highway Vehicle Advisory Council	42682	5YR	03/13/2018	2018-7/181
R651-601	Definitions as Used in These Rules	42989	5YR	06/13/2018	2018-13/143
R651-602	Aircraft and Powerless Flight	42990	5YR	06/13/2018	2018-13/143
R651-603	Animals	42946	5YR	06/07/2018	2018-13/144
R651-604	Audio Devices	42948	5YR	06/07/2018	2018-13/144
R651-605	Begging and Soliciting	42949	5YR	06/07/2018	2018-13/145
R651-606	Camping	42950	5YR	06/07/2018	2018-13/145
R651-607	Disorderly Conduct	42952	5YR	06/07/2018	2018-13/146
R651-608	Events of Special Uses	42953	5YR	06/07/2018	2018-13/146
R651-609	Explosives and Fireworks	42954	5YR	06/07/2018	2018-13/147
R651-610	Expulsion	42955	5YR	06/07/2018	2018-13/147
R651-613	Fires	42959	5YR	06/07/2018	2018-13/147
R651-614	Fishing, Hunting and Trapping	42960	5YR	06/07/2018	2018-13/148
R651-615	Motor Vehicle Use	42961	5YR	06/07/2018	2018-13/148
R651-616	Organized Sports	42981	5YR	06/13/2018	2018-13/149
R651-617	Permit Violation	42982	5YR	06/13/2018	2018-13/149
R651-618	Picnicking	42983	5YR	06/13/2018	2018-13/150
R651-619	Possession of Alcoholic Beverages or Controlled Substances	42985	5YR	06/13/2018	2018-13/150
R651-620	Protection of Resources Park System Property	42986	5YR	06/13/2018	2018-13/151
R651-621	Reports of Injury or Damage	42987	5YR	06/13/2018	2018-13/151
R651-622	Rock Climbing	43048	5YR	06/28/2018	2018-14/52
R651-623	Sale or Distribution of Printed Material	43047	5YR	06/28/2018	2018-14/53
R651-624	Sanitation	43046	5YR	06/28/2018	2018-14/53
R651-625	Shirts and Shoes	43045	5YR	06/28/2018	2018-14/54
R651-626	Skating, Skateboards and Motorized Transportation Devices	43044	5YR	06/28/2018	2018-14/54
R651-627	Swimming	43043	5YR	06/28/2018	2018-14/55
R651-628	Trails and Walks	43042	5YR	06/28/2018	2018-14/55
R651-629	Unattended Property	43041	5YR	06/28/2018	2018-14/56
R651-630	Unsupervised Children	42988	5YR	06/13/2018	2018-13/152
R651-631	Winter Sports	43040	5YR	06/28/2018	2018-14/56
R651-632	Enforcement	43039	5YR	06/28/2018	2018-14/57
R651-633	Special Closures or Restrictions	43038	5YR	06/28/2018	2018-14/57
R651-636	Procedures for Application to Receive Funds From the Zion National Park Restricted Account	43451	5YR	12/19/2018	Not Printed
R651-700	Administrative Procedures for Real Property Management	43452	5YR	12/19/2018	Not Printed
<u>Water Resources</u>					
R653-9	Electronic Meetings	42257	NEW	03/02/2018	2017-22/74

Water Rights

R655-1	Wells Used for the Discovery and Production of Geothermal Energy in the State of Utah	42606	R&R	04/09/2018	2018-5/53
R655-4	Water Wells	42607	R&R	04/09/2018	2018-5/67
R655-13	Stream Alteration	43424	5YR	12/07/2018	Not Printed

Wildlife Resources

R657-3	Collection, Importation, Transportation, and Possession of Animals	42624	5YR	02/27/2018	2018-6/49
R657-3	Collection, Importation, Transportation, and Possession of Animals	42965	AMD	08/09/2018	2018-13/69
R657-5	Taking Big Game	42371	AMD	02/07/2018	2018-1/19
R657-5	Taking Big Game	42920	AMD	07/09/2018	2018-11/40
R657-9	Taking Waterfowl, Wilson's Snipe and Coot	42376	AMD	02/07/2018	2018-1/33
R657-10	Taking Cougar	42919	AMD	07/09/2018	2018-11/42
R657-12	Hunting and Fishing Accommodations for People With Disabilities	42375	NSC	02/13/2018	Not Printed
R657-13	Taking Fish and Crayfish	43230	AMD	12/10/2018	2018-21/97
R657-19	Taking Nongame Mammals	42377	AMD	02/07/2018	2018-1/35
R657-19	Taking Nongame Mammals	43099	5YR	07/19/2018	2018-16/36
R657-33	Taking Bear	42492	AMD	03/26/2018	2018-4/55
R657-34	Procedures for Confirmation of Ordinances on Hunting Closures	42796	5YR	04/12/2018	2018-9/72
R657-37	Cooperative Wildlife Management Units for Big Game or Turkey	42795	5YR	04/12/2018	2018-9/72
R657-41	Conservation and Sportsman Permits	42379	AMD	02/07/2018	2018-1/38
R657-41	Conservation and Sportsman Permits	42966	AMD	08/09/2018	2018-13/72
R657-42	Fees, Exchanges, Surrenders, Refunds and Reallocation of Wildlife Documents	42794	5YR	04/12/2018	2018-9/73
R657-45	Wildlife License, Permit, and Certificate of Registration Forms and Terms	42793	5YR	04/12/2018	2018-9/73
R657-50	Error Remedy	42967	AMD	08/09/2018	2018-13/82
R657-51	Poaching-Reported Reward Permits	42913	NEW	07/09/2018	2018-11/44
R657-53	Amphibian and Reptile Collection, Importation, Transportation and Possession	42792	5YR	04/12/2018	2018-9/74
R657-53	Amphibian and Reptile Collection, Importation, Transportation and Possession	42968	AMD	08/09/2018	2018-13/86
R657-54	Taking Wild Turkey	42969	AMD	08/09/2018	2018-13/89
R657-55	Wildlife Expo Permits	42970	AMD	08/09/2018	2018-13/92
R657-56	Recreational Lease of Private Lands for Free Public Walk-in Access	42971	AMD	08/09/2018	2018-13/97
R657-57	Division Variance Rule	43100	5YR	07/19/2018	2018-16/36
R657-57	Division Variance Rule	42972	AMD	08/09/2018	2018-13/99
R657-58	Fishing Contests and Clinics	42449	5YR	01/09/2018	2018-3/91
R657-59	Private Fish Ponds, Short Term Fishing Events, Private Fish Stocking, and Institutional Aquaculture	43101	5YR	07/19/2018	2018-16/37
R657-60	Aquatic Invasive Species Interdiction	43098	5YR	07/19/2018	2018-16/37
R657-61	Valuation of Real Property Interests for Purposes of Acquisition or Disposal	43231	5YR	10/04/2018	2018-21/148
R657-62	Drawing Application Procedures	42374	AMD	02/07/2018	2018-1/41
R657-62	Drawing Application Procedures	42493	AMD	03/26/2018	2018-4/57
R657-62	Drawing Application Procedures	42973	AMD	08/09/2018	2018-13/101
R657-64	Predator Control Incentives	42974	AMD	08/09/2018	2018-13/107
R657-65	Urban Deer Control	43097	5YR	07/19/2018	2018-16/38
R657-66	Military Installation Permit Program	43232	5YR	10/04/2018	2018-21/148
R657-67	Utah Hunter Mentoring Program	42372	AMD	02/07/2018	2018-1/44
R657-69	Turkey Depredation	42975	AMD	08/09/2018	2018-13/112
R657-70	Taking Utah Prairie Dogs	42378	REP	02/07/2018	2018-1/46
R657-71	Removal of Wild Deer from Domesticated Elk Facilities	42373	NEW	02/07/2018	2018-1/52

PARDONS (BOARD OF)

Administration

R671-201	Original Hearing Schedule and Notice	42295	AMD	01/08/2018	2017-22/75
R671-202	Notification of Hearings	42294	AMD	01/08/2018	2017-22/77

RULES INDEX

R671-203	Victim Input and Notification	42297	AMD	01/08/2018	2017-22/78
R671-205	Credit for Time Served	42227	AMD	01/08/2018	2017-21/169
R671-206	Competency of Offenders	42296	NEW	01/08/2018	2017-22/81
R671-304	Hearing Record	42231	AMD	01/08/2018	2017-21/171
R671-312	Commutation Hearings for Death Penalty Cases	42575	5YR	02/13/2018	2018-5/150
R671-312A	Commutation Procedures Applicable to Persons Sentenced to Death Before April 26, 1992	42905	5YR	05/11/2018	2018-11/61
R671-312B	Commutation Procedures Applicable to Persons Sentenced to Death After April 26, 1992	42906	5YR	05/11/2018	2018-11/62
R671-509	Parole Progress/Violation Reports	42576	5YR	02/13/2018	2018-5/151
R671-510	Evidence for Issuance of Warrants	42577	5YR	02/13/2018	2018-5/151
R671-512	Execution of the Warrant	42578	5YR	02/13/2018	2018-5/152
R671-513	Expedited Determination of Parolee Challenge to Probable Cause	42579	5YR	02/13/2018	2018-5/152
R671-514	Waiver and Pleas of Guilt	42580	5YR	02/13/2018	2018-5/153
R671-515	Timeliness of Parole Revocation Hearings	42581	5YR	02/13/2018	2018-5/153
R671-516	Parole Revocation Hearings	42583	5YR	02/13/2018	2018-5/154
R671-517	Evidentiary Hearings and Proceedings	42584	5YR	02/13/2018	2018-5/154
R671-518	Conduct of Proceedings When a Criminal Charge Results in Conviction	42585	5YR	02/13/2018	2018-5/155
R671-519	Proceedings When Criminal Charges Result in Acquittal	42586	5YR	02/13/2018	2018-5/155
R671-520	Treatment of Confidential Testimony	42587	5YR	02/13/2018	2018-5/156
R671-522	Continuances Due to Pending Criminal Charges	42588	5YR	02/13/2018	2018-5/156

PUBLIC SAFETY

Administration

R698-7	Emergency Vehicles	42797	5YR	04/12/2018	2018-9/74
R698-11	Submission and Testing of Sexual Assault Kits	42269	NEW	01/10/2018	2017-22/82

Criminal Investigations and Technical Services, Criminal Identification

R722-300	Concealed Firearm Permit and Instructor Rule	42258	AMD	01/10/2018	2017-22/89
R722-310	Regulation of Bail Bond Recovery and Enforcement Agents	42808	AMD	07/11/2018	2018-10/113
R722-350	Certificate of Eligibility	42259	AMD	01/10/2018	2017-22/94
R722-350	Certificate of Eligibility	42912	NSC	05/17/2018	Not Printed
R722-380	Firearm Background Check Information	42260	AMD	01/10/2018	2017-22/96

Driver License

R708-14	Adjudicative Proceedings For Driver License Actions Involving Alcohol and Drugs	43173	AMD	11/01/2018	2018-18/24
R708-14-9	Findings, Conclusions, Recommendations and Orders	42865	LNR	05/01/2018	2018-10/161
R708-30	Motorcycle Rider Training Schools	42825	5YR	04/19/2018	2018-10/157
R708-49	Temporary Identification Card	42980	5YR	06/13/2018	2018-13/153

Fire Marshal

R710-5	Automatic Fire Sprinkler System Inspecting and Testing	42683	5YR	03/14/2018	2018-7/181
R710-12	Hazardous Materials Training and Certification	42674	EXD	03/12/2018	2018-7/183
R710-13	Reduced Cigarette Ignition Propensity and Firefighter Protection Act	43172	5YR	08/28/2018	2018-18/36

Highway Patrol

R714-160	Equipment Standards for Passenger Vehicle and Light Truck Safety Inspections	43104	AMD	12/06/2018	2018-16/25
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Peace Officer Standards and Training

R728-503	Utah Minimum Standards for All Emergency Pursuit Policies to be Adopted by Public Agencies that Operate Authorized Emergency Pursuit Vehicles	43366	5YR	11/12/2018	2018-23/133
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PUBLIC SERVICE COMMISSION

Administration

R746-1-201	Complaints	42670	AMD	05/10/2018	2018-7/136
R746-8	Utah Universal Public Telecommunications Service Support Fund (UUSF)	42424	NEW	02/21/2018	2018-2/18
R746-8	Utah Universal Public Telecommunications Service Support Fund (UUSF)	42850	AMD	06/21/2018	2018-10/118
R746-8	Utah Universal Public Telecommunications Service Support Fund (UUSF)	43324	AMD	12/24/2018	2018-22/157
R746-8-403	Lifeline Support	42632	AMD	04/24/2018	2018-6/26
R746-110	Uncontested Matters to be Adjudicated Informally	42768	5YR	04/05/2018	2018-9/75
R746-210	Utility Service Rules Applicable Only to Electric Utilities	42767	5YR	04/05/2018	2018-9/75
R746-240	Telecommunication Service Rules	42769	5YR	04/05/2018	2018-9/76
R746-330	Rules for Water and Sewer Utilities Operating in Utah	42590	5YR	02/14/2018	2018-5/157
R746-332	Depreciation Rates for Water Utilities	42593	5YR	02/14/2018	2018-5/157
R746-340	Service Quality for Telecommunications Corporations	42770	5YR	04/05/2018	2018-9/77
R746-341	Lifeline Rule	42423	REP	02/21/2018	2018-2/24
R746-343	Rule for Deaf, Severely Hearing or Speech Impaired Person	42425	REP	02/21/2018	2018-2/28
R746-344	Filing Requirements for Telephone Corporations with Less Than 5,000 Access Line Subscribers	43056	5YR	07/03/2018	2018-15/105
R746-345	Pole Attachments	43087	5YR	07/16/2018	2018-15/106
R746-347	Extended Area Service (EAS)	42589	5YR	02/14/2018	2018-5/158
R746-360	Universal Public Telecommunications Service Support Fund	42426	REP	02/21/2018	2018-2/31
R746-365	Inter-carrier Service Quality	43406	5YR	11/21/2018	2018-24/46
R746-402	Rules Governing Reports of Accidents by Electric, Gas, Telephone, and Water Utilities	42592	5YR	02/14/2018	2018-5/158
R746-404	Regulation of Promotional Programs of Electric and Gas Public Utilities	43088	5YR	07/16/2018	2018-15/106
R746-405	Filing of Tariffs for Gas, Electric, Telephone, and Water Utilities	42591	5YR	02/14/2018	2018-5/159
R746-406	Advertising by Electric and Gas Utilities	43089	5YR	07/16/2018	2018-15/107
R746-409-1	General Provisions	42331	AMD	01/09/2018	2017-23/75
R746-450	Procedural and Informational Requirements for Solar Resource Solicitations and Acquisitions	43329	NEW	12/24/2018	2018-22/163
R746-500	Americans With Disabilities Act Complaint Procedure	43090	5YR	07/16/2018	2018-15/107
R746-600	Postretirement Benefits other than Pensions	43091	5YR	07/16/2018	2018-15/108

REGENTS (BOARD OF)

Administration

R765-136	Language Proficiency in the Utah System of Higher Education	42866	EXD	05/01/2018	2018-10/159
R765-254	Secure Area Hearing Rooms	42867	EXD	05/01/2018	2018-10/159
R765-555	Policy on Colleges and Universities Providing Facilities, Goods and Services in Competition with Private Enterprise	42868	EXD	05/01/2018	2018-10/159
R765-605	Higher Education Success Stipend Program	42789	5YR	04/11/2018	2018-9/77
R765-605	Higher Education Success Stipend Program	42722	NSC	04/12/2018	Not Printed
R765-611	Veterans Tuition Gap Program	42860	AMD	08/31/2018	2018-10/123

University of Utah, Administration

R805-1	Operating Regulations for Bicycles, Skateboards, Rollerskates and Scooters (Non-Motorized Riding Devices)	42617	5YR	02/22/2018	2018-6/50
R805-2	Government Records Access and Management Act Procedures	43024	5YR	06/26/2018	2018-14/58

RULES INDEX

University of Utah, Commuter Services

R810-1	University of Utah Parking Regulations	42512	NEW	04/05/2018	2018-4/60
R810-8	Vendor Regulations	42513	NEW	04/05/2018	2018-4/62

SCHOOL AND INSTITUTIONAL TRUST LANDS

Administration

R850-5-300	Royalties	43103	NSC	08/01/2018	Not Printed
R850-6-200	Definitions	42945	AMD	08/07/2018	2018-13/114
R850-8	Adjudicative Proceedings	43102	NSC	08/01/2018	Not Printed
R850-40	Easements	42678	AMD	05/08/2018	2018-7/137
R850-50	Range Management	42677	AMD	05/08/2018	2018-7/139
R850-61	Native American Grave Protection and Repatriation	43362	5YR	11/08/2018	2018-23/133
R850-110	Motor Vehicle Travel Designations	43363	5YR	11/08/2018	2018-23/134

SCIENCE TECHNOLOGY AND RESEARCH GOVERNING AUTHORITY

Administration

R856-1	USTAR Technology Acceleration Program Grants	42360	R&R	01/23/2018	2017-24/22
R856-2	USTAR University-Industry Partnership Program Grants	42357	R&R	01/23/2018	2017-24/28
R856-3	USTAR University Technology Acceleration Grants	42359	R&R	01/23/2018	2017-24/36
R856-4	USTAR Science Technology Initiation Grant	42358	R&R	01/23/2018	2017-24/41
R856-5	Utah Science, Technology, and Research (USTAR) Energy Research Triangle Professors (ERT-P) Grant	42356	R&R	01/23/2018	2017-24/48
R856-6	Utah Science, Technology and Research (USTAR) Energy Research Triangle Scholars (ERT-S) Grant	42355	R&R	01/23/2018	2017-24/54

TAX COMMISSION

Administration

R861-1A-31	Declaratory Orders Pursuant to Utah Code Ann. Section 63G-4-503	42823	AMD	09/10/2018	2018-10/126
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Auditing

R865-9I-2	Determination of Utah Resident Individual Status Pursuant to Utah Code Ann. Sections 59-10-103 and 59-10-136	43199	AMD	11/13/2018	2018-19/84
R865-19S-32	Leases and Rentals Pursuant to Utah Code Ann. Section 59-12-103	43198	AMD	11/13/2018	2018-19/85
R865-19S-85	Sales and Use Tax Exemptions for Certain Purchases by a Manufacturing Facility Pursuant to Utah Code Ann. Section 59-12-104	43262	AMD	12/13/2018	2018-21/101
R865-19S-121	Sales and Use Tax Exemptions for Certain Purchases by a Mining Facility Pursuant to Utah Code Ann. Section 59-12-104	43263	AMD	12/13/2018	2018-21/103
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	43264	AMD	12/13/2018	2018-21/105

Property Tax

R884-24P-5	Abatement or Deferral of Property Taxes of Indigent Persons Pursuant to Utah Code Ann. Sections 59-2-1107 through 59-2-1109 and 59-2-1202(5)	43206	NSC	09/20/2018	Not Printed
R884-24P-33	2018 Personal Property Valuation Guides and Schedules Pursuant to Utah Code Ann. Section 59-2-301	43200	AMD	11/13/2018	2018-19/87
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	43261	AMD	12/13/2018	2018-21/106

TECHNOLOGY SERVICES

Administration

R895-4	Sub-Domain Naming Conventions for Executive Branch Agencies	43228	5YR	10/03/2018	2018-21/149
R895-6	IT Plan Submission Rule for Agencies	43229	5YR	10/03/2018	2018-21/149
R895-12	Telecommunications Services and Requirements	42528	EXD	01/30/2018	2018-4/117
R895-12	Telecommunications Services and Requirements	42529	EMR	01/30/2018	2018-4/92

TRANSPORTATION

Administration

R907-64	Longitudinal and Wireless Access to Interstate System Rights-of-Way for Installation of Telecommunication Facilities	43167	5YR	08/27/2018	2018-18/36
R907-65	Compensation Schedule for Longitudinal Access to Interstate Highway Rights-of-Way for Installation of Telecommunications Facilities	43168	5YR	08/27/2018	2018-18/37
R907-67	Debarment of Contractors from Work on Department Projects -- Reasons	43169	5YR	08/27/2018	2018-18/37
R907-80	Disposition of Surplus Land	42688	AMD	05/09/2018	2018-7/142

Motor Carrier

R909-1	Safety Regulations for Motor Carriers	42494	AMD	03/28/2018	2018-4/63
R909-2	Utah Size and Weight Rule	43254	AMD	12/12/2018	2018-21/111
R909-19	Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation, and Certification	42336	AMD	01/24/2018	2017-24/60

Operations, Construction

R916-2	Prequalification of Contractors	42690	AMD	05/09/2018	2018-7/148
R916-4	Construction Manager/General Contractor Contracts	42616	AMD	04/23/2018	2018-6/28

Operations, Maintenance

R918-4	Using Volunteer Groups and Third Party Contractors for the Adopt-a-Highway and Sponsor-a-Highway Litter Pickup Programs	43124	EXT	07/31/2018	2018-16/39
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	2018-21/150
R918-6	Maintenance Responsibility at Intersections, Overcrossings, and Interchanges between Class A Roads and Class B or Class C Roads	42392	AMD	02/07/2018	2018-1/53

Operations, Traffic and Safety

R920-6	Snow Tire and Chain Requirements	42689	AMD	05/08/2018	2018-7/151
R920-30	State Safety Oversight	43255	R&R	12/12/2018	2018-21/126

Preconstruction

R930-8	Utility Relocations Required by Highway Projects	43096	AMD	09/28/2018	2018-16/28
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Program Development

R926-10	Tollway Development Agreements	43170	5YR	08/27/2018	2018-18/38
R926-11	Clean Fuel Vehicle Decal Program	43446	5YR	12/14/2018	Not Printed
R926-13	Designated Scenic Byways	43160	AMD	10/23/2018	2018-18/27

TRANSPORTATION COMMISSION

Administration

R940-2	Approval of Tollway Development Agreements	43174	5YR	08/30/2018	2018-18/38
R940-3	Procedures for Transportation Infrastructure Loan Fund Assistance	43447	5YR	12/14/2018	Not Printed

RULES INDEX

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R940-4	Airports of Regional Significance	43175	5YR	08/30/2018	2018-18/39
UTECH BOARD OF TRUSTEES					
<u>Administration</u>					
R945-1	UTech Scholarship	43093	NEW	09/07/2018	2018-15/92
WORKFORCE SERVICES					
<u>Administration</u>					
R982-800	Utah Data Research Center	42421	NEW	03/01/2018	2018-2/38
<u>Employment Development</u>					
R986-100	Employment Support Programs	42927	AMD	07/23/2018	2018-12/23
R986-200-236	Earned Income	42853	AMD	08/31/2018	2018-10/128
R986-600	Workforce Innovation and Opportunity Act	42693	AMD	05/08/2018	2018-7/154
R986-700	Child Care Assistance	42855	AMD	07/01/2018	2018-10/130
R986-700-779	Educational Improvement Opportunities Outside of the Regular School Day Grant Program	43086	AMD	09/07/2018	2018-15/95
<u>Housing and Community Development</u>					
R990-102	Homeless Shelter Cities Mitigation Restricted Account	42939	NEW	07/23/2018	2018-12/31
<u>Unemployment Insurance</u>					
R994-201	Definition of Terms in Employment Security Act	42735	5YR	03/29/2018	2018-8/157
R994-202	Employing Units	42736	5YR	03/29/2018	2018-8/157
R994-208	Wages	42737	5YR	03/29/2018	2018-8/158
R994-306	Charging Benefit Costs to Employers	42738	5YR	03/29/2018	2018-8/158
R994-307	Social Costs -- Relief of Charges	42739	5YR	03/29/2018	2018-8/159
R994-315	Centralized New Hire Registry Reporting	42740	5YR	03/29/2018	2018-8/159
R994-403	Claim for Benefits	42741	5YR	03/29/2018	2018-8/160
R994-405	Ineligibility for Benefits	42742	5YR	03/29/2018	2018-8/161
R994-405	Ineligibility for Benefits	42861	AMD	06/21/2018	2018-10/144
R994-508	Appeal Procedures	42743	5YR	03/29/2018	2018-8/161