

UTAH STATE BULLETIN

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

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

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

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

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

Office of Administrative Rules, Salt Lake City 84114

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NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between January 03, 2019, 12:00 a.m., and January 15, 2019, 11:59 p.m. are included in this, the February 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 March 4, 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 June 1, 2019, the agency may notify the Office of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE OF A CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

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

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

The Proposed Rules Begin on the Following Page

Education, Administration
R277-100
Definitions for Utah State Board of
Education (Board) Rules

NOTICE OF PROPOSED RULE
 (Amendment)

DAR FILE NO.: 43479
 FILED: 01/14/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Utah State Board of Education (USBE) Rule R277-100 has been amended to include new definitions in Section R277-100-2.

SUMMARY OF THE RULE OR CHANGE: USBE Section R277-100-2 has been updated to include new definitions for "home school student", "Dual enrollment student", and "Private school student".

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

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** These rule changes are not expected to have any fiscal impact on state government revenues or expenditures because they provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and USBE policies, and is being enacted to consolidate definitions across all USBE rules.
- ◆ **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, and is being enacted to consolidate definitions across all USBE rules.
- ◆ **SMALL BUSINESSES:** These rule changes are not expected to have any fiscal impact on small businesses' revenues or expenditures because they provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and USBE policies, and is being enacted to consolidate definitions across all USBE rules.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These rule changes are not expected to have any fiscal impact on persons other than small businesses, businesses, or local government entities revenues or expenditures because they provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and USBE policies, and is being enacted to consolidate definitions across all USBE rules.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/04/2019

THIS RULE MAY BECOME EFFECTIVE ON: 03/11/2019

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
Total Fiscal Costs:	\$0	\$0	\$0

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

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

Appendix 2: Regulatory Impact to Non-Small Businesses

There are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). These rule changes have no 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.

R277-100. Definitions for Utah State Board of Education (Board) Rules.

R277-100-1. Authority and Purpose.

(1) This rule is authorized by:

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

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

(2) The purpose of this rule is to provide definitions that are used in the Board rules beginning with R277.

R277-100-2. Definitions.

(1) "Accreditation" means the formal process for internal and external review and approval under the standards of an accrediting entity adopted by the Board.

~~[(2) "Audit" means an independent appraisal activity established by the Board as a control system to examine and evaluate the adequacy and effectiveness of internal control systems within an agency.]~~ (2) "Agency" means:

(a) an entity governed by the Board;

(b) an LEA; or

(c) a grant sub-recipient.

(3) "Board" means the State Board of Education.

(4) "Charter school" means a school established as a charter school by a charter school authorizer under Title 53G, Chapter 5, Charter Schools, and rule.

(5) "District school" means a public school under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.

(6) "Dual enrollment student" means a student who:

(a) is enrolled simultaneously in:

(i) a private school or home school; and

(ii) a public school; and

(b) is counted by an LEA in membership for purposes of generating state or federal funding for only those courses or subjects for which the LEA provides instruction.

~~[(6)]~~(7) "Educator" means an individual licensed under Section 53E-6-201 and who meets the requirements of ~~[R277-504]~~ Board rule.

(8)(a) "Evaluate" or "review" means to observe and assess a program receiving state or federal funds with an objective of making recommendations, if appropriate, for necessary changes or improvement.

(b) An "evaluation" or "review" may include providing training and technical assistance on program-related matters and performing on-site reviews of program operations.

(9)(a) "External audit" means an appraisal activity established under the direction of an individual or entity outside of the subject agency to examine and evaluate the adequacy and effectiveness of:

(i) agency control systems;

(ii) compliance;

(iii) performance; and

(iv) financial position.

(b) An external audit is conducted in accordance with current professional and industry technical standards, as applicable, for external audits.

(10)(a) "Home school student" means a student who:

(a) attends a home school pursuant to Section 53G-6-204; and

(b) is not counted by an LEA in membership for purposes of generating state or federal funding.

~~[(7)]~~11 "Individualized education program" or "IEP" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with Part B of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Section 1400 (2004), and rule.

~~[(8)]~~12 "Individuals with Disabilities Education Act" or "IDEA," 20 U.S.C. Section 1400 et seq. (2004), is a four part (A-D) piece of federal legislation that ensures a student with a disability is provided with a Free Appropriate Public Education (FAPE) that is tailored to the student's individual needs.

(13)(a) "Internal audit" means an independent appraisal activity established within an agency as a control system to examine

and objectively evaluate the adequacy and effectiveness of other internal control systems within the agency.

(b) An "internal audit" is conducted in accordance with the current:

(i) International Standards for the Professional Practice of Internal Auditing; or

(ii) Government Auditing Standards, issued by the Comptroller General of the United States.

([9]14)(a) "LEA" or "local education agency" means a school district or charter school.

(b) For purposes of certain rules, "LEA" or "local education agency" may include the Utah Schools for the Deaf and the Blind (USDB) if indicated in the specific rule.

(1[0]5)(a) "LEA governing board" means:

(i) for a school district, a local school board; and

(ii) for a charter school, a charter school governing board.

(b) For purposes of certain rules, "LEA governing board" may include the State Board of Education as the governing board for the Utah Schools for the Deaf and the Blind if indicated in the specific rule.

(16)(a) "Monitor" or "oversee" means to formally supervise, inspect, or examine the compliance, performance, or finances of a program receiving state or federal education funding.

(b) A monitoring or oversight program may include:

(i) review of financial and performance reports required of the subject program;

(ii) follow-up to ensure the subject program takes timely and appropriate actions to correct identified deficiencies;

(iii) supervising remedial action recommended by audit or monitoring findings or required by Board rule; and

(iv) any function performed in an evaluation or review.

([1]17) "Parent" means a parent or guardian who has established residency of a child under Sections 53G-6-302, 53G-6-303, or 53G-6-402, or another applicable Utah guardianship provision.

([12]18) "Plan for College and Career Readiness" or "SEOP" means a student education occupation plan for college and career readiness that is a developmentally organized intervention process that includes:

(a) a written plan, updated annually, for a secondary student's (grades 7-12) education and occupational preparation;

(b) all Board, local board and local charter board graduation requirements;

(c) evidence of parent or guardian, student, and school representative involvement annually;

(d) attainment of approved workplace skill competencies, including job placement when appropriate; and

(e) identification of post secondary goals and approved sequence of courses.

(19)(a) "Private school student" means a student who:

(a) attends a private school; and

(b) is not counted by an LEA in membership for purposes of generating state or federal funding.

(20) "Public school student" means a student who:

(a) attends an LEA governed public school; and

(b) is counted by an LEA in membership for purposes of generating state or federal funding.

(21) "Split enrollment student" means a student who is:

(a) regularly enrolled at two schools within two LEAs at the same time;

(b) eligible for graduation and other services at both schools; and

(c) subject to the split enrollment provisions of R277-419, counted by each LEA in membership for purposes of generating state or federal funding for only those courses or subjects for which each LEA provides instruction.

([13]22) "State Charter School Board" or "SCSB" means the State Charter School Board created in Section 53G-5-201.

([14]23) "Superintendent" means the State Superintendent of Public Instruction or the Superintendent's designee.

([15]24) "USDB" means the Utah Schools for the Deaf and the Blind.

[~~(16)~~] "USOR" means the Utah State Office of Rehabilitation.]

KEY: Board of Education, rules, definitions

Date of Enactment or Last Substantive Amendment: [August 11, 2016]2019

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

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

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 43479

FILED: 01/11/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to update missing language in Rule R277-487 to reflect recommendations from Utah Student Data Privacy Advisory Groups.

SUMMARY OF THE RULE OR CHANGE: The changes update missing language in Section R277-487-12 to reflect consistent language throughout this rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X Section 3 and Subsection 53E-3-401(4) and Subsection 53E-9-302(1) and Subsection 53G-11-511(4)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** These rule changes are not expected to have any fiscal impact on state government revenues or expenditures because they provide technical,

conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies. Modifications to this rule reflect legislative updates, and/or recommendations from Student Data Privacy Advisory Groups regarding existing student privacy and security regulations.

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

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

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: These rule changes are not expected to have any fiscal impact on persons other than small businesses, businesses, or local government entities revenues or expenditures because they provide technical, conforming, and stylistic changes in accordance with the Rulewriting Manual for Utah and Board policies. Modifications to this rule reflect legislative updates, and/or recommendations from Student Data Privacy Advisory Groups regarding existing student privacy and security regulations.

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

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are 1,241 entities with a NAICS code 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

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THIS RULE MAY BECOME EFFECTIVE ON: 03/11/2019

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

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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.

R277. Education, Administration.

R277-487. Public School Data Confidentiality and Disclosure.

R277-487-1. Authority and Purpose.

(1) This rule is authorized by:

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

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

(c) Subsection 53E-9-302(1), which directs that the Board may make rules to establish student data protection standards for public education employees, student aides, and volunteers; and

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

(2) The purpose of this rule is to:

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

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

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

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

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

R277-487-2. Definitions.

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

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

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

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

(i) FERPA; and

(ii) the Utah Student Data Protection Act, Title 53E, Chapter 9, Part 3.

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

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

(a) personal directory information;

(b) educational background;

(c) endorsements;

(d) employment history; and

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

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

(6) "Cyber security framework" means:

(a) the cyber security framework developed by the Center for Internet Security found at <http://www.cisecurity.org/controls/>; or

(b) a IT security framework that is comparable to the cyber security framework described in Subsection (6)(a).

(7) "Data governance plan" has the same meaning as defined in Subsection 53E-9-301(7).

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

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

(a) in accordance with current industry best practices; and

(b) rendering the data or record irretrievable in the normal course of business of an LEA or a third-party contractor.

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

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

(12) "Enrollment verification data" includes:

(a) a student's birth certificate or other verification of age;

(b) verification of immunization or exemption from immunization form;

(c) proof of Utah public school residency;

(d) family income verification; or

(e) special education program information, including:

(i) an individualized education program;

(ii) a Section 504 accommodation plan; or

(iii) an English language learner plan.

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

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

(15) "Metadata dictionary" has the same meaning as defined in Subsection 53E-9-301(14).

(16) "Personally identifiable student data" has the same meaning as defined in Subsection 53E-9-301(14).

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

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

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

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

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

(18) "Student data advisory groups" has the same meaning as described in Subsection 53E-9-302(3).

(19) "Student data manager" means the individual at the LEA level who:

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

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

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

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

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

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

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

(b) course-taking and completion;

(c) grade-point average;

(d) remediation;

(e) retention;

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

(g) enrollment and demographic data.

(20) "Third party contractor" has the same meaning as defined in Subsection 53E-9-301(23).

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

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

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

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

(a) FERPA;

(b) Title 53E, Chapter 9, Part 3, Student Data Protection Act;

(c) Title 53E, Chapter 9, Part 2, Utah Family Educational Rights and Privacy Act; and

(d) this Rule R277-487.

(4) An LEA shall comply with Title 53E, Chapter 9, Part 3, Student Data Protection Act.

(5) An LEA shall comply with Section 53E-9-204.

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

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

(a) in a secure manner; and

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

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

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

(b) the contract between the LEA and the third party contractor includes the provisions required by Subsection 53E-9-309(2).

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

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

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

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

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

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

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

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

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

(16) All public education employees, aides, and volunteers shall maintain appropriate confidentiality pursuant to federal, state, local laws, and LEA policies created in accordance with this section, with regard to student performance data and personally identifiable student data.

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

(a) student performance data; or

(b) personally identifiable student data.

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

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

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

R277-487-4. Retention of Student Data.

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

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

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

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

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

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

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

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

(a) inaccurate;

(b) misleading; or

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

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

R277-487-5. Transparency.

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

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

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

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

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

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

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

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

(1) The Chief Privacy Officer:

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

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

(c) shall have responsibility for identification of threats to data privacy protections;

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

(i) protection of personally identifiable student data;

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

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

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

(f) shall develop and maintain a metadata dictionary as required by Section 53E-9-302.

R277-487-7. Prohibition of Public Education Data Use for Marketing.

Data maintained by the state, a school district, school, or other public education agency or institution in the state, including data provided by contractors, may not be sold or used for marketing purposes, or targeted advertising as defined in Subsection 53E-9-301(22) except with regard to authorized uses of directory information not obtained through a contract with an educational agency or institution.

R277-487-8. Public Education Research Data.

(1) The Superintendent may provide limited or extensive data sets for research and analysis purposes to qualified researchers or organizations.

(2) The Superintendent shall use reasonable methods to qualify researchers or organizations to receive data, such as evidence that a research proposal has been approved by a federally recognized Institutional Review Board or "IRB."

(3) The Superintendent may post aggregate de-identified student assessment data to the Board website.

(4) The Superintendent shall ensure that personally identifiable student data is protected.

(5) The Superintendent:

(a) is not obligated to fill every request for data and shall establish procedures to determine which requests will be filled or to assign priorities to multiple requests;

(b) may give higher priority to requests that will help improve instruction in Utah's public schools; and

(c) may charge a fee to prepare data or to deliver data, particularly if the preparation requires original work.

(6) A researcher or organization shall provide a copy of the report or publication produced using Board data to the Superintendent at least 10 business days prior to the public release.

(7) Requests for personally identifiable student data that may only be provided in accordance with Section 53E-9-308 and FERPA, and may include:

(a) student data that are de-identified, meaning that a reasonable person in the school community who does not have personal knowledge of the relevant circumstances could not identify student(s) with reasonable certainty;

(b) agreements with recipients of student data where recipients agree not to report or publish data in a manner that discloses students' identities; or

(c) release of student data, with appropriate binding agreements, for state or federal accountability or for the purpose of improving instruction to specific student subgroups.

(8) Recipients of Board research data shall sign a confidentiality agreement, if required by the Superintendent.

(9) Either the Board or the Superintendent may commission research or may approve research requests.

(10) Request for records under Title 63G, Chapter 2, Government Records Access and Management Act, are not subject to this Section R277-487-8.

R277-487-9. CACTUS Data.

(1) The Board maintains information on all licensed Utah educators in CACTUS, including information classified as private, controlled, or protected under GRAMA.

(2) The Superintendent shall open a CACTUS file for a licensed Utah educator when the individual initiates a Board background check.

(3) Authorized Board staff may update CACTUS data as directed by the Superintendent.

(4) Authorized LEA staff may change demographic data and update data on educator assignments in CACTUS for the current school year only.

(5) A licensed individual may view his own personal data, but may not change or add data in CACTUS except under the following circumstances:

(a) A licensee may change the licensee's contact and demographic information at any time;

(b) An employing LEA may correct a current educator's assignment data on behalf of a licensee; and

(c) A licensee may petition the Board for the purpose of correcting any errors in the licensee's CACTUS file.

(6) The Superintendent shall include an individual currently employed by a public or private school under a letter of authorization or as an intern in CACTUS.

(7) The Superintendent shall include an individual working in an LEA as a student teacher in CACTUS.

(8) The Superintendent shall provide training and ongoing support to authorized CACTUS users.

(9) For employment or assignment purposes only, authorized LEA staff members may:

(a) access data on individuals employed by the LEA; or

(b) view specific limited information on job applicants if the applicant has provided the LEA with a CACTUS identification number.

(10) CACTUS information belongs solely to the Board.

(g) The Superintendent may release data within CACTUS in accordance with the provisions of Title 63G, Chapter 2, Government Records Access and Management Act.

R277-487-10. Educator Evaluation Data.

(1)(a) The Superintendent may provide classroom-level assessment data to administrators and teachers in accordance with federal and state privacy laws.

(b) A school administrator shall share information requested by parents while ensuring the privacy of individual personally identifiable student data and educator evaluation data.

(2) A school, LEA, the Superintendent, and the Board shall protect individual educator evaluation data.

(3) An LEA shall designate employees who may have access to educator evaluation records.

(4) An LEA may not release or disclose student assessment information that reveals educator evaluation information or records.

(5) An LEA shall train employees in the confidential nature of employee evaluations and the importance of securing evaluations and records.

R277-487-11. Application to Third Parties.

(1) The Board and LEAs shall set policies that govern a third party contractor's access to personally identifiable student data and public school enrollment verification data consistent with Section 53E-9-301, et seq.

(2) An LEA may release personally identifiable student data and public school enrollment verification data to a third party contractor if:

(a) the release is allowed by, and released in accordance with, Section 53E-9-308, FERPA, and FERPA's implementing regulations; and

(b) the LEA complies with the requirements of Subsection R277-487-3(6).

(4) All Board contracts shall include sanctions for contractors or third party providers who violate provisions of state policies regarding unauthorized use and release of student and employee data.

(5) The Superintendent shall recommend that LEA policies include sanctions for contractors who violate provisions of federal or state privacy law and LEA policies regarding unauthorized use and release of student and employee data.

R277-487-12. Sharing Data With the Utah Registry of Autism and Developmental Disabilities.

(1) The Superintendent shall share personally identifiable student data with the Utah Registry of Autism and Developmental Disabilities as required by Subsection 53E-9-308(6)(b) through a written agreement designating the Utah Registry of Autism and Developmental Disabilities as the authorized representative of the Board for the purpose of auditing and evaluating federal and state supported education programs that serve students with autism and other [developmental] developmental disabilities.

(2) The agreement required by Subsection (1) shall include a provision that:

(a) the Utah Registry of Autism and Developmental Disabilities may not use personally identifiable student data for any purpose not specified in the agreement;

(b) the Utah Registry of Autism and Developmental Disabilities shall flag all student personally identifiable data received from the Board to:

(i) ensure that the data is not used for purposes not covered by the agreement; and

(ii) allow the Superintendent access to the data for auditing purposes;

(c) the Utah Registry of Autism and Developmental Disabilities may redisclose de-identified data if:

(i) the de-identification is in accordance with HIPPA's safe harbor standard;

(ii) the de-identification is in accordance with Board rule; and

(iii) the Utah Registry of Autism and Developmental Disabilities annually provides the Superintendent with a description and the results of all projects and research undertaken using de-identified student data; and

(d) the Utah Registry of Autism and Developmental ~~Disabilities~~Disabilities shall allow an on-site audit conducted by the Superintendent to monitor for compliance with this rule no less than once per year.

(3) The Superintendent shall maintain a record of all personally identifiable student data shared with the Utah Registry of Autism and Developmental Disabilities in accordance with 34 C.F.R. 99.32.

(4)(a) A parent of a child whose personally identifiable student data was shared with the Utah Registry of Autism and Developmental Disabilities has the right to access the exact records disclosed.

(b) A parent identified in Subsection (4)(a) has the right to contest and seek to amend, expunge, or destroy any data that is inaccurate, misleading, or otherwise in violation of the privacy rights of the student.

R277-487-13. Annual Reports by Chief Privacy Officer.

(1) The Chief Privacy Officer shall submit to the Board an annual report regarding student data.

(2) The public report shall include:

(a) information about the implementation of this rule;

(b) information about the approved research studies using personally identifiable student information and data;

(c) identification of significant threats to student data privacy and security;

(d) a summary of data system audits; and

(e) recommendations for further improvements specific to student data security and the systems that are necessary for accountability in Board rules or legislation.

R277-487-14. Data Security and Privacy Training for Educators.

(1) The Superintendent shall develop a student and data security and privacy training for educators.

(2) The Superintendent shall make the training developed in accordance with Subsection (1) available through UEN.

(3) Beginning in the 2018-19 school year, an educator shall complete the training developed in accordance with Subsection (1) as a condition of re-licensure.

KEY: students, records, confidentiality, privacy

Date of Enactment or Last Substantive Amendment: ~~2018~~2019

Notice of Continuation: November 14, 2014

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-9-302; 53E-3-401; 53G-11-511

Education, Administration

R277-551

Charter Schools - General Provisions

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43478

FILED: 01/14/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In the 11/01/2018 Utah State Board of Education (USBE) meeting, Rule R277-551 was adopted by the USBE. Staff has amended Subsection R277-551-4(1)(a) to provide consistent language.

SUMMARY OF THE RULE OR CHANGE: USBE Section R277-551-4 is amended to provide consistent language.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X Section 3 and Section 53F-2-702 and Subsection 53E-3-401(4) and Subsection 53G-5-205(5)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no impact because these rule changes are not expected to have any fiscal impact on state government revenues or expenditures. This rule makes technical changes and takes sections of rules that are being removed and moves those sections to this rule. All provisions and requirements of this rule are currently in effect.

◆ **LOCAL GOVERNMENTS:** There is no impact because these rule changes are not expected to have any material impact on local governments' revenues or expenditures. This rule makes technical changes and takes sections of rules that are being removed and moves those sections to this rule. All provisions and requirements of this rule are currently in effect.

◆ **SMALL BUSINESSES:** There is no impact because these rule changes are not expected to have any material fiscal impact on small businesses' revenues or expenditures. This rule makes technical changes and takes sections of rules that are being removed and moves those sections to this rule. All provisions and requirements of this rule are currently in effect.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact because these rule changes are not expected to have any material fiscal impact on persons other than small businesses, businesses, or local government entities revenues or expenditures. This rule makes technical changes and takes sections of rules that are being removed and moves those sections to this rule. All provisions and requirements of this rule are currently in effect.

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

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/04/2019

THIS RULE MAY BECOME EFFECTIVE ON: 03/11/2019

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

Net Fiscal Benefits:	\$0	\$0	\$0

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

Appendix 2: Regulatory Impact to Non-Small Businesses
There are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). These rule changes 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.

Appendix 1: Regulatory Impact Summary Table*

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

**R277. Education, Administration.
R277-551. Charter Schools - General Provisions.
R277-551-1. Authority and Purpose.**

- (1) This rule is authorized under:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Section 53F-2-702, which directs the Board to distribute funds for charter school students directly to the charter school;
 - (c) Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities; and
 - (d) Subsection 53G-5-205(5), which requires the Board to make rules establishing minimum standards that a charter school authorizer is required to apply.
- (2) The purpose of this rule is to provide operational requirements for charter schools.

R277-551-2. Alternate Methods for Determining the Economically Disadvantaged Status of a Charter School's Students.

- (1) A charter LEA with a charter school that does not participate in the National School Lunch Program shall comply with the requirements of this Section R277-551-2 to identify the economically disadvantaged status of students in the school's daily UTREx submission.
 - (2) A charter LEA described in Subsection (1):
 - (a) shall determine the economically disadvantaged status for its students on the basis of criteria no less stringent than those established by the U.S. Department of Agriculture for identifying students who qualify for reduced price lunch for the fiscal year in question; or
 - (b) may use the Charter School Declaration of Household Income form provided by the Superintendent for this purpose.

(3) A school that does not use the form identified in Subsection (2)(b) shall maintain equivalent documentation in its records, which may be subject to review by the Superintendent.

R277-551-3. Transportation.

(1) A charter school may not receive to-and-from school transportation funds except as provided under Section 53F-5-211.

(2) A charter school that provides transportation to students shall comply with the inspection and safety requirements of Section 53-8-211.

(3) A school district may provide transportation for charter school students on a space-available basis on approved routes.

(4)(a) A school district may provide transportation or transportation information to charter school students and their parents who participate in transportation by the school district as guests.

(b) Charter schools or charter school students may forfeit with no recourse the privilege of transportation, as described in Subsection (4)(a), for violation of district policies.

R277-551-4. Student Health, Safety, and Welfare Reporting Requirements.

(1)(a) The State Charter School Board shall provide a form ~~[on its website]~~ for ~~[individuals]~~ a charter school to report threats to health, safety or welfare of students consistent with Subsection 53G-5-503(4).

(b) The State Charter School Board shall ~~[share reports received on]~~ provide reports received, as described in Subsection (1)(a):

~~(i) to the Superintendent; and~~

~~(ii) for charter schools from other authorizers, [with] to the applicable authorizer.~~

(2) Individuals making reports about threats shall report suspected criminal activity to local law enforcement and suspected child abuse to local law enforcement or the Division of Child and Family Services consistent with:

- (a) Section 62A-4a-403;
- (b) Subsection 53G-9-203(3)(a); and
- (c) Rule R277-401.

(4) A charter school shall verify that potential criminal activity or suspected child abuse has been reported consistent with state law and this rule.

(5) A charter school shall act promptly to investigate and take disciplinary action, if appropriate, against students who may be participants in threatening activities or take appropriate and reasonable action to protect students or both.

(6) All charter schools shall be subject to accountability standards established by the Board and to monitoring and internal auditing by the Board.

R277-551-5. Charter School Information for Students and Parents.

(1) An authorizer shall ensure that each of the authorizer's charter schools has a website that contains the following information:

(a) the charter school's governance structure, including the name, qualification, and contact information of all charter school governing board members;

(b) the number of new students that will be admitted into the school;

(c) the school calendar, which shall include:

- (i) the first and last days of school;
- (ii) scheduled holidays;
- (iii) scheduled professional development days; and
- (iv) scheduled non-school days;

(d) timelines for acceptance of new students consistent with Section 53G-6-503;

(e) the requirement and availability of a charter school student application;

(f) the application timeline to be considered for enrollment in the charter school;

(g) procedures for transferring to or from a charter school;

(h) timelines for a transfer;

(i) provisions for payment, if required, of a one-time fee per secondary school enrollment, not to exceed \$5.00, consistent with Subsection 53G-6-503(9);

(j) the charter school governing board's policies; and

(k) other items required by:

- (i) the charter school's authorizer;
- (ii) statute; and
- (iii) Board rule.

(2) The fee described in Subsection 1(I) is subject to fee waiver in accordance with Rule R277-407.

(3) A charter school shall have an operative and readily accessible website containing the information described in Subsection (1) at least 180 days before the proposed opening day of school.

KEY: education, charter schools

Date of Enactment or Last Substantive Amendment: 2019

Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53E-3-401; 53G-5-205

Education, Administration
R277-707
Enhancement for Accelerated Students
Program

NOTICE OF PROPOSED RULE
(Amendment)

DAR FILE NO.: 43477

FILED: 01/14/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah State Board of Education amended this rule to implement the policy recommendations per the recommendations developed by a stakeholder group on increasing the number and percentage of students from diverse and/or disadvantaged backgrounds earning credit in early college coursework programs (i.e. Advanced

Placement, Concurrent Enrollment, and International Baccalaureate).

SUMMARY OF THE RULE OR CHANGE: Amendments were made to Sections R277-707-2 and R277-707-4 implementing new language on increasing the number and percentage of students from diverse and/or disadvantaged backgrounds earning credit in early college coursework programs and deleting old language.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X Section 3 and Section 53F-2-408 and Subsection 53E-3-401(4)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** These rule changes are not expected to have any fiscal impact on state government revenues or expenditures. This rule defines data sources and a distribution formula for an existing program. The program is funded and staff can perform their duties with existing resources.

◆ **LOCAL GOVERNMENTS:** These rule changes are not expected to have any material impact on local governments' revenues or expenditures. The program has a set amount of funding annually. The distribution methodology is being modified, which could result in redistribution of funds between local education agencies (LEAs). It does not appear that subrecipients will incur costs or effort that are substantially different from existing efforts to apply and manage the program.

◆ **SMALL BUSINESSES:** These rule changes are not expected to have any material fiscal impact on small businesses' revenues or expenditures. The program has a set amount of funding annually. The distribution methodology is being modified, which could result in redistribution of funds between LEAs. It does not appear that subrecipients will incur costs or effort that are substantially different from existing efforts to apply and manage the program.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These rule changes are not expected to have any material fiscal impact on persons other than small businesses, businesses, or local government entities revenues or expenditures. The program has a set amount of funding annually. The distribution methodology is being modified, which could result in redistribution of funds between LEAs. It does not appear that subrecipients will incur costs or effort that are substantially different from existing efforts to apply and manage the program.

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

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

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

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Angela Stallings by phone at 801-538-7550, by FAX at 801-538-7768, or by Internet E-mail at angie.stallings@schools.utah.gov

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THIS RULE MAY BECOME EFFECTIVE ON: 03/11/2019

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
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Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

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

Appendix 2: Regulatory Impact to Non-Small Businesses
 There are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). These rule changes have no material fiscal impact on local education agencies and will not have a fiscal impact on non-small or small businesses.

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

R277. Education, Administration.
R277-707. Enhancement for Accelerated Students Program.
R277-707-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Section ~~[53A-17a-165]~~53F-2-408, which ~~[allows]~~requires the Board to ~~[adopt rules]~~establish a distribution formula for the expenditure of funds appropriated for the Enhancement for Accelerated Students Program; and
 - (c) Subsection ~~[53A-1-404]~~53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2)(a) The purpose of this rule is to specify the procedures for distributing funds appropriated under Section ~~[53A-17a-165]~~53F-2-408 to LEAs.

(b) The intent of this appropriation is to provide resources to LEAs to enhance the academic growth of accelerated students. ~~[-whose academic achievement is accelerated.]~~

R277-707-2. Definitions.

(1) "Accelerated students" means ~~[children and youth whose superior academic performance or potential for accomplishment requires a differentiated and challenging instructional model]~~students participating in accelerated programs.

(2) "Accelerated programs" means student services with increased depth, complexity, or rigor, which may include above-grade level coursework, including:

- ~~_____~~ (a) Gifted and Talented programs;
- ~~_____~~ (b) IB programs; or
- ~~_____~~ (c) AP courses.

~~([2]3)~~ "Advanced placement" or "AP" courses means rigorous courses developed by the College Board where:

(a) each course is developed by a committee composed of college faculty and AP teachers, and covers the breadth of information, skills, and assignments found in the corresponding college course; and

- (b) students who perform well on the AP exam may be:
 - (i) granted credit; or
 - (ii) advanced standing at participating colleges or universities.

~~([3]4)~~(a) "Gifted and talented programs" means programs to~~[-~~:

~~_____~~ (a) assist individual students to develop their high potential and enhance their academic growth; and

~~_____~~ (b) ~~identify[-students], through multiple assessment instruments, and serve students with outstanding abilities who [are capable of]~~have potential for high performance in the following areas:

- (i) general intellectual ability;
- (ii) specific academic aptitude; and
- (iii) creative or productive thinking.

~~_____~~ (b) Instruments for identifying gifted and talent students shall not be solely dependent upon English vocabulary or comprehension skills and shall take into consideration abilities of culturally diverse students and students with disabilities.

~~([4]5)~~ "International Baccalaureate" or "~~[(I)B()]~~" Program means one of the following programs established by the International Baccalaureate Organization:

- (a) the Diploma Program;
- (b) the Middle Years Program; or
- (c) the Primary Years Program.

~~_____~~ (6) "Parent" means a student's parent, legal guardian, or a responsible adult with a power of attorney meeting the requirements of Subsection 53G-6-302(4).

~~_____~~ (7) "Underrepresented students" means a subset of students, as determined by an LEA and approved by the Superintendent, that holds a smaller percentage in a program as compared to the overall school population.

~~([5]8)~~ "Weighted Pupil Unit" means the basic state funding unit.

~~[-~~(6) "Utah Consolidated Application" or "UCA" means the web-based grants management tool employed by the Board through which LEAs submit plans and budgets for approval by the Superintendent.]

R277-707-3. Eligibility~~[-]~~ and Application~~[-]~~, Distribution and Use of Funds~~[-]~~.

(1) All LEAs are eligible to apply for the Enhancement for Accelerated Students Program funds ~~[using the UCA]~~annually.

~~(2)(a)~~ An LEA shall have a process for identifying students whose potential could be supported by accelerated programs~~[academic achievement is accelerated based upon multiple assessment instruments.~~

~~_____~~ (b) These instruments shall not be solely dependent upon English vocabulary or comprehension skills and shall take into

~~consideration abilities of culturally diverse students and students with disabilities].~~

~~(3) To receive program money, an LEA shall submit an application to the Superintendent that includes an LEA's plan for:~~

~~(a) how the LEA intends to engage all parents so that parents understand the opportunities available for their children in elementary, middle school, high school and beyond, including how the LEA will comply with Rule R277-462;~~

~~(b) how the LEA intends to spend program money; and~~

~~(c) how the LEA intends to eliminate barriers and increase enrollment of underrepresented students in accelerated academic programs.~~

~~(4) The Superintendent shall publish outlines and required submission dates related to an LEA application and plan for increasing enrollment of underrepresented students in accelerated academic programs.~~

~~[(3) The distribution formula includes an allocation of money for:~~

~~(a) Advanced Placement courses:~~

~~(i) The designated funds for the advanced placement program equal 0.38 multiplied by the difference between the funds appropriated for the Enhancement for Accelerated Students Program less the allotment under Subsection 53A-17a-165(3):~~

~~(ii)(A) The total funds designated for the advanced placement program are divided by the total number of Advanced Placement exams passed with a grade of 3 or higher by students.~~

~~(B) This calculation results in a fixed amount per exam passed with each participating LEA receiving that amount for each exam successfully passed by one of its students:~~

~~(b) Gifted and Talented programs:~~

~~(i) The designated funds for the Gifted and Talented Program equal 0.62 multiplied by the difference between the funds appropriated for the Enhancement for Accelerated Students Program less the allotment under Subsection 53A-17a-165(3):~~

~~(ii) Each LEA shall receive its share of funds in the proportion that the LEA's number of weighted pupil units for kindergarten through grade twelve bears to the state total.~~

~~(iii) An LEA shall expend Gifted and Talented program funds in accordance with the UCA guidelines.~~

~~(c) IB: LEAs shall have an IB authorized program to qualify for funds:~~

~~(i) Fifty percent of the total funds designated for IB consistent with Subsection 53A-17a-165(3) shall be equally distributed among all authorized IB programs in the state.~~

~~(ii) The remaining fifty percent of allocation shall be distributed to LEAs with Diploma Programs where students scored a grade of 4 or higher on IB exams, resulting in a fixed amount of dollars per exam passed.]~~

R277-707-4. Distribution and Use of Funds.

~~(1) The Superintendent shall distribute Enhancement of Accelerated Students program funds as follows:~~

~~(a) the greater of 1.5% or \$100,000 to support IB programs;~~

~~(b) 60% of funds to LEAs to support Gifted and Talented programs; and~~

~~(c) the remaining funds to LEAs to support AP programs.~~

~~(2)(a) The Superintendent shall determine funding to be awarded to an LEA's IB programs by:~~

~~(i) dividing the number of students enrolled in an LEA's IB program by the total enrollment of students in IB programs throughout the state; and~~

~~(ii) multiplying the result from Subsection (2)(a)(i) by the total IB allocation.~~

~~(b) The Superintendent shall determine funding to be awarded for an LEA's AP programs by:~~

~~(i) dividing the number of students enrolled in an LEA's AP classes by the total enrollment of students in AP classes throughout the state; and~~

~~(ii) multiplying the result from Subsection (2)(b)(i) by the total AP allocation.~~

~~(3) If an LEA fails to demonstrate progress in meeting plan goals for placing and retaining underrepresented students in accelerated programs, the Superintendent may:~~

~~(a) place the LEA on probation and provide targeted technical assistance; and~~

~~(b) reduce funding to the LEA.~~

~~(4) Subject to the general requirements of Section R277-700-7:~~

~~(a) A middle school or high school;~~

~~(i) shall provide all course registration opportunities to each student; and~~

~~(ii) through consultation with students, parents, educators, and administrators, may consider academic readiness, but may not require prerequisites for enrolling in an AP or IB course.~~

~~(b) A school that offers a program eligible for funding under Section 53F-2-408, may not prohibit a student from enrolling in the course based on the student's:~~

~~(i) grades or grade point average;~~

~~(ii) state standardized assessment scores; or~~

~~(iii) referral or lack of a referral from an educator;~~

~~(c) In addition to the restrictions listed in Subsection (d), a middle school or high school may not prohibit a student from enrolling in a course based on the student's:~~

~~(i) grade level;~~

~~(ii) participation in or passing a pre-requisite course;~~

~~(iii) participation in or passing an honors-level or college-preparatory course; or~~

~~(iv) requirements over the summer.~~

~~(5) An LEA may use Enhancement for Accelerated Students Program funds for:~~

~~(a) gifted and talented programs, including professional learning for teachers;~~

~~(b) identification of underrepresented students;~~

~~(c) Advanced Placement courses;~~

~~(d) Advanced Placement test fees of eligible low-income students, as defined in Section 53F-2-408;~~

~~(e) International Baccalaureate programs; or~~

~~(f) International Baccalaureate test fees of eligible low-income students, as defined in Section 53F-2-408.~~

R277-707-[4]5. Performance Criteria and Reports.

~~(1) An LEA receiving funds[as set forth in Section R277-707-3,]shall [be required to]submit an annual evaluation report to the Superintendent consistent with Section [53A-17a-165]53F-2-408.~~

~~(2) An LEA shall present the evaluation report identified in Subsection (1) to the LEA's local board in a public meeting.~~

~~(3) The report shall include the following performance criteria related to the identified students whose academic achievement is accelerated, which shall be disaggregated by groups as defined in the State Accountability System:~~

~~[(a) number of identified students disaggregated by subgroups;~~

~~(b) graduation rates for identified students;]~~

~~(a) number of elementary, middle school, and high school students participating in Gifted and Talented programs;~~

~~[(e)b] number of AP classes taken, completed, and exams passed with a score of [3]2 or above[by identified students];~~

~~[(d)c] number of IB classes taken, completed, and exams passed with a score of 4 or above[by identified students]; and~~

~~(d) evidence of stakeholder input demonstrating that the LEA engaged parents;~~

~~[(c) number of Concurrent Enrollment classes taken and credit earned by identified students;~~

~~(f) ACT or SAT data, including the number of students participating, at or above the college readiness standards;~~

~~(g) gains in proficiency in language arts; and~~

~~(h) gains in proficiency in mathematics.]~~

~~(4) As part of the LEA's annual report under Subsection (1), an LEA shall provide assurances that the LEA is:~~

~~(a) increasing enrollment of underrepresented students in the LEA's accelerated academic courses; or~~

~~(b) meeting goals in the LEA's plan to increase enrollment and retention of underrepresented students in the LEA's accelerated academic courses.~~

~~(2) The Superintendent shall submit an annual report on program effectiveness to the Public Education Appropriations Subcommittee of the Utah State Legislature consistent with Subsection 53A-17a-165(6).]~~

KEY: accelerated learning, enhancement programs

Date of Enactment or Last Substantive Amendment: [July 11, 2016]2019

Notice of Continuation: May 16, 2016

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; [53A-17a-165]53E-2-408; [53A-17a-165(5); 53A-1-401]53E-3-401(4)

Health, Disease Control and Prevention, Epidemiology **R386-900**

Special Measures for the Operation of Syringe Exchange Programs

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 43468
FILED: 01/04/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for these amendments are to provide clarification on syringe exchange programs and requirements.

SUMMARY OF THE RULE OR CHANGE: These changes clarify the purpose of syringe exchange programs and provide additional clarification on operating requirements for entities operating syringe exchange programs.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-7-8

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** These revisions provide clarification only and do not add additional requirements to impact the state budget. The Department of Health (Department) is utilizing 1.0 FTE in federal funds to monitor, analyze, and report on syringe exchange programs throughout the state = \$54,329.60 (personnel and fringe). The staff time to review and monitor compliance to new requirements would not incur additional state costs beyond the current allocated FTE.

◆ **LOCAL GOVERNMENTS:** These revisions provide clarification only and do not add additional requirements that will impact local governments. May anticipate costs if a local health department chooses to operate a syringe exchange program, including but not limited to: personnel costs, educational materials, syringes, and sharps disposals.

◆ **SMALL BUSINESSES:** These revisions may impact small businesses currently operating syringe exchange programs who choose to expand syringe services into new counties. Anticipated costs to current small businesses are estimated to be \$2,555 for each new service area expansion.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These revisions provide clarification only, thus there are no requirements that impact persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These revisions provide clarification only and do not add additional requirements to impact affected persons. Minimal personnel costs for entities operating a syringe exchange program for completing mandatory reporting forms and faxing/emailing forms to the Department.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These rule changes provide clarification on the definition of a "syringe exchange program" and provides additional clarification on the operating requirements of a program within a local community.

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

HEALTH
DISEASE CONTROL AND PREVENTION,
EPIDEMIOLOGY

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:
 ♦ Kassy Keen by phone at 801-538-6255, or by Internet E-mail at kkeen@utah.gov or mail at PO Box 142104, Salt Lake City UT, 84114-2104

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/04/2019

THIS RULE MAY BECOME EFFECTIVE ON: 03/11/2019

AUTHORIZED BY: Joseph Miner, MD, Executive Director

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

Appendix 2: Regulatory Impact to Non-Small Businesses
 These proposed rule amendments are not expected to have any fiscal impacts on non-small business revenues or expenditures. There are zero non-small businesses currently operating as syringe service providers.

The Executive Director of the Department of Health, Joseph Miner, MD, has reviewed and approved this fiscal analysis.

R386. Health, Disease Control and Prevention, Epidemiology.
R386-900. Special Measures for the Operation of Syringe Exchange Programs.
R386-900-1. Authority.

This rule is authorized under Utah Code 26-7-8.

R386-900-2. Purpose.
 This rule establishes operating and reporting requirements required of an entity operating a syringe exchange pursuant to 26-7-8.

R386-900-3. Definitions.
 The following definitions apply to this rule:
 (1) "Department" means the Utah Department of Health Bureau of Epidemiology Prevention, Treatment and Care Program.
 (2) "Syringe exchange" is defined in 26-7-8.
 (3) "Operating entity" is defined in 26-7-8.
 (4) "HIV" human immunodeficiency virus.
 (5) "HCV" hepatitis C virus.
 (6) "HBV" hepatitis B virus.
 (7) "Opiate antagonist" is defined by Chapter 55, Opiate Overdose Response Act.

R386-900-4. Operating Requirements.
 (1) ~~[An operating entity shall utilize the department's enrollment form to provide written notice of intent to conduct syringe exchange activities to the department 15 days prior to conducting syringe exchange activities. If an operating entity discontinues syringe exchange activities, written notice shall also be submitted utilizing the department's report form within 15 days of termination of activities to the department.]An operating entity intending to begin syringe exchange programming within a local community shall meet with local stakeholders, which should include: public health, mental health, substance abuse, law enforcement, local governing body, community councils, etc. This meeting should provide education on the purpose and goals of a syringe exchange program, syringe exchange protocols, awareness of operating entity's plans and community partnerships and will assess community readiness, norms, needs and parameters for implementing syringe exchange in that area. The operating entity shall provide UDOH meeting summary(s) which should include: participants, what was discussed, outcomes and plans for implementation. This documentation must be submitted for each major area where exchange will be conducted upon enrollment and submitted 30 days prior to the initiation of syringe exchange program operation in a new area.~~

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$1,749	\$1,749	\$1,749
Local Government	\$0	\$0	\$0
Small Businesses	\$2,555	\$2,555	\$2,555
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$4,304	\$4,304	\$4,304
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	(\$4,304)	(\$4,304)	(\$4,304)

~~(2)~~ An operating entity shall utilize the department's enrollment form to provide written notice of intent to conduct syringe exchange activities to the department 15 days prior to conducting syringe exchange activities. If an operating entity discontinues syringe exchange activities, written notice shall also be submitted utilizing the department's report form within 15 days of termination of activities to the department.

~~(2)~~(3) An operating entity must submit a safety protocol to the department for the prevention of needlestick and sharps injury before initiating syringe exchange activities.

~~(3)~~(4) An operating entity shall submit a sharps disposal plan to the department. Sharps disposal is the financial responsibility of the entity operating and responsible for the syringe exchange program.

~~(4)~~(5) An operating entity shall facilitate the exchange of an individuals used syringes by providing a disposable, medical grade sharps container for the disposal of used syringes.

~~(5)~~(6) ~~The operating entity shall exchange one or more new syringes in sealed sterile packages to the individual free of charge.~~ The operating entity shall exchange one or more new syringes in sealed sterile packages and may provide other clean and new prevention materials to the individual free of charge.

~~(6)~~(7) As available, the department will provide syringes, prevention materials, education materials, and other resources to entities operating a syringe exchange program.

~~(7)~~(8) An operating entity must provide and make available to all ~~recipients of new syringe(s)~~ clients of the syringe exchange program verbal and written instruction on:

- (a) Methods for preventing the transmission of blood borne pathogens, including HIV, HBV and HCV;
- (b) Information and referral to drug and alcohol treatment;
- (c) Information and referral for HIV and HCV testing; and
- (d) How and where to obtain an opiate antagonist.

R386-900-5. Reporting Requirements.

(1) All entities operating a syringe exchange program shall report aggregate data elements in accordance to 26-7-8 to the department on a quarterly basis, utilizing the format provided by the department which is to include:

- (a) Number of individuals who have exchanged syringes,
- (b) A self-reported or approximated number of used syringes exchanged for new syringes,
- (c) Number of new syringes provided in exchange for used syringes,
- (d) Educational materials distributed; and
- (e) Number of referrals provided.

R386-900-6. Penalty.

(1) Any person who violates any provision of R386-900 may be assessed a penalty as provided in section 26-23-6.

R386-900-7. Official References.

(1) Centers for Disease Control and Prevention (CDC), 2016, Program Guidance for Implementing Certain Components of Syringe Services Programs.

(2) Federal Register, Health and Human Services Department, 2011, Determination That a Demonstration Needle Exchange Program Would be Effective in Reducing Drug Abuse and

the Risk of Acquired Immune Deficiency Syndrome Infection Among Intravenous Drug Users.

(3) Harm Reduction Coalition, 2006, Syringe Exchange Programs and Hepatitis C.

(4) Harm Reduction Coalition, 2006, Syringe Exchange Programs: Reducing the Risks of Needlestick Injuries.

(5) Substance Abuse and Mental Health Services Administration (SAMHSA), Summary of Syringe Exchange Program Studies.

(6) United States Department of Health and Human Services (HHS), 2016, Implementation Guidance to Support Certain Components of Syringe Services Programs.

(7) World Health Organization (WHO), 2004, Effectiveness of sterile needle and syringe programming in reducing HIV/AIDS among injecting drug users.

KEY: syringe exchange programs, needles, syringes

Date of Enactment or Last Substantive Amendment: [November 7, 2016]2019

Authorizing, and Implemented or Interpreted Law: 26-7-8

Health, Family Health and Preparedness, Children with Special Health Care Needs

R398-5

Birth Defects Reporting

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 43472

FILED: 01/10/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for these changes is to update wording to more accurately establish the Critical Congenital Heart Disease (CCHD) reporting requirements, and to update and add reportable birth defect diagnosis codes including Zika Virus, Cytomegalovirus, hearing loss, and neonatal withdrawal symptoms.

SUMMARY OF THE RULE OR CHANGE: These changes update wording to more accurately establish the CCHD reporting requirements, and update and add reportable birth defect diagnosis codes including Zika Virus, Cytomegalovirus, hearing loss, and neonatal withdrawal symptoms.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 26-1-30(18) and Subsection 26-1-30(22) and Subsection 26-1-30(5) and Subsection 26-1-30(6) and Subsection 26-1-30(7) and Subsection 26-1-30(9) and Subsection 26-10-1(2)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** May have a minimal cost if reprinting of rule is needed.
- ◆ **LOCAL GOVERNMENTS:** No cost to local governments as the reporting requirements has been standard practice for the past several years.
- ◆ **SMALL BUSINESSES:** No cost to small businesses as the reporting requirements has been standard practice for the past several years.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No cost to businesses, individuals, local governments, and persons that are not small businesses as the reporting requirements has been standard practice for the past several years.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No costs for affected persons as the reporting requirements has been standard practice for the past several years.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no costs to business because the reporting requirements have been standard practice for the past several years.

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 or mail at PO Box 144720, Salt Lake City, UT 84114-4720

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/04/2019

THIS RULE MAY BECOME EFFECTIVE ON: 03/11/2019

AUTHORIZED BY: Joseph Miner, MD, Executive Director

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

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

Appendix 2: Regulatory Impact to Non-Small Businesses

These rule changes update terminology, create consistency within CCHD reporting, diagnosis codes and reporting timelines.

These rule changes are not expected to have any fiscal impact on hospitals, clinics, alternate birthing facility, midwives, or primary care providers as this has been the standard of practice for the past several years. These rule changes will update terminology to be consistent with reporting requirements, create consistency with word usage, update diagnosis codes, and update reporting timelines.

The Executive Director of Department of health, Joseph Miner, MD, has reviewed and approved this fiscal analysis.

R398. Health, Family Health and Preparedness, Children with Special Health Care Needs.

R398-5. Birth Defects and Critical Congenital Heart Disease Reporting.

[R398-5-1. Purpose and Authority.

~~_____ This rule establishes reporting requirements for birth defects and stillbirths in Utah and for related test results. Sections 26-1-30(5), (6), (7), (9), (18), (22), 26-10-1(2), 26-10-2, and 26-10-6(1)(d) authorize this rule.]~~ **R398-5-1. Authority and Purpose.**

(1) This rule is authorized by sections 26-1-30(5), (6), (7), (9), (18), (22), 26-10-1(2), 26-10-2, and 26-10-6(1)(d).

(2) This rule establishes reporting requirements for birth defects, critical congenital heart disease, and stillbirths in Utah and for related test results.

R398-5-2. Definitions.

As used in this rule:

~~(2)~~(1) "Birth defect" means any medical disorder of organ structure, function or biochemistry which is of possible genetic or prenatal origin. This includes any congenital anomaly, indication of hypoxia or genetic metabolic disorder listed in the ICD-9-CM (International Classification of Diseases, 9th Revision, Clinical Modification, established by the United States Center for Health Statistics) with any of the following diagnostic codes: 243, 255.2, 255.4, from 269.2 to 279.9, from 740.0 to 759.9[;], 760.72, [and] from

Appendix 1: Regulatory Impact Summary Table*

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

768.0 to 768.9[;], and 779.5 or listed in the ICD-10 (International Classification of Diseases, 10th Revision, established by the World Health Organization) with any of the following diagnostic codes: A92.5, E03, E25, from E70 to E90, from D55 to D58, H90.0 to H90.8, H90.A, H91.0 to H91.9, J96.00 to J96.91, P09, P35.1, P35.4, P96.1 to P96.2 and from Q00[-] to Q99.

[(+)](2) "Birthing center" means a birthing center licensed under Title 26, Chapter 21.

(3) "CCHD" means Critical Congenital Heart Disease.

[(5)](4) "Clinic" means physician-owned or operated clinic [that]which regularly provide services for the diagnosis or treatment of birth defects, genetic counseling, or prenatal diagnostic services.

(5) "Critical Congenital Heart Disease (CCHD) Screening" is a non-invasive test using pulse oximetry measuring how much oxygen is in the blood and can help to identify newborns affected with CCHD. Screening should begin after 24 hours of age or shortly before discharge if the baby is less than 24 hours of age.

(6) "Department" means the Utah Department of Health, Utah Birth Defect Network and Critical Congenital Heart Disease programs.

[(3)](7) "Hospital" means general acute hospital, children's specialty hospital, remote-rural hospital licensed under Title 26, Chapter 21.

(8) "Institution" means a hospital, alternate birthing facility, or midwife service providing maternity or nursery services or both.

(9) "SpO2" stands for peripheral capillary oxygen saturation, an estimate of the amount of oxygen in the blood.

[(4)](10) "Stillbirth" means a pregnancy resulting in a fetal death at 20 weeks gestation or later.

R398-5-3. [Reporting by Hospitals and Birthing Centers.] Birth Defects Reporting.

Each hospital, clinic, institution, or birthing center [that]which admits a patient and detects or screens for a birth defect as a result of any outcome of pregnancy, or admits a child under 24 months of age with a birth defect, or is presented with the event of a stillbirth shall report or cause to report to the department within 40 days of discharge the following:

(1) if live born, child's name;

(a) last name;

(b) first name;

(2) child's date of birth (or date of delivery);

(3) child's medical record number;

[(9)](4) child's [sex]gender; [and]

[(3)](5) mother's name;

(a) last name;

(b) first name;

(c) maiden name;

[(4)](6) mother's date of birth;

(7) mother's medical record number;

[(5)](8) delivery [hospital]institution;

[(6)](9) ICD - 9 - CM or ICD - 10 birth defect[s] codes [and hypoxia/hypoxemia diagnoses];

[(7)] pulse oximetry results for all initial and repeat screenings, including limb location;

[(8)](10) mother's state of residency at delivery; and

[(10)](11) mother's zip code of residency at delivery.

R398-5-4. Birth Defects Reporting by Laboratories.

Each laboratory operating in the state [that]which identifies a human chromosomal or genetic abnormality or other evidence of a birth defect shall report the following on a calendar quarterly basis to the department within 40 days of the end of the preceding calendar quarter:

(1) if live born, child's name [~~and date of birth~~];

(a) last name;

(b) first name;

(2) child's date of birth;

[(2)](3) mother's name;

(a) last name;

(b) first name;

[(3)](4) mother's date of birth;

[(4)](5) date the sample is accepted by the laboratory;

[(5)](6) test conducted;

[(6)](7) test result; and

[(7)](8) mother's state of residency at delivery.

R398-5-5. Critical Congenital Heart Disease (CCHD) Screening Reporting.

CCHD Screening results shall report or cause to report to the department within 40 days of discharge the following:

(1) newborn's name;

(a) last name;

(b) first name;

(2) newborn's date of birth;

(3) newborn's gender;

(4) newborn's gestational age;

(5) newborn's birth weight;

(6) newborn's medical record number;

(7) newborn's newborn screening kit number;

(8) newborn's delivery institution;

(9) newborn's discharge unit (if applicable);

(10) newborn's CCHD Screening result for each attempt;

(a) date;

(b) time;

(c) probe location;

(d) SpO2 result; and

(e) outcome of attempt.

(11) Newborn's first echocardiogram (if indicated);

(a) date; and

(b) time.

(12) mother's name;

(a) last name;

(b) first name;

(c) maiden name;

(13) mother's date of birth; and

(14) mother's medical record number.

R398-5-[5]6. Record Abstraction.

Hospitals, birthing centers, institutions, and clinics as well as community health care providers shall allow personnel from the department or its contractors to abstract information from the mother's and child's files on their demographic characteristics, family history of birth defects, prenatal and postnatal procedures or treatments (including diagnostics) related to the birth defect or stillbirth, and

outcomes of ~~that~~this and other pregnancies ~~by that~~of the mother. Hospitals, birthing centers, institutions, and clinics as well as community health care providers shall allow personnel from the department or its contractors to abstract information from the affected child's files, throughout their lifespan.

R398-5-[6]7. Liability.

As provided in Title 26, Chapter 25, persons who report, either voluntarily or as required by this rule, information covered by this rule may not be held liable for reporting the information to the Department of Health.

R398-5-[7]8. Penalties.

Pursuant to Section 26-23-6, any person that willfully violates any provision of this rule may be assessed an administrative civil money penalty not to exceed \$1,000 upon an administrative finding of a first violation and up to \$3,000 for a subsequent similar violation within two years. A person may also be subject to penalties imposed by a civil or criminal court.

KEY: birth defects, birth defect reporting, critical congenital heart disease (CCHD), CCHD screening

Date of Enactment or Last Substantive Amendment: ~~July 31, 2012~~2019

Notice of Continuation: September 2, 2014

Authorizing, and Implemented or Interpreted Law: 26-1-30(2)(c), (d), (e), (g), (p), (t); 26-10-1(2); 26-10-2; 26-25-1

**Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-515
Long Term Acute Care**

**NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 43473
FILED: 01/10/2019**

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of these changes are to update program access requirements, as well as service coverage, to remove information that is no longer needed.

SUMMARY OF THE RULE OR CHANGE: These amendments update program access requirements, as well as service coverage, to remove information that is no longer needed. These changes also include a provision to allow for secondary medical review of a long term acute care (LTAC) stay, in the event the secondary medical reviewer determines there is medical necessity and the LTAC is the most appropriate level of care for the member.

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

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no impact on the state budget because these changes do not modify the reimbursement methodology.
- ◆ **LOCAL GOVERNMENTS:** There is no impact on local governments because they neither fund nor provide long term acute care under the Medicaid program.
- ◆ **SMALL BUSINESSES:** There is no impact on small businesses because these changes do not modify the reimbursement methodology.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact on Medicaid providers and Medicaid members because these changes do not modify the reimbursement methodology.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs to a single Medicaid provider or to a Medicaid member because these changes do not modify the reimbursement methodology.

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

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

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 84414-3102

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/04/2019

THIS RULE MAY BECOME EFFECTIVE ON: 03/11/2019

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0

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

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

Appendix 2: Regulatory Impact to Non-Small Businesses
None of the four long-term acute care hospitals will be impacted by this change, which neither affects nor modifies reimbursement methodology for services in these facilities.

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

R414-515. Long Term Acute Care.

R414-515-1. Introduction and Authority.

This rule defines the scope of inpatient long-term acute care hospital (LTAC) services that are available to Medicaid members for the treatment of disorders other than mental disease.

This rule is authorized by Subsection 1886(d)(1)(B)(iv)(I) of the Social Security Act and Sections 26-1-5, 26-18-2.1, 26-18-2.3, and 26-18-3.

R414-515-2. Definitions.

(1) "Admission" means the acceptance of a Medicaid member for LTAC care and treatment when the member meets established evidence-based criteria for severity of illness and intensity

of service and the required service cannot be provided in a lesser level of care setting.

(2) "Comprehensive documentation" means applicable relevant information including a history and physical, operative reports, daily physician progress notes, vital signs, laboratory test results, medications administration records, respiratory therapy notes, wound care notes, nutrition notes, physical therapy notes, occupational therapy notes, speech therapy notes, and any other pertinent information the Division needs to make a decision regarding the LTAC request.

(3) "Continued stay review" means a periodic, supplemental, or interim review of clinical information for an LTAC member.

~~(4) "Episode of Care" means an LTAC stay from admission to discharge.~~

~~(5) "Inpatient" means an individual whose severity of illness and intensity of service meet the evidence-based criteria for an LTAC stay.~~

~~(6) "Intensity of Service" means measure of the number, technical complexity, or attendant risk of services provided.~~

~~(7) "Long-term acute care hospital" or "Long-term care hospital" (LTAC) means an inpatient transitional care hospital designed to treat members with multiple, serious medical conditions requiring intense, acute care as determined by a physician.~~

~~(8) "Retroactive review" means a review of clinical information for a patient who had previously been admitted to an LTAC, but never received a prior authorization for the initial or continued stay due to retroactive eligibility approval.~~

~~(9) "Severity of Illness" means the extent of organ system derangement or physiologic decompensation for a patient.~~

R414-515-3. Client Eligibility Requirements.

A patient must be eligible for Medicaid services.

R414-515-4. Program Access Requirements.

(1) A member must meet the severity of illness and intensity of service for LTAC level of care as determined through an evidence-based criteria review process.

~~(a) The Department shall deny an LTAC request for reimbursement if the member does not meet the evidence-based criteria.~~

~~(2) The evidence-based criteria subsets must be utilized correctly (e.g., the primary diagnosis ~~cannot~~ may not additionally be used as a secondary diagnosis).~~

~~(2) LTAC preadmissions, continued stays, and retroactive stays that do not meet the evidence-based criteria subsets may be forwarded for secondary medical review if:~~

- ~~(a) the LTAC requests the secondary medical review; or~~
- ~~(b) documentation shows that LTAC is the most appropriate level of care for the member.~~

R414-515-5. Service Coverage.

~~(1) Add-on rates for tracheostomy and ventilator management may not be combined for members who are admitted to an LTAC.~~

~~(2) Only one unit per add-on (e.g., ventilator) per day is allowed.~~

~~(3) Only one physical evaluation, one occupational evaluation, and one speech therapy evaluation is allowed per episode.~~

~~of care unless it is medically necessary to receive additional evaluations.~~

~~(4) Dialysis and total parenteral nutrition services are ancillary services not covered in the LTAC rate. Providers who furnish these and any other ancillary services not included in the daily LTAC rate should submit claims for reimbursement to Medicaid directly. (1) An LTAC provider must submit to the Department a request for coverage that includes current and comprehensive documentation, or the Department will return the request as incomplete.~~

~~(2) The Department shall consider LTAC coverage upon the date it receives the request and current, comprehensive documentation.~~

~~(3) The Department shall review the documentation to determine preadmission, continued stay, or retroactive stay within three business days of the request.~~

~~(5)4) Prior authorization is not transferable from one LTAC to another.~~

~~(6)5) Prior authorization is required for preadmission, continued stay, and retroactive reviews.~~

~~(6) If a member transfers from an LTAC to an acute care hospital for any reason, and is away from the LTAC for greater than 24 hours, the LTAC shall submit a new preadmission review before transferring the member back to the LTAC.~~

~~(7) Each approved prior authorization is for a seven-day period.~~

~~(8) An LTAC provider must submit all current comprehensive documentation or the LTAC request will not be considered for coverage determination, and the Department will return the request as incomplete.~~

~~(9) Consideration of any LTAC coverage determination begins on the date in which the Department receives all current comprehensive documentation.]~~

R414-515-6. Preadmission Review.

An LTAC provider shall submit prior authorization requests to the Department at least 24 hours before the expected admission.

R414-515-7. Continued Stay Review.

An LTAC provider shall submit prior authorization requests to the Department two days before the end of the approved period. The continued stay prior authorization request must include all pertinent medical record comprehensive documentation supporting the evidence-based LTAC continued stay review.

R414-515-8. Reimbursement Methodology.

Reimbursement for LTAC is in accordance with the Utah Medicaid State Plan.

KEY: Medicaid, long term acute care, LTAC

Date of Enactment or Last Substantive Amendment: ~~December 12, 2017~~2019

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3

Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-516
Nursing Facility Non-State
Government-Owned Upper Payment
Limit Quality Improvement Program

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43483

FILED: 01/15/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of these changes is to include a quality metrics section for Upper Payment Limit (UPL) programs to earn points in the Quality Improvement (QI) program, and to clarify deadlines for documentation.

SUMMARY OF THE RULE OR CHANGE: These amendments implement quality metrics policy for UPL programs to earn points in the QI program, clarify deadlines for documentation, rearrange existing provisions, and make other technical changes.

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

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no impact to the state budget because these changes do not impact the monies paid to providers.
- ◆ **LOCAL GOVERNMENTS:** There is no impact on local governments because these changes do not impact the monies paid to providers.
- ◆ **SMALL BUSINESSES:** There is no impact on small businesses because these changes do not impact the monies paid to providers.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact on Medicaid providers and Medicaid members because these changes do not impact the monies paid to providers.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs to a single Medicaid provider or to a Medicaid member because these changes only implement modifications to allow more opportunities for a provider to qualify under the QI program. They do not impact the monies paid to providers.

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

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

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 84414-3102

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/04/2019

THIS RULE MAY BECOME EFFECTIVE ON: 03/11/2019

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

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

Appendix 2: Regulatory Impact to Non-Small Businesses
These changes will not impact any of the 61 non-state government-owned nursing facilities because the proposed metrics come from data already required by facilities to report.

R414. Health, Health Care Financing, coverage and Reimbursement Policy.

R414-516. Nursing Facility Non-State Government-Owned Upper Payment Limit Quality Improvement Program.

R414-516-3. Quality Improvement Program Requirements of Participation.

(1) A program is required to earn quality improvement (QI) points to participate in the NF NSGO UPL Program. A program shall earn and document:

(a) In Calendar Year 2018, 10 or more QI points with a minimum of five QI points from Section R414-516-6;

(b) In Calendar Year 2019, 12 or more QI points with a minimum of six QI points from Section R414-516-6;

(c) In Calendar Year 2020 and beyond, 14 or more QI points with a minimum of seven from Section R414-516-6.

(2) QI points may be earned from any combination of the QI Program Categories as long as the minimum number of QI points are earned from Section R414-516-6.

(3) When calculating compliance under Section R414-516-6, a program shall not count residents who are in the facility less than 14 days.

(4)(a) Each program shall submit to the Division a compliance form, using the current Division form, within 30 days of the end of the calendar year documenting that the program qualifies to earn points under the selected QI program categories.

(b) A compliance form must be mailed or electronically mailed to the correct address found at [www.health.utah.gov/medicaid/stplan/longtermcare/fqi.htm]<https://health.utah.gov/stplan/longtermcare/fqi.htm>.

(c) In all cases, no additional compliance forms, documentation, unless requested as part of an audit, or explanation will be accepted if submitted after the annual submission deadline.

(d) Any program that does not submit its compliance form by the deadline shall receive zero points for that program year.

(5) The Division does not require a provider that enters the NF NSGO UPL program for only part of a calendar year, based on

Appendix 1: Regulatory Impact Summary Table*

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

provider participation start date, to comply with the QI provisions of Section R414-516-3 in the first program calendar year.

R414-516-4. Quality Awards[Measures and CASPER Reporting].

(1) A program may earn QI points through achieving the following quality awards, certifications, and ratings:

(2) The AHCA National Quality Award;

(a) A program that has earned the Gold AHCA quality award may earn six QI points for the duration of the award;

(b) A program that has earned the Silver AHCA quality award may earn four QI points for the duration of the award;

(c) A program that has earned the Bronze AHCA quality award may earn two QI points for the duration of the award.

(3) The HealthInsight Quality Award;

(a) A program that has earned a HealthInsight Quality Award may earn two QI points for the year awarded.

~~(4) The Quality Measures (QM) section of the Five-Star Quality Rating System;~~

~~(a) The Division shall determine all five-star quality ratings by the reports received and generated in the calendar year;~~

~~(b) A program that earns a 4.5 or greater QM average during the calendar year may earn three QI points;~~

~~(c) A program that earns a 3.5 to 4.49 QM average during the calendar year may earn two QI points;~~

~~(d) A program that has a Q3 and Q4 average that is greater than the Q1 and Q2 average may earn one QI point;~~

~~(5)(4) Eden Certification Milestones; and~~

(a) A program that achieves an Eden Certification Milestone at the time of implementation of this rule may receive QI points in the same formula for a program achieving the initial milestone;

(b) A program may earn, in the initial year of the achievement, one QI point for achieving milestone one;

(c) A program may earn, in the initial year of the achievement, three QI points for achieving milestone two and two QI points the following year;

(d) A program may earn, in the initial year of the achievement, five QI points for achieving milestone three, three QI points the following year, and two QI points the third year.

~~(6) A program may earn QI points for:~~

~~(a) Having recent 12-month CASPER data (October through September) where the program was not above the 75th percentile, on average, in the comparison group national percentile in all CASPER measures. One QI point may be earned for this achievement;~~

~~(b) Demonstrating a 12-month (October through September) average rating below the 25th percentile in the comparison group national percentile in 13 of 17 CASPER measures. Four QI points may be earned for this achievement;~~

~~(c) Demonstrating a 12-month (October through September) average rating below the 25th percentile in the comparison group national percentile in 10 to 12 of 17 CASPER measures. Two QI points may be earned for this achievement;~~

~~(d) Demonstrating a 12-month (October through September) average rating below the 50th percentile in the comparison group national percentile in 13 of 17 CASPER measures. One QI point may be earned for this achievement;~~

~~(e) Having demonstrated a 20 percent improvement in two specific quality measures on the CASPER report at the end of the 12-month data (October through September) period as compared to the~~

~~prior 12-month data period. One QI point may be earned for this achievement.]~~

R414-516-6. Direct Resident Services.

A program may earn QI points by providing Direct Resident Services ~~[and Staffing]~~ as follows:

~~[(1) Providing employee retention programs. A program may earn up to four QI points for providing employee retention programs in the categories below:~~

~~(a) A program may earn one QI point by offering health insurance to all full-time employees;~~

~~(b) A program may earn one QI point by demonstrating improved staff retention of twenty percent facility wide compared to the previous calendar year. The program shall calculate staff retention by dividing the number of staff who separated from the program during the calendar year (numerator) by the number of all staff employed during the calendar year (denominator), and subtracting the retention percentage of the previous calendar year from the retention percentage of the current calendar year;~~

~~(c) A program may earn two QI points by demonstrating a staff turnover rate below 50 percent during the calendar year. The program shall calculate turnover rate by dividing the number of distinct staff who separated from the program during the calendar year (numerator) by the number of all distinct staff employed during the calendar year (denominator);~~

~~(d) A program may earn one QI point by offering:~~

~~(i) a 401K plan which includes an employer contribution; or~~

~~(ii) a pension or retirement program.~~

~~(e) A program may earn one (1) QI point by:~~

~~(i) providing tuition reimbursement for formal education;~~

~~(ii) providing reimbursement for continuing education; or~~

~~(iii) providing reimbursement for certification courses.~~

~~(2)(1) Providing a denture replacement policy. A program may earn one QI point by providing a denture replacement policy where the program will replace lost or damaged dentures for residents within 90 days of the loss or damage.~~

~~[(3) Providing staff training. A program may earn one QI point by providing staff training by a nursing facility industry-recognized source using virtual or onsite resources.~~

~~(4)(2) Providing optional dining services. A program may earn up to three QI points for dining service options provided in the categories below:~~

~~(a) A program may earn one QI point for providing a menu option of at least five meal choices outside of the planned meal;~~

~~(b) A program may earn one QI point for providing a cook-to-order menu;~~

~~(c) A program may earn three QI points for providing a five-meal program for the entire calendar year; or~~

~~(d) A program may earn one QI point for providing a four-meal program for the entire calendar year.~~

~~(5)(3) Providing a Preferred Snack Program with 80 percent compliance. A program may earn two QI points by providing distinct resident preferences for snacks.~~

~~(a) A program shall provide a snack survey including food and beverage options, snack time options, the date of the survey, and the name of the person completing the survey.~~

~~(b) The program shall complete the survey within two weeks of admission or by March 31, 2018, whichever is later.~~

(c) A program shall provide the snack and beverage at each resident's preferred time.

(d) If a resident requires assistance for feeding, the facility shall provide a dining assistant during the snack.

(e) A program shall complete a snack survey for each distinct resident quarterly or as requested by the resident.

(f) The program shall calculate compliance by dividing the number of distinct residents who complete a preferred snack survey (numerator) by the number of distinct residents during the quarter, who desired to complete a snack survey (denominator).

([6]4) Providing a Preferred Bedtime Program with 80 percent compliance. A program may earn two QI points by providing resident preferences for bedtime.

(a) The program shall provide a bedtime survey, in which the resident was asked about preferred bedtime options and preferred rituals. The program must include the date of the survey and the name of the person who completed it.

(b) The program shall complete the survey within two weeks of admission or by March 31, 2018, whichever is later.

(c) The program shall provide each resident their preferred bedtime options and rituals.

(d) The program shall complete a bedtime survey annually or as requested by the resident.

(e) The program shall calculate compliance by dividing the number of distinct residents who complete a bedtime survey (numerator) by the number of distinct residents during the calendar year, subtracted by the distinct residents who declined to complete a bedtime survey (difference is denominator).

([7]5) Providing consistent CNA or nursing staff assignments to residents with 80 percent compliance. A program may earn up to five QI points by providing consistent CNA or nursing staff assignments to residents. The points may be earned by providing the same CNA or nurse for a distinct resident for 32 waking hours during a standard Sunday through Saturday week.

(a) A program may earn one QI point for having a staffing schedule providing consistent CNA's and nurses for the entire program.

(b) The program may earn one QI point for providing consistent CNA assignment to a distinct hall containing at least 10 residents.

(c) The program may earn two QI points for providing consistent CNA assignment to an entire program.

(d) The program may earn one point for providing consistent nurse assignment to a hall containing at least 10 residents.

(e) A program may earn two QI points for providing consistent nurse assignment to an entire program.

(f) The program shall provide the consistent assignment for 40 of 52 weeks during the calendar year.

(g) The program shall calculate compliance by dividing the number of distinct residents who have consistent assignment in the hall or program (numerator) by the number of distinct residents during the calendar year in the hall or program (denominator).

([8]6) Providing a Range of Motion (ROM) program to residents with 80 percent compliance. A program may earn four QI points by providing ROM assessments to residents semi-annually by a qualified clinician; or, may earn two QI points by providing a ROM assessment to residents semi-annually by a restorative nurse aid under the direct supervision of a qualified clinician.

(a) The program shall include a ROM assessment for passive range of motion (PROM) or an active range of motion (AROM) assessment for shoulder, elbow, wrist, digits of the hand, hip, knee, and ankle joints. The program shall also include a ROM assessment of which joint has limitations, the reduced anatomical motion to the joint, how the restriction limits function, the title and name of the person completing the plan of care (POC), and the date of the POC.

(b) If a reduction in ROM is found and the clinician recommends a ROM POC, the POC shall include:

(i) a goal to return the resident to the highest practicable level of function;

(ii) the frequency and duration of the POC;

(iii) the title and name of the person completing the POC; and

(iv) the date of the POC.

(c) If the program develops a POC for a resident, a qualified clinician or another qualified professional shall complete the POC under the supervision of a qualified clinician.

(d) If a resident qualifies for a ROM POC, but desires not to participate, the qualified clinician shall document the refusal and provide a ROM assessment semi-annually.

(e) The program shall calculate compliance by dividing the number of distinct residents who received a ROM assessment semi-annually plus the number of residents refusing to complete a ROM assessment semi-annually (sum is numerator) by the number of distinct residents during the calendar year (denominator).

([9]7) Providing a One-on-One Activity program with 80% compliance. A program may earn up to four QI points by providing a one-on-one activity program. A one-on-one activity program shall provide a 30-minute minimum individual activity onsite or within the community each month for each resident; and

(a) A program may earn one QI point by providing a schedule for one-on-one activity participation for residents desiring to participate;

(b) A program may earn three QI points if compliant with providing one-on-one activities;

(c) A qualified activity professional shall complete an activity interest (AI) survey for each resident including recreational, educational, physical, arts and crafts, and any additional activity options preferred by the resident. The AI survey shall include the name and title of the surveyor and the date the survey was completed;

(d) For each resident who desires to participate in a one-on-one activity program:

(e) A qualified activity professional shall develop a POC including the preferred list of activities and a method of grading the importance of the activities to the resident. The activity POC shall include:

(i) the activities to be completed during the one-on-one activity;

(ii) the goal of the activity;

(iii) what the activity is promoting

(iv) the date the POC was completed; and

(v) the title and name of the person completing the POC.

(f) The person who completes the activity with the resident shall document:

(i) the preferred activity completed;

(ii) the duration of the activity;

- (iii) the goal of the activity;
- (iv) which quality of life measures were promoted; and
- (v) any relevant comments made by the resident.
- (g) The qualified activity professional shall modify the POC as appropriate or when requested by the resident.
- (h) If a resident who desires to participate in the one-on-one activity program cannot participate in a given month, the nursing facility program shall document the refusal.
- (i) If a resident refuses to participate in the one-on-one activity program, the qualified activity professional shall document the refusal and continue to complete an AI survey with the resident and offer the one-on-one activity program annually.
- (j) If a resident who initially refuses to participate in a one-on-one activity program and desires to participate before the annual AI survey, the qualified activity professional shall complete the steps noted for residents desiring to participate in a one-on-one activity program.
- (k) The program shall calculate compliance by adding the number of distinct residents who participated in but declined a monthly one-on-one activity, the number of distinct residents who completed the program, and the number of distinct residents who declined to complete the program (distinct sum is numerator) divided by the number of distinct residents during the calendar year (denominator).
- (~~140~~18) Providing a Mobility Program to qualifying residents with 80 percent compliance. A program may earn four QI points by providing a mobility program to qualifying residents. The nursing facility program shall offer residents who qualify for a walking program a walking activity five of seven days in a standard week for 40 out of 52 weeks during the calendar year.
 - (a) A nurse shall complete the mobility and sit-stand survey and a one-step command (OSC) survey. The Division shall provide the mobility surveys.
 - (b) A resident who achieves a combined score of eight or higher on the mobility and sit-stand surveys and a score of one on the OSC survey qualifies to participate in a walking program.
 - (c) The nurse who completes the mobility surveys shall establish a POC for the walking program to determine:
 - (i) the distance of the walk;
 - (ii) duration of the walk; and
 - (iii) the amount of assistance required by the resident, including mobility devices to be provided by the staff.
 - (d) The nursing facility program shall provide weekly documentation to illustrate program completion, including modifications to a residents walking program.
 - (e) If a resident qualifies for but refuses to participate in a walking program, the nurse shall document the refusal and complete the mobility, sit-stand, and one-step command surveys annually.
 - (f) If a resident initially declines to participate in a walking program and then requests to engage in a walking program before the annual follow-up surveys, the program shall complete the survey and develop a walking POC for the resident.
 - (g) The nursing facility program shall calculate compliance by adding the number of distinct residents who completed the walking program with the distinct residents who qualified for but requested limited participation in the program, and residents who qualified for but declined participation in the walking program (distinct sum is numerator) by the number of distinct residents who qualified for a walking program during the calendar year (denominator).

R414-516-7. Quality Metrics.

- (1) A program may earn up to six QI points for demonstrating quality metric scores equal to or better than the industry average noted.
 - (a) Quality metrics shall include:
 - (i) CMS 5-Star quality measure rating for long-stay residents, obtained from CMS online data sources. The industry average is 3.62%. To qualify, the nursing facility program must equal or exceed the industry average.
 - (ii) CASPER Quality Measures for urinary tract infections obtained from CMS online data sources. The industry average is 6.68%. To qualify, the nursing facility program must have less than or equal to the industry average.
 - (iii) CASPER Quality Measures for pressure ulcers obtained from CMS online data sources. The industry average is 6.15%. To qualify, the nursing facility program must have less than or equal to the industry average.
 - (iv) CASPER Quality Measures for falls with a major injury obtained from CMS online data sources. The industry average is 4.17%. To qualify, the nursing facility program must have less than or equal to the industry average.
 - (v) Nurse staffing hours per resident day obtained from CMS online data sources. The industry average is 3.81%. To qualify, the nursing facility program must equal or exceed the industry average.
 - (vi) Survey deficiency scope and severity obtained from the Utah Bureau of Health Facility Licensing, Certification and Resident Assessment. The industry average is 3.57%. To qualify, the nursing facility program must have less than or equal to the industry average.
 - (b) A program may earn QI points as follows:
 - (i) Four QI points may be earned for achieving metrics scores equal to or superior to the industry average in four of six targets:
 - (ii) Three QI points may be earned for achieving metrics scores equal to or superior to the industry average in four of six targets; or
 - (iii) Two QI points may be earned for achieving metrics scores equal to or superior to the industry average in three of six targets.
 - (c) A program may earn QI points from demonstrating metrics score improvement as follows:
 - (i) Two QI points may be earned by demonstrating metrics score improvement in greater than four of six targets; or
 - (ii) One QI point may be earned by demonstrating metrics score improvement in four of six targets.
 - (2) One QI point may be earned by demonstrating a 20% improvement in two specific quality metrics scores on the CASPER report at the end of the 12-month data (October through September) period as compared to the prior 12-month data period.

R414-516-8. Staffing.

- (1) A program may earn up to four QI points for providing employee retention programs in the categories below:
 - (a) A program may earn one QI point by offering health insurance to all full-time employees;
 - (b) A program may earn one QI point by demonstrating improved staff retention of 20% facility wide compared to the previous calendar year. The program shall calculate staff retention by dividing the number of staff who separated from the program during the calendar year (numerator) by the number of all staff employed during

the calendar year (denominator), and subtracting the retention percentage of the previous calendar year from the retention percentage of the current calendar year:

(c) A program may earn two QI points by demonstrating a staff turnover rate below 50% during the calendar year. The program shall calculate turnover rate by dividing the number of distinct staff who separated from the program during the calendar year (numerator) by the number of all distinct staff employed during the calendar year (denominator).

(d) A program may earn one QI point by offering:

(i) a 401K plan that includes an employer contribution; or

(ii) a pension or retirement program.

(e) A program may earn one QI point by:

(i) providing tuition reimbursement for formal education;

(ii) providing reimbursement for continuing education; or

(iii) providing reimbursement for certification courses.

(2) Providing staff training. A program may earn one QI point by providing staff training through a nursing facility industry-recognized source using virtual or onsite resources.

R414-516-[7]9. Exceptions and Holdings.

(1) A program that does not earn the minimum required QI points during a calendar year shall:

(a) earn the number of QI points not achieved from that calendar year in addition to the required QI points the subsequent calendar year; and

(b) submit to the Division a plan of correction that details how the program will come into compliance with the QI Program.

(c) A plan of correction ~~[shall be postmarked or show proof of delivery to the Division within 10 business days of the request]~~ must be mailed electronically to the correct address found at <https://health.utah.gov/stplan/longtermcarenfqi.htm>.

(2) The Division shall remove from the UPL Seed Contract, a program that fails to earn the minimum QI points for a second consecutive year as required by Subsection R414-516-[7]9(1)(a).

(a) Once the Division determines that the program failed to meet QI program qualifications, the Division shall send the program a notice of failure to meet the requirements.

(b) The program shall have the opportunity to appeal the determination in accordance with Rule R410-14, or shall waive the right of appeal.

(c) If the program does not file an appeal or the Division's determination is upheld, the Division shall amend the UPL seed contract to remove the program effective the last day of the quarter in which the determination was made.

(3) If a program that has been removed from the UPL Seed Contract desires to be added back to the contract prospectively, the program shall demonstrate compliance to Subsection R414-516-3(1)(c) for one full year ("trial period") after the effective date of the removal.

(a) The program shall submit to the Division within 30 days of the trial period:

(i) the current compliance form; and

(ii) documentation of compliance with all QI programs in which points were earned.

(b) If the Division determines that the program was compliant during the trial period, the Division may add the program back to the UPL Seed Contract effective the first day of the quarter following the date compliance was determined.

(4) The Division may audit a program at any time to ensure compliance.

(a) The Division shall provide notice that indicates the period of the audit and the QI programs being audited.

(b) When an audit is performed, all documentation requested by the Division shall be postmarked or demonstrate proof of delivery to the Division within 10 business days of the request.

(c) Failure to submit the requested documentation in a timely manner shall result in the program forfeiting the QI points for the specific QI program category being audited.

(d) If an audit is completed, as applicable, the findings of the audit shall supersede the program's reported QI points.

(e) The program shall have the opportunity to appeal the determination in accordance with Rule R410-14, or shall waive the right of appeal.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: [~~December 6, 2018~~]2019

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3

Natural Resources; Forestry, Fire and State Lands **R652-70** Sovereign Lands

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 43480

FILED: 01/14/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule change is to clarify the rule for irrigation pumps and/or structures placed on sovereign lands, and the type of permit that the pump or structure requires.

SUMMARY OF THE RULE OR CHANGE: This amendment will clarify that general permit uses will include irrigation pumps or irrigation structures installed on sovereign lands.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 65A-10-1

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** After conducting an analysis it has been determined that anticipated costs or saving to the state budget is inestimable at the time because further analysis studies and must be completed. In addition, the anticipated cost or savings would require other metrics which are unknown at this time to develop an accurate representation of costs or savings.

- ◆ LOCAL GOVERNMENTS: After conducting an analysis it has been determined that that this proposed rule change will not have any impact on local governments' revenues or expenditures, as it does not apply to local governments.
- ◆ SMALL BUSINESSES: After conducting an analysis it has been determined that this proposed rule change will not have any impact on small businesses' revenues or expenditures as it does not apply to small businesses.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: After conducting an analysis it has been determined that this proposed rule change will not have any direct impact on individuals unless the individual is wanting to place a pump or irrigation structure on sovereign lands, in which case they would be required to pay a fee to do so. However, those costs are inestimable without knowing how many individuals would desire a pump or irrigation structure on sovereign lands, how many pumps are requested, and rather or not the location of the pump requires a permit.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The cost for affected persons would only apply if that person is desiring to place a pump on sovereign lands and has a right to do so. In those cases, the compliance costs would be the application fee in the amount of \$50, plus \$50 for an irrigation pump head and/or \$150 for an irrigation structure. Applications received prior to 07/01/2019 will only be subject to the \$50 application fee and will not be required to pay the permit fee.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There will be a minimal impact on businesses due to this amendment.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 NATURAL RESOURCES
 FORESTRY, FIRE AND STATE LANDS
 1594 W NORTH TEMPLE STE 3520
 SALT LAKE CITY, UT 84116-3154
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Jamie Phillips-Barnes by phone at 801-538-5421, by FAX at 801-533-4111, or by Internet E-mail at jamiebarnes@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/04/2019

THIS RULE MAY BECOME EFFECTIVE ON: 03/11/2019

AUTHORIZED BY: Brian Cottam, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

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

Appendix 2: Regulatory Impact to Non-Small Businesses

This proposed rule change is not expected to have any fiscal impact on non-small businesses because this rule does not apply to non-small businesses in any way that would create a fiscal impact on said.

The Executive Director of the Department of Natural Resources, Michael Styler, and the agency head of the Division of Forestry, Fire and State Lands, Brian L. Cottam, have reviewed and approve this fiscal analysis.

R652. Natural Resources; Forestry, Fire and State Lands.**R652-70. Sovereign Lands.****R652-70-100. Authority.**

This rule provides for the management and classification of the surface of sovereign lands in Utah, which include but are not limited to, the beds of Bear Lake, the Great Salt Lake, Utah Lake, the Jordan River, the Bear River from the Amalga Bridge to the Great Salt Lake, the summer channel of the Bear River from the Utah-Idaho border to the Amalga Bridge, and portions of the beds of the Green and Colorado Rivers. Should any other lakes or streams, or portions thereof, be declared navigable by the courts, the beds of such lakes or streams would fall under the authority of these rules. It also provides for the issuance of special use leases, general permits and easements on sovereign lands and the procedures and fees necessary to obtain these rights of use. This rule implements Article XX of the Utah Constitution, and Section 65A-10-1.

R652-70-200. Classification of Sovereign Lands.

Sovereign lands may be classified based upon their current and planned uses. A synopsis of some possible classes and an example of each class follows. For more detailed information, consult the management plan for the area in question.

1. Class 1: Manage to protect existing resource development uses. The Utah State Park Marinas on Bear Lake and on Great Salt Lake are areas where the current use emphasizes development.

2. Class 2: Manage to protect potential resource development options. For example, areas adjacent to Class 1 areas which have the potential to be developed.

3. Class 3: Manage as open for consideration of any use. This might include areas which do not currently show development potential but which are not now, or in the foreseeable future, needed to protect or preserve the resources.

4. Class 4: Manage for resource inventory and analysis. This is a temporary classification which allows the division to gather the necessary resource information to make a responsible classification decision.

5. Class 5: Manage to protect potential resource preservation options. Sensitive areas of wildlife habitat may fall into this class.

6. Class 6: Manage to protect existing resource preservation uses. Cisco Beach on Bear Lake is an example of an area where the resource is currently being protected.

R652-70-300. Categories of Leases, Permits, and Easements.

The division may issue Special Use Leases for terms of one to 51 years, and General Permits for terms of one to 30 years for surface uses, excluding grazing uses on sovereign lands. Grazing permits and mineral leases are considered separately under the range resource management rules and the mineral lease rules. Easement terms and conditions shall be prescribed in the particular easement document. Any lease, permit, or easement, issued by the division on sovereign lands, is subject to a public trust; and any lease, permit, or easement may be revoked at any time if necessary to fulfill public trust responsibilities.

1. Special Use Leases: Uses may include the following:

(a) Commercial: Income producing uses such as marinas, recreation piers or facilities, docks, moorings, restaurants, or gas service facilities.

(b) Industrial: Uses such as oil terminals, piers, wharves, mooring.

(c) Agricultural/Aquacultural: Any use which utilizes the bed of a navigable lake or stream to grow or harvest any plant or animal.

(d) Private Uses: Non-income producing uses such as piers, buoys, boathouses, docks, water-ski facilities, houseboats, moorings, not qualifying for a general permit under R652-70-300(2)(c).

2. General Permit: Uses may include the following:

(a) Public agency uses such as public roads, bridges, recreation areas, or wildlife refuges having a statewide public benefit.

(b) Public agency protective structures such as dikes, breakwaters and flood control workings.

(c) Private recreational uses such as any facility for the launching, docking or mooring of boats which is constructed for the use of the adjacent upland owner. ~~[An adjacent upland owner is defined as any person who owns adjacent upland property which is improved with, and used solely for a single-family dwelling.]~~

(d) Irrigation pumps or irrigation pump structures installed for the use of the adjacent upland owner, or with written permission from the adjacent upland owner.

3. Easements: Applications for easements not meeting the criteria of R652-70-300(2) shall follow the rules and procedures outlined in the division's rules governing the issuance of easements.

R652-70-400. Lease and General Permit Provisions.

The provisions for special use leases and general permits on sovereign lands shall be the same as those found in R652-30 Special Use Leases.

R652-70-500. Lease and General Permit Payments, and Audits.

The rules for lease and general permit payments and audits on sovereign lands are the same as those found in R652-30 Special Use Leases.

R652-70-600. Lease Rates.

1. Procedures for determining fair market value for surface leases are found in R652-30-400. Where these general procedures can not readily be applied, fair market value for sovereign lands may also be determined by multiplying the market value, as determined by the county assessor or, if none, then as determined by the State Tax Commission, of the adjacent upland by 30%.

2. Procedures for determining lease rates are described in R652-30 Special Use Leases. Lease rates for sovereign lands may also be determined by multiplying the fair market value, as determined by R652-70-600(1), by the current division - determined interest rate and then prorating that amount by a season of use adjustment as determined by the division.

3. Regardless of lease rate determined by R652-70-600(2), no Special Use Lease shall be issued for an amount less than the minimum lease rate determined by the division.

R652-70-700. Permit Rates.

1. An application fee may be waived if it is for a public agency's use of sovereign lands and if the director determines that the agency use enhances public use and enjoyment of sovereign land.

2. A rental fee may be waived if it is for a public agency's use of sovereign lands and if the director determines that a commensurate public benefit accrues from the use.

3. The division shall establish rental rates for any private recreational use of sovereign land as outlined under R652-70-300(2) (c). The adjacent upland owner shall also pay to the division, in accordance with its current fee schedule, the division's expenses in issuing a general permit.

4. The director may negotiate a filing fee for general permits with impacted governmental agencies. This would be a one-time package fee for currently existing uses of sovereign lands. Future application for use will be treated under the existing fee schedule or may be authorized by the amendment of an existing permit, after payment of an amendment fee pursuant to R652-4.

5. The director may enter into agreements with state agencies having regulatory authority on navigable lakes and rivers to allow these agencies to authorize public agency use of sovereign land provided that:

(a) the use is consistent with division policies and coordinated with other activities of the division;

(b) the applicant has an existing general permit in good standing under which the proposed use can be placed pursuant to R652-70-700(3);

(c) a commensurate public benefit accrues from the use, as indicated by criteria provided in the agreement;

(d) the proposed use meets the criteria required by the state agency; and

(e) the proposed use is consistent with the principles of multiple use and sustained yield as defined in Section 65A-1-1.

R652-70-800. Applicant Qualifications.

Any person who is qualified to do business in the state of Utah, and is not in default under the laws of the state of Utah relative to qualifications to do business within the state, and not in default on any previous agreements with the division, shall be a qualified applicant for a lease, permit, or easement on sovereign land.

R652-70-900. Applications.

Application for a Special Use Lease or General Permit shall be on forms provided by the division or exact copies thereof. Applications must be accompanied by plans which include references to the relationship of the proposed use to the various water surface elevations of the lake or stream as well as the relationship of the proposed use to the lake or stream boundary and vicinity at the site of the proposed use. The application must also include a description of the proposal's relationship to the classification system found in the appropriate master plan and outlined in R652-70-200. Where applicable, applications must be accompanied by a copy of local building permits, a copy of the Army Corps of Engineer permit, and a copy of any additional permits required by the Division of Parks and Recreation.

R652-70-1000. Deficient Applications.

Incomplete applications, and applications not accompanied by filing fees when required, shall not be accepted for filing. The division will notify the applicant of any deficiency.

R652-70-1100. Additional Approvals.

Nothing in these rules shall excuse a person making an application for a general permit, lease, or easement from obtaining any additional approvals lawfully required by any local, state, or federal

agency, including, local zoning boards, or any other local regulatory entity, the Division of Parks and Recreation, the State Engineer, the Division of Oil, Gas and Mining, the United States Army Corps of Engineers, the United States Coast Guard, or any other local, state, or federal agency.

R652-70-1200. Dredging and Filling Requires Approval.

The placing of dredged or fill material, refuse or waste material, intended as or becoming fill material, on the beds of any navigable water in the state of Utah shall require written approval by the division.

R652-70-1300. Excavated or Dredged Channels, and Basins.

Excavated or dredged channels or basins will only be authorized by the director on a showing of reasonable necessity. Material removed during excavation or dredging shall be carried and deposited at a point above normal flood water levels, unless the applicant can satisfy the director that an alternative plan for disposition of the material is feasible and will not have an unreasonably adverse effect upon other values, including water quality. Additional conditions may be stipulated in the permit.

R652-70-1400. Approval Not Required to Repair Existing Facilities.

Approval is not required by the division to clean, maintain, or to make repairs to existing facilities authorized by a permit or lease in good standing. Approval is required to replace, enlarge, or extend the facilities, or for any activity which would disturb the surface of the bed of any navigable water, or which would cause any rock or sediment to enter a navigable body of water.

R652-70-1500. Docks, Piers, and Similar Structures.

All docks, piers, or similar structures shall be constructed to protrude as nearly as possible at right angles to the general shoreline and to not interfere with docks, piers, or similar structures presently existing or likely to be installed to serve adjacent facilities. The structures may extend to a length that will provide access to a water depth that will afford sufficient draft for water craft customarily in use on the particular body of water during the normal low water period.

R652-70-1600. Retaining Walls and Bulkheads.

Retaining walls and bulkheads will not be authorized below the ordinary high water mark without a showing of extraordinary need.

R652-70-1700. Breakwaters and Jetties.

1. Breakwaters and jetties will not be authorized below the normal low water mark without a showing of extraordinary need. This shall not apply to floating breakwaters secured by piling or other approved anchoring devices and used to protect private property from recurring wind, wave, or ice damage.

2. The director may approve streambank stabilization practices concurrently with the issuance of streambed alteration permits issued by the Division of Water Rights if the director determines that the proposed practice is consistent with public trust management.

R652-70-1800. Overhead Clearance.

Overhead clearance between the ordinary high water mark and any structure, pipeline, or transmission line must be sufficient to

pass the largest vessel which may reasonably be anticipated to use the subject waters in the vicinity of the easement.

R652-70-1900. Camping and Motor Vehicles.

1. The division may restrict camping on the beds of navigable lakes and rivers. Except as provided elsewhere in this rule, motor vehicles are prohibited from driving or parking on these lands at all times, except that those areas supervised by the Division of Parks and Recreation or other enforcement entity, and posted as open to vehicle use, will be open to vehicle use.

2. Persons found in violation of 65A-3-1(1)(g-h) are subject to the criminal penalties set forth in 76-3-204 and 76-3-301 as determined by the court.

R652-70-2000. Existing Uses.

Every person using sovereign lands without a current permit or lease shall, within 60 days of notification by the division, submit an application as provided under R652-70-900.

R652-70-2100. Authorization of Existing Uses.

Authorization of the following uses may be recognized following compliance with Section R652-70-2000:

1. Uses existing on December 31, 1968, whether they were such as to be entitled to issuance of a permit or not.

2. Rights previously granted an applicant by the Division of Forestry, Fire and State Lands.

R652-70-2200. Violations.

The following acts or omissions shall subject a person to a civil penalty as provided in Section 65A-3-1(3):

1. A violation of the provisions of Section 65A-3-1(1-2);

2. A violation of any special order of the director applicable to the bed of a navigable water; or

3. Refusal to cease and desist from any violation in regards to the bed of a navigable water after having been notified to do so, in writing, by the director by personal service or certified mail, within the time provided in the notice, or within 30 days of service of the notice if no time is provided.

R652-70-2300. Management of Bear Lake Sovereign Lands.

(1) Lands lying below the ordinary high water mark of Bear Lake as of the date of statehood are owned by the state of Utah and shall be administered by the division as sovereign lands.

(2) Upon application for a specific use of state lands near the boundary of Bear Lake, or in the event of a dispute as to the ownership of the sovereign character of the lands near the boundary of Bear Lake, the division may evaluate all relevant historical evidence of the lake elevation, the water erosion along the shoreline, the topography of the land, and other relevant information to determine the relationship of the land in question to the ordinary high water mark.

(3) In the absence of evidence establishing the ordinary high water mark as of the date of statehood, the division shall administer all the lands within the bed of Bear Lake and lying below the level of 5,923.65 feet above mean sea level, Utah Power and Light datum, as being sovereign lands.

(4) The division, after notice to affected state agencies and any person with an ownership in the land, may enter into agreements to establish boundaries with owners of land adjoining the bed of Bear

Lake; provided that the agreements shall not set a boundary for sovereign lands below the level of 5,923.65 feet above mean sea level.

(5) The established speed limit is 10 miles per hour.

(6) Camping and use of motorized vehicles are prohibited between the hours of 10 p.m. and 7 a.m.

(7) No campfires or fireworks are allowed.

(8) The use and operation of motor vehicles on sovereign land at Bear Lake shall be governed by Utah Code 65A-3-1 and division plans.

(9) Pursuant to 65A-2-6(2), to obtain a permit to launch or retrieve a motorboat on states lands surrounding Bear Lake, a person shall:

(a) Complete the online Mussel-Aware Boater Program and receive a multiple use Decontamination Certification Form valid through the end of the calendar year as required and provided by the Utah Division of Wildlife Resources as part of the Aquatic Invasive Species Program.

(10) A person may only purchase one (1) beach launching permit annually.

(a) The permit is valid for the calendar year within which the permit is issued.

(b) The permit does not authorize launching or retrieving a motorboat or parking or operating a motor vehicle in an area designated as closed to motorized use.

(c) Lost or stolen permits may be replaced at the established fee.

(11) The division may enter into an agreement with a local governmental entity or state agency to issue the beach launching permits in compliance with the requirements listed above.

(a) The agreement will allow the entity or agency to establish a minimal administrative fee not to exceed \$25 for issuing the beach launching permit.

(12) The division or the entity or agency with an agreement to issue the beach launching permit may revoke a permit or deny an applicant a permit to launch under the following circumstances:

(a) The applicant fails to comply with the beach launching permit requirements and stipulations listed above (R652-70-2300(9)(a-b) and R652-70-2300(10)(a-c))

(b) the applicant fails to acquire a lease or permit for structures placed on sovereign lands that may include but is not limited to buoys, piers, docks (with the associated anchors/weights) or boat ramps as required in R652-70-300.

(13) Persons found in violation of 65A-3-1(1-3) are subject to the criminal penalties set forth in 76-3-204 and 76-3-301 as determined by the court as well as civil damages set forth in 65A-3-1(3).

R652-70-2400. Recreational Use of Navigable Rivers.

1. Navigable rivers include the Bear River, Jordan River, and portions of the Green and Colorado rivers. On the Green River the navigable portions presently recognized as being owned by the state are generally described as from Dinosaur National Monument to the mouth of Sand Wash, and from the mouth of Desolation Canyon at Swazey's Rapid, also known as Twelve Mile Rapid, to the north boundary of Canyonlands National Park. On the Colorado River the navigable portions presently recognized as being owned by the state are generally described as from the mouth of Castle Creek to the east boundary of Canyonlands National Park and from the mouth of

Cataract Canyon to the Arizona state line. Except as specified, this Section applies to recreational navigation on these waters.

2. Each group conducting an overnight float trip is required to possess and utilize a washable, reusable toilet system that allows for disposal of solid human body waste through an authorized sewage system.

3. All garbage, trash, human waste and pet waste must be carried off the river and disposed of properly.

4. For a float trip that takes place on the Colorado River between the mouth of Castle Creek and Potash, where toilet facilities and sewage and trash receptacles are available, these provided facilities may be used in lieu of reusable toilets and carrying out garbage, trash, and waste products.

5. The maximum group size for overnight river trips is limited to 25 persons. Two or more groups may not camp together if the resulting group size exceeds 25 persons at a campsite.

6. Each group on an overnight float trip is required to possess a durable metal fire pan at least 12 inches wide, with a lip of at least 1.5 inches around its outer edge, and to utilize this fire pan to contain campfires.

7. Only driftwood may be used as firewood. No cutting of firewood is allowed except in designated areas. Ashes and charcoal accumulated during a trip must be carried out and disposed of properly.

8. A right of entry permit from the division and a special recreation permit from the federal agency managing the land through which the river flows are required for commercial float trips.

9. For the Green River from Green River State Park to Canyonlands National Park, each noncommercial group floating the river shall have in the group's possession a valid interagency noncommercial river trip permit and shall abide by its terms. This permit will be issued free of charge by the Division, the Division of Parks and Recreation, the Bureau of Land Management, authorized outfitters and authorized private landowners. Subsection R652-70-2400(8) applies to commercial trips.

KEY: sovereign lands, permits, administrative procedures

Date of Enactment or Last Substantive Amendment: ~~July 6, 2015~~ **2019**

Notice of Continuation: March 29, 2017

Authorizing, and Implemented or Interpreted Law: 65A-10-1

**Workforce Services, Employment
Development
R986-100-117
Disqualification Periods And Civil
Penalties For Intentional Program
Violations (IPVs)**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 43481
FILED: 01/15/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of these amendments is to identify unauthorized uses of Temporary Assistance to Needy Families (TANF) financial assistance benefits that may constitute an Intentional Program Violation.

SUMMARY OF THE RULE OR CHANGE: The Department of Workforce Services (Department) administers the State's TANF public assistance programs, including the Family Employment Program (FEP) and Family Employment Two Parent Program (FEPTP). These programs provide financial assistance to eligible families. Financial assistance is intended to provide for the individual's or household's basic needs. In February 2012, Congress passed, as part of the Middle Class Tax Relief and Job Creation Act of 2012, the Welfare Integrity and Data Improvement Act, which requires all states to maintain policies and practices as necessary to prevent TANF financial assistance from being used in any electronic benefit transfer transaction in: 1) liquor stores; 2) casinos, gambling casinos, or gaming establishments; and 3) adult-oriented entertainment establishments in which performers disrobe or perform in an unclothed state for entertainment (codified in 42 USC 608(a)(12)). In the 2013 General Session, H.B. 209 prohibited recipients of financial assistance under TANF from accessing benefits through an electronic benefit transfer in a place that exclusively or primarily sells intoxicating liquor, allows gambling, or provides adult entertainment where performers disrobe or perform unclothed (codified in Subsection 35A-3-302(10)). These proposed rule changes further restrict recipients from spending financial assistance on intoxicating beverages or tobacco products, regardless of location. Such unauthorized spending may be considered an Intentional Program Violation.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 42 U.S.C. Sec 608(a) and Section 35A-3-302

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There is no expected fiscal impact to state revenues or expenditures. There are no additional state employees or resources needed to oversee the proposed amendment because the changes are not expected to impact existing state practices or procedures. These changes will not increase workload and can be carried out with existing budget.

♦ **LOCAL GOVERNMENTS:** These proposed rule changes are not expected to cause any costs or savings to local governments because TANF programs are federally-funded programs that do not rely on local governments for funding, administration, or enforcement.

♦ **SMALL BUSINESSES:** These proposed rule changes are not expected to cause any costs or savings to small businesses because these are federally-funded programs and there are no fees or costs associated with these proposed changes. The Department has considered whether

these proposed rule changes will have a measurable negative fiscal impact on small businesses and has determined that they will not have a negative fiscal impact.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The persons that may potentially be affected by these amendments will be benefit recipients and businesses patronized by those recipients. These proposed rule changes are not expected to cause any costs or savings to persons other than small businesses, businesses, or local government entities because these are federally-funded programs and there are no fees or costs associated with these proposed changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These proposed rule changes are not expect to cause any compliance costs for affected persons because they do not create any new eligibility or administrative requirements for TANF recipients or any other affected persons.

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

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 WORKFORCE SERVICES
 EMPLOYMENT DEVELOPMENT
 140 E 300 S
 SALT LAKE CITY, UT 84111-2333
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Amanda McPeck by phone at 801-517-4709, or by Internet E-mail at ampeck@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/04/2019

THIS RULE MAY BECOME EFFECTIVE ON: 03/11/2019

AUTHORIZED BY: Jon Pierpont, 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
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

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

Appendix 2: Regulatory Impact to Non-Small Businesses
 After a thorough analysis, it was determined that these proposed rule changes will not result in a fiscal impact to businesses because these are federally-funded programs and there are no fees or costs associated with these proposed changes.

The executive director of the Department of Workforce Services, Jon Pierpont, has reviewed and approved this fiscal analysis.

**R986. Workforce Services, Employment Development.
 R986-100. Employment Support Programs.
 R986-100-117. Disqualification Periods And Civil Penalties For Intentional Program Violations (IPVs).**

(1) An Intentional Program Violation (IPV) occurs when a person, either personally or through a representative, intentionally, knowingly, or recklessly (as those terms are defined in Utah Code Ann. Section 76-2-103 and as shown by clear and convincing evidence) violates a program rule, or helps another person violate a program rule, in an attempt to obtain, maintain, increase, or prevent the decrease or termination of public assistance payment(s) from any of the programs listed in R986-100-102. Acts which may constitute an IPV include but are not limited to:

- (a) making false or misleading statements;
- (b) misrepresenting, concealing, or withholding facts or information;

- (c) posing as someone else;
- (d) taking, using or accepting a public assistance payment the person knew they were not eligible to receive or not reporting the receipt of a public assistance payment the person knew they were not eligible to receive;
- (e) not reporting a material change as required by and in accordance with these rules;
- (f) committing an act intended to mislead, misrepresent, conceal or withhold facts or propound a falsity;
- (g) accessing TANF financial~~public~~ assistance benefits~~funds~~ through an electronic benefit transfer, including through an automated teller machine or point-of-sale device, in an establishment in the state that:
- exclusively or primarily sells intoxicating liquor,
 - allows gambling or gaming, or
 - provides adult-oriented entertainment where performers disrobe or perform unclothed;
- (h) using TANF financial assistance benefits to purchase beer, intoxicating beverages, cigarettes, or tobacco; or
- (i) committing any act that constitutes a violation of federal or state law for the purpose of using, presenting, transferring, acquiring, receiving, possessing, or trafficking SNAP or EBT cards.
- (2) When an IPV is alleged, the Department may:
- Refer the case for criminal prosecution;
 - In SNAP cases, refer the case for an administrative disqualification hearing (ADH); or
 - In non-SNAP cases, issue an initial decision finding the person committed an IPV, which the person may appeal via the fair hearing process set forth in R986-100-123 to -135.
- (3) The Department may not disqualify a person from SNAP unless an ADH has been held or the person has been criminally convicted. The Department may not make concurrent referrals for an ADH and criminal prosecution. If a SNAP case referred for criminal prosecution is dismissed or referred back to the Department without prosecution, the Department may refer the case for an ADH.
- (4) A person who is found liable for committing an IPV in either an administrative or criminal proceeding shall:
- In the case of any program other than SNAP, be assessed a civil penalty of 10% of the amount of the overpayment; and
 - In the case of any program other than Medicaid, be disqualified from receiving assistance from the program(s) at issue for a period of:
 - 12 months for a first offense;
 - 24 months for a second offense; and
 - Permanently for a third offense.
 - Disqualifications run concurrently.
 - A disqualification applies only to the person(s) found to have committed an IPV. However, all adult members of the relevant household at the time the overpayment occurred shall be responsible for repaying the overpayment.
 - Notwithstanding the foregoing, if a more specific provision of federal or state law provides for different sanctions for committing an act that constitutes an IPV, that provision is controlling.
- (5) All income and assets of a person who has been disqualified from assistance for an IPV continue to be counted and affect the eligibility and assistance amount of the household assistance unit in which the person resides.
- (6) If an individual has been disqualified in another state, the disqualification period for the IPV in that state will apply in Utah

provided the act which resulted in the disqualification would have resulted in a disqualification had it occurred in Utah. If the individual has been disqualified in another state for an act which would have led to disqualification had it occurred in Utah and is found to have committed an IPV in Utah, the prior periods of disqualification in any other state count toward determining the length of disqualification in Utah.

(7) The person being disqualified will be notified that a disqualification period has been determined. The disqualification period shall begin no later than the second month which follows the date the person being disqualified receives written notice of the disqualification and continues in consecutive months until the disqualification period has expired. The Department will also provide written notice to any remaining household members informing them of the allotment they will receive during the disqualification period.

(8) Nothing in these rules is intended to limit or prevent a criminal prosecution for fraud based on the same facts used to determine the IPV.

KEY: employment support procedures, hearing procedures, public assistance, SNAP

Date of Enactment or Last Substantive Amendment: ~~July 23, 2018~~ 2019

Notice of Continuation: September 2, 2015

Authorizing, and Implemented or Interpreted Law: 35A-3-101 et seq.; 35A-3-301 et seq.; 35A-3-401 et seq.

**Workforce Services, Employment
Development
R986-200-250
Unauthorized Spending of TANF
Financial Assistance Benefits**

**NOTICE OF PROPOSED RULE
(Amendment)**

DAR FILE NO.: 43482

FILED: 01/15/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this new section is to identify unauthorized uses of Temporary Assistance to Needy Families (TANF) financial assistance benefits that may constitute an Intentional Program Violation.

SUMMARY OF THE RULE OR CHANGE: The Department of Workforce Services (Department) administers the State's TANF public assistance programs, including the Family Employment Program (FEP) and Family Employment Two Parent Program (FEPTP). These programs provide financial assistance to eligible families. Financial assistance is intended to provide for the individual's or household's basic needs. In February 2012, Congress passed, as part of the Middle Class Tax Relief and Job Creation Act of 2012, the Welfare Integrity and Data Improvement Act, which requires

all states to maintain policies and practices as necessary to prevent TANF financial assistance from being used in any electronic benefit transfer transaction in: 1) liquor stores; 2) casinos, gambling casinos, or gaming establishments; and 3) adult-oriented entertainment establishments in which performers disrobe or perform in an unclothed state for entertainment (codified in 42 U.S.C. Sec 608(a)(12)). In the 2013 General Session, H.B. 209 prohibited recipients of financial assistance under TANF from accessing benefits through an electronic benefit transfer in a place that exclusively or primarily sells intoxicating liquor, allows gambling, or provides adult entertainment where performers disrobe or perform unclothed (codified in Subsection 35A-3-302(10)). This proposed section further restricts recipients from spending financial assistance on intoxicating beverages or tobacco products, regardless of location. Such unauthorized spending may be considered an Intentional Program Violation.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 42 U.S.C. Section 506 and Section 35A-3-302

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: There is no expected fiscal impact to state revenues or expenditures. There are no additional state employees or resources needed to oversee this proposed section because the changes are not expected to impact existing state practices or procedures. These changes will not increase workload and can be carried out with existing budget.

◆ LOCAL GOVERNMENTS: This proposed section is not expected to cause any costs or savings to local governments because TANF programs are federally-funded programs that do not rely on local governments for funding, administration, or enforcement.

◆ SMALL BUSINESSES: This proposed section is not expected to cause any costs or savings to small businesses because these are federally-funded programs and there are no fees or costs associated with these proposed changes. The Department has considered whether this proposed section will have a measurable negative fiscal impact on small businesses and has determined that it will not have a negative fiscal impact.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The persons that may potentially be affected by these amendments will be benefit recipients and businesses patronized by those recipients. This proposed section is not expected to cause any costs or savings to persons other than small businesses, businesses, or local government entities because these are federally-funded programs and there are no fees or costs associated with this proposed new section.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This proposed section is not expected to cause any compliance costs for affected persons because this proposed section does not create any new eligibility or administrative requirements for TANF recipients or any other affected persons.

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

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

WORKFORCE SERVICES
EMPLOYMENT DEVELOPMENT
140 E 300 S
SALT LAKE CITY, UT 84111-2333
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Amanda McPeck by phone at 801-517-4709, or by Internet E-mail at ampeck@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/04/2019

THIS RULE MAY BECOME EFFECTIVE ON: 03/11/2019

AUTHORIZED BY: Jon Pierpont, 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
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

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

Appendix 2: Regulatory Impact to Non-Small Businesses
 After a thorough analysis, it was determined that this proposed section will not result in a fiscal impact to businesses because these are federally-funded programs and there are no fees or costs associated with this proposed section.

The executive director of the Department of Workforce Services, Jon Pierpont, has reviewed and approved this fiscal analysis.

**R986. Workforce Services, Employment Development.
 R986-200. Family Employment Program.
 R986-200-250. Unauthorized Spending of TANF Financial Assistance Benefits.**

(1) TANF financial assistance benefits may not be accessed through an electronic benefit transfer, including through an automated teller machine or point-of-sale device, in an establishment in the state that:

- (i) exclusively or primarily sells intoxicating liquor,
- (ii) allows gambling or gaming, or
- (iii) provides adult-oriented entertainment where performers disrobe or perform unclothed.

(2) TANF financial assistance benefits may not be used to purchase beer, intoxicating beverages, cigarettes, or tobacco products.

(3) Unauthorized spending of TANF financial assistance benefits may constitute an Intentional Program Violation. See Section R986-100-117.

**KEY: family employment program, SNAP
 Date of Enactment or Last Substantive Amendment: [~~August 31, 2018~~2019]
 Notice of Continuation: September 2, 2015
 Authorizing, and Implemented or Interpreted Law: 35A-3-301 et seq.**

End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a **PROPOSED RULE** in the *Utah State Bulletin*, it may receive comment that requires the **PROPOSED RULE** to be altered before it goes into effect. A **CHANGE IN PROPOSED RULE** allows an agency to respond to comments it receives.

As with a **PROPOSED RULE**, a **CHANGE IN PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **CHANGE IN PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends March 4, 2019.

Following the **RULE ANALYSIS**, the text of the **CHANGE IN PROPOSED RULE** is usually printed. The text shows only those changes made since the **PROPOSED RULE** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (example). Deletions made to the rule appear struck out with brackets surrounding them (~~example~~). A row of dots in the text between paragraphs (.) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **CHANGE IN PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of rules that are too long to print is available from the agency or from the Office of Administrative Rules.

From the end of the 30-day waiting period through June 1, 2019, an agency may notify the Office of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses.

CHANGES IN PROPOSED RULES are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

The Changes in Proposed Rules Begin on the Following Page

Environmental Quality, Air Quality
R307-110-10
Section IX, Control Measures for Area
and Point Sources, Part A, Fine
Particulate Matter

NOTICE OF CHANGE IN PROPOSED RULE
 DAR FILE NO.: 43212
 FILED: 01/03/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended to change the effective date to match the Air Quality Board approval date of amendments to Section IX, Part A, of the Utah State Implementation Plan.

SUMMARY OF THE RULE OR CHANGE: This change in proposed rule amends the date from 12/2/2018 to 1/2/2019. (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the October 1, 2018, issue of the Utah State Bulletin, on page 31. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed amendment together to understand all of the changes that will be enforceable should the agency make this rule effective.)

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

TITLE OF MATERIALS INCORPORATED BY REFERENCE:
 ♦ Updates Utah State Implementation Plan, Emission Limits and Operating Practices, Section IX, Part A, published by Division of Air Quality, 01/02/2019

ANTICIPATED COST OR SAVINGS TO:
 ♦ **THE STATE BUDGET:** There are no changes from the original rule proposal.
 ♦ **LOCAL GOVERNMENTS:** There are no changes from the original rule proposal.
 ♦ **SMALL BUSINESSES:** There are no changes from the original rule proposal.
 ♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no changes from the original rule proposal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no changes from the original rule proposal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal analysis conducted for the original rule amendment

still applies. There are no changes anticipated from the original proposed rule amendment.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 01/03/2019

AUTHORIZED BY: Bryce Bird, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

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

Appendix 2: Regulatory Impact to Non-Small Businesses
 This rule change is not expected to have any fiscal impacts on large businesses revenues or expenditures, because all controls were required for the previous version of Section IX, Part A and, therefore, will not cost or benefit any business further.

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

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

The Utah State Implementation Plan, Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter, as most recently amended by the Utah Air Quality Board on ~~[December 5]~~ January 2, 2018, pursuant to Section 19-2-104, is hereby incorporated by reference and made a part of these rules.

KEY: air pollution, PM10, PM2.5, ozone
Date of Enactment or Last Substantive Amendment: 2018
Notice of Continuation: January 27, 2017
Authorizing, and Implemented or Interpreted Law: 19-2-104

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

NOTICE OF CHANGE IN PROPOSED RULE

DAR FILE NO.: 43211
 FILED: 01/03/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In response to comments received during the October 1 - October 31, 2018, public comment period, the Division of Air Quality (DAQ) staff made clarifying amendments to the definition of "Associated Gas."

SUMMARY OF THE RULE OR CHANGE: Section R307-511-2 is amended to clarify that low pressure gas associated with the working breathing, and flashing of oil is not considered associated gas under the definition and shall be controlled in accordance with Rules R307-506 and R307-507. Section R307-511-4 is amended to clarify the purpose of routing gas into process units by adding the language "for combustion" to the definition. Additionally, language was deleted to clean up

the language and format. (EDITOR'S NOTE: The original proposed new rule upon which this change in proposed rule (CPR) was based was published in the October 1, 2018, issue of the Utah State Bulletin, on page 32. Underlining in the rule below indicates text that has been added since the publication of the proposed new rule mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

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

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** This change will not have a direct fiscal impact on the state budget.
- ◆ **LOCAL GOVERNMENTS:** This change will not have a direct fiscal impact on local governments.
- ◆ **SMALL BUSINESSES:** This change will not have a direct fiscal impact on small businesses because the change does not affect the initial application of the rule. All changes are for clarification of the rules intent.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This change will not have a direct fiscal impact on persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This change does not have a compliance cost for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The amendments made to Rule R307-511 were for clarification to the intent of the originally proposed new rule. No changes made will further affect the original fiscal analysis conducted by DAQ.

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Thomas Gunter by phone at 801-536-4419, or by Internet E-mail at thomasgunter@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 01/03/2019

AUTHORIZED BY: Bryce Bird, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2019	FY 2020	FY 2021
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:			
	\$0	\$0	\$0

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

Appendix 2: Regulatory Impact to Non-Small Businesses
 No non-small businesses are expected to be impacted by this rulemaking. The amendments provide clarification to the intent of the originally proposed rule. No changes made will further affect the original fiscal analysis conducted by the Division of Air Quality.

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

R307. Environmental Quality, Air Quality.

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

R307-511-1. Purpose.

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

R307-511-2. Definitions.

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

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

"Associated Gas" means the natural gas that is produced from an oil well during [normal]production operations and is either sold, re-injected, used for production purposes, vented (rarely) or flared. [All gas from storage vessels and low pressure separators is not associated gas]Low pressure gas associated with the working, breathing, and flashing of oil is not considered associated gas under this definition and shall be controlled in accordance with R307-506 and R307-507.

R307-511-3. Applicability.

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

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

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

R307-511-4. Associated Gas Flaring Requirements.

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

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

R307-511-5. Recordkeeping.

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

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

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

KEY: air quality, nonattainment, offset

**Date of Enactment or Last Substantive Amendment: 2018]9
 Authorizing, and Implemented or Interpreted Law: 19-2-104;
 19-2-108**

End of the Notices of Changes in Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at <https://rules.utah.gov/>. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

REVIEWS are governed by Section 63G-3-305.

Administrative Services, Finance **R25-11**

Utah Transparency Advisory Board, Procedures for Electronic Meetings

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 43471
FILED: 01/07/2019

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: Adoption of this rule is mandated by Section 52-4-207. This rule established procedures by which the Utah Transparency Advisory Board (Board) may conduct a meeting by electronic means. The Board members may participate in the meeting electronically. This rule establishes requirements regarding the posting of the agenda for the for the meeting, the anchor location of the meeting, and methods by which participation can occur.

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 last 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: The need for this rule still exists. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
ADMINISTRATIVE SERVICES
FINANCE
ROOM 2110 STATE OFFICE BLDG
450 N STATE ST
SALT LAKE CITY, UT 84114-1201
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ John Reidhead by phone at 801-538-1678, by FAX at 801-538-3244, or by Internet E-mail at jreidhead@utah.gov

AUTHORIZED BY: John Reidhead, Director

EFFECTIVE: 01/07/2019

Agriculture and Food, Animal Industry **R58-20**

Domesticated Elk Hunting Parks

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 43469
FILED: 01/07/2019

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 4-39-106 allows the Department of Agriculture and Food (Department) to promulgate rules related to the application and renewal of

licenses, the disposal or removal of domesticated elk, operating standard requirements, health standards, inspection protocols, and transportation requirements for domesticated elk and domesticated elk hunting facilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received comments during the last five years on the provisions 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 provides for the safe operation and removal of domesticated elk. This rule is necessary for the safe operation of the domestic elk industry while at the same time protecting the wild elk population of the state. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 AGRICULTURE AND FOOD
 ANIMAL INDUSTRY
 350 N REDWOOD RD
 SALT LAKE CITY, UT 84116-3034
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Cody James by phone at 801-538-7166, by FAX at 801-538-7169, or by Internet E-mail at codyjames@utah.gov
 ♦ Melissa Ure by phone at 801-538-4976, or by Internet E-mail at mure@utah.gov

AUTHORIZED BY: LuAnn Adams, Commissioner

EFFECTIVE: 01/07/2019

OR REQUIRE THE RULE: Title 67, Chapter 19e, enacts the administrative law judge conduct oversight provisions. In Section 67-19e-104, the Department of Human Resource Management (DHRM) is granted specific rulemaking authority to establish minimum performance standards, procedures and standards for complaints, promulgating a code of conduct, and a procedural fairness program for administrative law judges employed by state agencies.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: DHRM has not received any comments on 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 must continue in order to enact and continue operation of the requirements of Title 67, Chapter 19e.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 HUMAN RESOURCE MANAGEMENT
 ADMINISTRATION
 ROOM 2120 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:
 ♦ Bryan Embley by phone at 801-538-3069, or by Internet E-mail at bkembley@utah.gov

AUTHORIZED BY: Paul Garver, Executive Director

EFFECTIVE: 01/07/2019

Human Resource Management,
 Administration
R477-101
 Administrative Law Judge Conduct
 Committee

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE NO.: 43470
 FILED: 01/07/2019

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

Insurance, Administration
R590-269
 Individual Open Enrollment Period

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE NO.: 43474
 FILED: 01/11/2019

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 31A-30-117(1)(c) requires the Insurance Commissioner to adopt a rule to establish one statewide open enrollment period for the

individual insurance market that is not part of the Federally Facilitated Marketplace.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Insurance Department has received no written comments regarding this rule during the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule must be continued because it authorizes an open enrollment period for Utahns who do not get insurance through the Federally Facilitated Marketplace to purchase insurance on the individual market with guaranteed issue of health insurance. Without this rule, Utahns who have a qualifying life event (lose a job, adopt a child, etc.) would need to pass a health examination before re-purchasing insurance. This could lead to those individuals having their coverage denied due to preexisting conditions.

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

INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

AUTHORIZED BY: Steve Gooch, Information Specialist

EFFECTIVE: 01/11/2019

Technology Services, Administration
R895-7
Acceptable Use of Information
Technology Resources

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 43467
FILED: 01/03/2019

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is issued by the Chief Information Officer under the authority of Section 63F-1-206 of the Utah Technology Governance Act, Utah Code, and in accordance with Section 63G-3-201 of the Utah Rulemaking Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received during and since the last five-year review of this rule from interested persons supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Information technology resources are provided to state employees to assist in the efficient day to day operations of state agencies. Employees shall use information technology resources in compliance with this rule. Therefore, this rule should be continued.

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

TECHNOLOGY SERVICES
ADMINISTRATION
ROOM 6000 STATE OFFICE BUILDING
450 N STATE ST
SALT LAKE CITY, UT 84114
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Stephanie Weteling by phone at 801-538-3284, by FAX at 801-538-3622, or by Internet E-mail at stephanie@utah.gov

AUTHORIZED BY: Michael Hussey, Executive Director and CIO

EFFECTIVE: 01/03/2019

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

NOTICES OF EFFECTIVE DATE are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal & Reenact

REP = Repeal

Administrative Services

Risk Management

No. 43235 (AMD): R37-4. Adjusted Utah Governmental Immunity Act Limitations on Judgments

Published: 11/01/2018

Effective: 01/18/2019

Education

Administration

No. 43397 (AMD): R277-437. Student Enrollment Options

Published: 12/01/2018

Effective: 01/09/2019

No. 43374 (REP): R277-470. Charter Schools - General Provisions

Published: 12/01/2018

Effective: 01/09/2019

No. 43399 (REP): R277-481. Charter School Oversight, Monitoring and Appeals

Published: 12/01/2018

Effective: 01/09/2019

No. 43392 (REP): R277-482. Charter School Timelines and Approval Processes

Published: 12/01/2018

Effective: 01/09/2019

No. 43373 (AMD): R277-509. Licensure of Student Teachers and Interns

Published: 12/01/2018

Effective: 01/09/2019

No. 43400 (NEW): R277-550. Charter Schools – Definitions

Published: 12/01/2018

Effective: 01/09/2019

No. 43393 (NEW): R277-551. Charter Schools - General Provisions

Published: 12/01/2018

Effective: 01/09/2019

No. 43394 (NEW): R277-552. Charter School Timelines and Approval Processes

Published: 12/01/2018

Effective: 01/09/2019

No. 43401 (NEW): R277-553. Charter School Oversight, Monitoring and Appeals

Published: 12/01/2018

Effective: 01/09/2019

No. 43395 (NEW): R277-554. State Charter School Board Grants and Mentoring Program

Published: 12/01/2018

Effective: 01/09/2019

No. 43396 (NEW): R277-555. Corrective Action Against Charter School Authorizers

Published: 12/01/2018

Effective: 01/09/2019

No. 43375 (AMD): R277-600. Student Transportation Standards and Procedures

Published: 12/01/2018

Effective: 01/09/2019

No. 43398 (AMD): R277-922. Digital Teaching and Learning Grant Program

Published: 12/01/2018

Effective: 01/09/2019

Environmental Quality

Air Quality

No. 42976 (AMD): R307-110-17. Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits

Published: 07/01/2018

Effective: 01/03/2019

No. 42976 (CPR): R307-110-17. Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits

Published: 11/01/2018

Effective: 01/03/2019

Drinking Water

No. 43378 (AMD): R309-100-9. Variances

Published: 12/01/2018

Effective: 01/15/2019

No. 43379 (AMD): R309-105-4. General

Published: 12/01/2018

Effective: 01/15/2019

No. 43380 (AMD): R309-110-4. Definitions

Published: 12/01/2018

Effective: 01/15/2019

No. 43381 (AMD): R309-200. Monitoring and Water Quality: Drinking Water Standards

Published: 12/01/2018

Effective: 01/15/2019

No. 43382 (AMD): R309-210-8. Disinfection Byproducts - Stage 1 Requirements

Published: 12/01/2018

Effective: 01/15/2019

No. 43383 (AMD): R309-211. Monitoring and Water Quality: Distribution System -- Total Coliform Requirements

Published: 12/01/2018

Effective: 01/15/2019

No. 43384 (AMD): R309-215-10. Residual Disinfectant

Published: 12/01/2018

Effective: 01/15/2019

No. 43385 (AMD): R309-215-16. Groundwater Rule

Published: 12/01/2018

Effective: 01/15/2019

No. 43386 (AMD): R309-220-4. General Public Notification Requirements

Published: 12/01/2018

Effective: 01/15/2019

No. 43387 (AMD): R309-225-4. General Requirements

Published: 12/01/2018

Effective: 01/15/2019

Waste Management and Radiation Control, Radiation

No. 43253 (AMD): R313-28-31. General and Administrative Requirements

Published: 11/01/2018

Effective: 01/14/2019

Waste Management and Radiation Control, Waste Management

No. 43252 (AMD): R315-273. Standards for Universal Waste Management

Published: 11/01/2018

Effective: 01/14/2019

Health

Health Care Financing, Coverage and Reimbursement Policy

No. 43332 (NEW): R414-520. Admission Criteria for Medically Complex Children's Waiver

Published: 11/15/2018

Effective: 01/04/2019

No. 43352 (NEW): R414-521. Accountable Care Organization Hospital Report

Published: 11/15/2018

Effective: 01/04/2019

Family Health and Preparedness, Emergency Medical Services

No. 43177 (AMD): R426-1. General Definitions

Published: 09/15/2018

Effective: 01/11/2019

No. 43178 (AMD): R426-2. Emergency Medical Services Provider Designations for Pre-Hospital Providers, Critical Incident Stress Management and Quality Assurance Reviews

Published: 09/15/2018

Effective: 01/11/2019

Human Services

Child and Family Services

No. 43358 (AMD): R512-305. Out-of-Home Services, Transition to Adult Living Services

Published: 12/01/2018

Effective: 01/09/2019

Public Safety

Fire Marshal

No. 43354 (NEW): R710-15. Seizure and Disposal of Fireworks, Class A Explosives, and Class B Explosives

Published: 11/15/2018

Effective: 01/14/2019

Tax Commission

Property Tax

No. 43371 (AMD): R884-24P-27. Standards for Assessment Level and Uniformity of Performance Pursuant to Utah Code Ann. Sections 59-2-704 and 59-2-704.5

Published: 12/01/2018

Effective: 01/10/2019

Workforce Services

Unemployment Insurance

No. 43365 (AMD): R994-403-109b. Profiled Claimants

Published: 12/01/2018

Effective: 03/31/2019

End of the Notices of Rule Effective Dates Section

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

The Rules Index is a cumulative index that reflects all effective changes to Utah's administrative rules. The current Index lists changes made effective from January 2, 2019 through January 15, 2019. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules Index of Changes. Nonsubstantive changes, while not published in the Bulletin, do become part of the Utah Administrative Code (Code) and are included in this Index, as well as 120-Day (Emergency) rules that do not become part of the Code. The rules are indexed by Agency (Code Number) and Keyword (Subject).

Questions regarding the index and the information it contains should be addressed to the Office of Administrative Rules (801-538-3003).

A copy of the **RULES INDEX** is available for public inspection at the Office of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Office's web site (<https://rules.utah.gov/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
<u>Finance</u>					
R25-11	Utah Transparency Advisory Board, Procedures for Electronic Meetings	43471	5YR	01/07/2019	Not Printed
AGRICULTURE AND FOOD					
<u>Animal Industry</u>					
R58-20	Domesticated Elk Hunting Parks	43469	5YR	01/07/2019	Not Printed
COMMERCE					
<u>Occupational and Professional Licensing</u>					
R156-20a (Changed to R156-20b)	Environmental Health Scientist Act Rule	43466	NSC	01/11/2019	Not Printed
R156-80a	Medical Language Interpreter Act Rule	43465	5YR	01/02/2019	2019-2/19
EDUCATION					
<u>Administration</u>					
R277-419	Pupil Accounting	43475	NSC	01/15/2019	Not Printed
R277-437	Student Enrollment Options	43397	AMD	01/09/2019	2018-23/6
R277-470	Charter Schools - General Provisions	43374	REP	01/09/2019	2018-23/9
R277-481	Charter School Oversight, Monitoring and Appeals	43399	REP	01/09/2019	2018-23/12
R277-482	Charter School Timelines and Approval Processes	43392	REP	01/09/2019	2018-23/15
R277-509	Licensure of Student Teachers and Interns	43373	AMD	01/09/2019	2018-23/19
R277-550	Charter Schools – Definitions	43400	NEW	01/09/2019	2018-23/21
R277-551	Charter Schools - General Provisions	43393	NEW	01/09/2019	2018-23/24
R277-552	Charter School Timelines and Approval Processes	43394	NEW	01/09/2019	2018-23/26
R277-553	Charter School Oversight, Monitoring and Appeals	43401	NEW	01/09/2019	2018-23/31
R277-554	State Charter School Board Grants and Mentoring Program	43395	NEW	01/09/2019	2018-23/34
R277-555	Corrective Action Against Charter School Authorizers	43396	NEW	01/09/2019	2018-23/38
R277-600	Student Transportation Standards and Procedures	43375	AMD	01/09/2019	2018-23/38
R277-922	Digital Teaching and Learning Grant Program	43398	AMD	01/09/2019	2018-23/45

ENVIRONMENTAL QUALITY

Air Quality

R307-110-17	Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits	42976	AMD	01/03/2019	2018-13/35
R307-110-17	Section IX, Control Measures for Area and Point Sources, Part H, Emission Limits	42976	CPR	01/03/2019	2018-21/134

Drinking Water

R309-100-9	Variances	43378	AMD	01/15/2019	2018-23/57
R309-105-4	General	43379	AMD	01/15/2019	2018-23/58
R309-110-4	Definitions	43380	AMD	01/15/2019	2018-23/60
R309-200	Monitoring and Water Quality: Drinking Water Standards	43381	AMD	01/15/2019	2018-23/73
R309-210-8	Disinfection Byproducts - Stage 1 Requirements	43382	AMD	01/15/2019	2018-23/80
R309-211	Monitoring and Water Quality: Distribution System -- Total Coliform Requirements	43383	AMD	01/15/2019	2018-23/85
R309-215-10	Residual Disinfectant	43384	AMD	01/15/2019	2018-23/91
R309-215-16	Groundwater Rule	43385	AMD	01/15/2019	2018-23/93
R309-220-4	General Public Notification Requirements	43386	AMD	01/15/2019	2018-23/99
R309-225-4	General Requirements	43387	AMD	01/15/2019	2018-23/101

Waste Management and Radiation Control, Radiation

R313-28-31	General and Administrative Requirements	43253	AMD	01/14/2019	2018-21/52
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Waste Management and Radiation Control, Waste Management

R315-273	Standards for Universal Waste Management	43252	AMD	01/14/2019	2018-21/55
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HEALTH

Family Health and Preparedness, Emergency Medical Services

R426-1	General Definitions	43177	AMD	01/11/2019	2018-18/15
R426-2	Emergency Medical Services Provider Designations for Pre-Hospital Providers, Critical Incident Stress Management and Quality Assurance Reviews	43178	AMD	01/11/2019	2018-18/19

Health Care Financing, Coverage and Reimbursement Policy

R414-520	Admission Criteria for Medically Complex Children's Waiver	43332	NEW	01/04/2019	2018-22/111
R414-521	Accountable Care Organization Hospital Report	43352	NEW	01/04/2019	2018-22/113

HUMAN RESOURCE MANAGEMENT

Administration

R477-101	Administrative Law Judge Conduct Committee	43470	5YR	01/07/2019	Not Printed
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HUMAN SERVICES

Child and Family Services

R512-305	Out-of-Home Services, Transition to Adult Living Services	43358	AMD	01/09/2019	2018-23/115
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INSURANCE

Administration

R590-269	Individual Open Enrollment Period	43474	5YR	01/11/2019	Not Printed
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PUBLIC SAFETY

Fire Marshal

R710-15	Seizure and Disposal of Fireworks, Class A Explosives, and Class B Explosives	43354	NEW	01/14/2019	2018-22/155
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RULES INDEX

TAX COMMISSION

<u>Property Tax</u> R884-24P-27	Standards for Assessment Level and Uniformity of Performance Pursuant to Utah Code Ann. Sections 59-2-704 and 59-2-704.5	43371	AMD	01/10/2019	2018-23/119
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TECHNOLOGY SERVICES

<u>Administration</u> R895-7	Acceptable Use of Information Technology Resources	43467	5YR	01/03/2019	Not Printed
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RULES INDEX - BY KEYWORD (SUBJECT)

ABBREVIATIONS

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
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GEX = Governor's Extension	

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>acceptable use</u> Technology Services, Administration	43467	R895-7	5YR	01/03/2019	Not Printed
<u>administrative law judges</u> Human Resource Management, Administration	43470	R477-101	5YR	01/07/2019	Not Printed
<u>administrative procedures</u> Environmental Quality, Drinking Water	43378	R309-100-9	AMD	01/15/2019	2018-23/57
<u>air pollution</u> Environmental Quality, Air Quality	42976 42976	R307-110-17 R307-110-17	AMD CPR	01/03/2019 01/03/2019	2018-13/35 2018-21/134
<u>appeals</u> Education, Administration	43399 43401	R277-481 R277-553	REP NEW	01/09/2019 01/09/2019	2018-23/12 2018-23/31
<u>appraisals</u> Tax Commission, Property Tax	43371	R884-24P-27	AMD	01/10/2019	2018-23/119
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Education, Administration	43374	R277-470	REP	01/09/2019	2018-23/9
	43399	R277-481	REP	01/09/2019	2018-23/12
	43400	R277-550	NEW	01/09/2019	2018-23/21
	43393	R277-551	NEW	01/09/2019	2018-23/24
	43401	R277-553	NEW	01/09/2019	2018-23/31
	43395	R277-554	NEW	01/09/2019	2018-23/34
	43396	R277-555	NEW	01/09/2019	2018-23/38
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	43383	R309-211	AMD	01/15/2019	2018-23/85
	43384	R309-215-10	AMD	01/15/2019	2018-23/91
	43385	R309-215-16	AMD	01/15/2019	2018-23/93
<u>conduct committee</u>					
Human Resource Management, Administration	43470	R477-101	5YR	01/07/2019	Not Printed
<u>consumer confidence report</u>					
Environmental Quality, Drinking Water	43387	R309-225-4	AMD	01/15/2019	2018-23/101
<u>corrective action</u>					
Education, Administration	43396	R277-555	NEW	01/09/2019	2018-23/38
<u>definitions</u>					
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Environmental Quality, Waste Management and Radiation Control, Radiation	43253	R313-28-31	AMD	01/14/2019	2018-21/52
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	43385	R309-215-16	AMD	01/15/2019	2018-23/93
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	43383	R309-211	AMD	01/15/2019	2018-23/85
<u>drinking water</u>					
Environmental Quality, Drinking Water	43378	R309-100-9	AMD	01/15/2019	2018-23/57
	43379	R309-105-4	AMD	01/15/2019	2018-23/58
	43380	R309-110-4	AMD	01/15/2019	2018-23/60
	43381	R309-200	AMD	01/15/2019	2018-23/73
	43382	R309-210-8	AMD	01/15/2019	2018-23/80
	43383	R309-211	AMD	01/15/2019	2018-23/85
	43384	R309-215-10	AMD	01/15/2019	2018-23/91
	43385	R309-215-16	AMD	01/15/2019	2018-23/93
	43386	R309-220-4	AMD	01/15/2019	2018-23/99
	43387	R309-225-4	AMD	01/15/2019	2018-23/101
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	43393	R277-551	NEW	01/09/2019	2018-23/24
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