

UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed May 16, 2019, 12:00 a.m. through May 31, 2019, 11:59 p.m.

Number 2019-12
June 15, 2019

Nancy L. Lancaster, Managing Editor

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

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

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

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

Office of Administrative Rules, Salt Lake City 84114

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

Utah state bulletin.

Semimonthly.

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

KFU440.A73S7

348.792'025--DDC

85-643197

TABLE OF CONTENTS

SPECIAL NOTICES	1
Health	
Health Care Financing, Coverage and Reimbursement Policy	
Notice for July 2019 Medicaid Rate Changes.....	1
NOTICES OF PROPOSED RULES	3
Agriculture and Food	
Horse Racing Commission (Utah)	
No. 43753 (Amendment): R52-7 Horse Racing.....	4
Animal Industry	
No. 43754 (Amendment): R58-18 Elk Farming.....	6
No. 43752 (Amendment): R58-20 Domesticated Elk Hunting Parks.....	13
Plant Industry	
No. 43758 (New Rule): R68-28 Cannabis Processing.....	16
Commerce	
Occupational and Professional Licensing	
No. 43747 (Amendment): R156-55a Utah Construction Trades	
Licensing Act Rule.....	23
Education	
Administration	
No. 43728 (Repeal and Reenact): R277-462 Comprehensive	
Counseling and Guidance Program.....	39
No. 43733 (Amendment): R277-503 Licensing Routes.....	45
No. 43732 (Amendment): R277-604 Private School, Home School,	
and Bureau of Indian Affairs (BIA) Student Participation in Public	
School Achievement Tests.....	50
No. 43729 (New Rule): R277-622 School-based Mental Health	
Qualified Grant Program.....	53
No. 43731 (Amendment): R277-716 Alternative Language Services	
for Utah Students.....	56
No. 43730 (New Rule): R277-927 Teacher and Student Success Act	
(TSSA) Program.....	60
Governor	
Economic Development	
No. 43755 (Repeal): R357-8 Allocation of Private Activity Bond	
Volume Cap.....	63
Health	
Disease Control and Prevention, Health Promotion	
No. 43757 (Amendment): R384-201 School-Based Vision Screening for	
Students in Public Schools.....	66
Natural Resources	
Parks and Recreation	
No. 43759 (Amendment): R651-411 OHV Use in State Parks.....	71
No. 43756 (Amendment): R651-615 Motor Vehicle Use.....	73
Water Rights	
No. 43743 (Repeal and Reenact): R655-13 Stream Alteration.....	74
Wildlife Resources	
No. 43741 (Amendment): R657-5 Taking Big Game.....	79
No. 43724 (Amendment): R657-37 Cooperative Wildlife Management Units	
for Big Game or Turkey.....	82
No. 43736 (Amendment): R657-41 Conservation and Sportsman Permits.....	91
No. 43723 (Amendment): R657-44 Big Game Depredation.....	100
No. 43725 (Amendment): R657-62 Drawing Application Procedures.....	104
Transportation	
Operations, Aeronautics	
No. 43722 (New Rule): R914-4 Challenging Corrective Action Orders.....	106

TABLE OF CONTENTS

Preconstruction	
No. 43742 (Amendment): R930-7 Utility Accommodation.....	109
No. 43745 (Amendment): R930-8 Utility Relocations Required by Highway Projects.....	124
Workforce Services	
Housing and Community Development	
No. 43746 (New Rule): R990-200 Private Activity Bonds.....	128
FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION.....	135
Administrative Services	
Administration	
No. 43744: R13-2 Management of Records and Access to Records.....	135
Education	
Administration	
No. 43739: R277-462 Comprehensive Counseling and Guidance Program.....	135
Governor	
Economic Development	
No. 43734: R357-7 Utah Capital Investment Board.....	136
Health	
Health Care Financing, Coverage and Reimbursement Policy	
No. 43740: R414-7A Medicaid Certification of New Nursing Facilities.....	137
No. 43751: R414-31 Inpatient Psychiatric Services for Individuals Under Age 21.....	137
No. 43749: R414-49 Dental, Oral and Maxillofacial Surgeons and Orthodontia.....	138
No. 43750: R414-502 Nursing Facility Levels of Care.....	138
No. 43748: R414-503 Preadmission Screening and Resident Review.....	139
Human Services	
Recovery Services	
No. 43727: R527-450 Federal Tax Refund Intercept.....	139
Insurance	
Administration	
No. 43737: R590-171 Surplus Lines Procedures Rule.....	140
No. 43738: R590-230 Suitability in Annuity Transactions.....	140
Natural Resources	
Wildlife Resources	
No. 43726: R657-46 The Use of Game Birds in Dog Field Trials and Training.....	141
Transportation	
Motor Carrier	
No. 43735: R909-2 Utah Size and Weight Rule.....	141
NOTICES OF RULE EFFECTIVE DATES.....	143
RULES INDEX	
BY AGENCY (CODE NUMBER)	
AND	
BY KEYWORD (SUBJECT).....	145

SPECIAL NOTICES

Health Health Care Financing, Coverage and Reimbursement Policy

Notice for July 2019 Medicaid Rate Changes

Effective July 1, 2019, Utah Medicaid will adjust its rates consistent with legislative intent and appropriations. Rate adjustments include new codes priced consistent with approved Medicaid methodologies as well as potential adjustments to existing codes. Nursing home rate changes will include adjustments to the flat rate, fair rental value and case mix components consistent with adopted payment methodology. All rate changes are posted to the web and can be viewed at:
<http://health.utah.gov/medicaid/stplan/lookup/CoverageLookup.php>

End of the Special Notices Section

NOTICES OF PROPOSED RULES

A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between May 16, 2019, 12:00 a.m., and May 31, 2019, 11:59 p.m. are included in this, the June 15, 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 July 15, 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 October 13, 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

**Agriculture and Food, Horse Racing
Commission (Utah)
R52-7
Horse Racing**

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 43753
FILED: 05/31/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In accordance with Section 52-4-207, these rule changes are being proposed to allow the Horse Racing Commission (Commission) to have electronic meetings in order to more efficiently conduct business.

SUMMARY OF THE RULE OR CHANGE: These rule changes make it possible for the Commission to hold electronic meetings. These rule changes specify the procedures that must be followed by the Commission in order for the Commission to have an electronic meeting.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-38-104 and Section 52-4-207

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The Commission consists of seven members representing the various horse racing interests in the state. These members come from all over the state. Many of the members of the Commission have to travel and the state expends \$0.53 per mile to reimburse the members for their travel. Additionally, the state pays \$15 per hour for the length of the meeting. The change to electronic rules would result in the state not having to pay the \$0.53 per mile to the members as they would no longer be required to travel to have the meeting. It is not feasible to estimate how much the state would save from having electronic meetings due to the inability to determine which members would be participating in the phone call, as well as the continual change of membership which changes the amount of mileage that would need to be paid out.

◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or benefits to local governments as this rule neither requires action from nor provides benefits to local governments.

◆ **SMALL BUSINESSES:** There are no anticipated costs or benefits to small businesses as this rule neither requires action from nor provides benefits to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Member of the Commission will have the benefit of not having to travel to the meetings. As many of them live outside of the Wasatch Front, the availability of electronic meetings will allow them to continue to participate in the meetings, but not

have to spend so much of their time traveling to and from meetings.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These rule changes will not have a cost to anyone associated with this rule because there are no additional requirements to any of those affected by this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are no fiscal impacts associated with these rule changes to businesses or person affected by this rule.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
AGRICULTURE AND FOOD
HORSE RACING COMMISSION (UTAH)
350 N REDWOOD RD
SALT LAKE CITY, UT 84114
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
◆ Kelly Pehrson by phone at 801-538-7102, or by Internet E-mail at kwpehrson@utah.gov
◆ Melissa Ure by phone at 801-538-4978, or by Internet E-mail at mure@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2019

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2019

AUTHORIZED BY: Kerry Gibson, Commissioner

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

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

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

Appendix 2: Regulatory Impact to Non-Small Businesses

These changes to this rule could lead to a benefit for the state budget by not requiring Horse Racing Commission (Commission) members to be present at each meeting of the Commission. The use of teleconferences will allow the state to save some money on for not having to reimburse the Commission members mileage to travel to the Commission meetings. It is not feasible for the state to accurately assess the amount of the savings due to the varied nature of who may call into the meetings and changes in Commission membership. There are no additional costs associated with this rule.

The Commissioner of the Department of Agriculture and Food, Kerry Gibson, has reviewed and approved this final analysis.

R52. Agriculture and Food, Horse Racing Commission (Utah).

R52-7. Horse Racing.

R52-7-1. Authority.

Promulgated under authority of Section [4-38-4]4-38-104.

R52-7-3. Commission Powers and Jurisdiction.

1. Description and Powers. The Utah Horse Racing Commission is an administrative body created by Section 4-38-3. The Commission consists of five members which are appointed by the governor, and whose powers and duties are prescribed by the legislature. The Commission appoints an executive director who is the administrative head of the agency, and the Commission determines the duties of the executive director. The Commission shall have supervision of all sanctioned race meetings held in the State of Utah, and all occupation and organization licensees in the State and all persons on the property of an organization licensee.

2. Jurisdiction. Without limitations by specific mention hereof, the stated purposes of the Rules and Regulations hereby promulgated are as follows:

- A. To encourage agriculture and breeding of horses in this State; and
- B. To maintain race meetings held in the State of the highest quality and free of any horse racing practices which are corrupt, incompetent, dishonest or unprincipled; and
- C. To maintain the appearance as well as the fact of complete honesty and integrity of horse racing in this State; and
- D. To generate public revenues.
- E. Commission jurisdiction of a race meet commences one hour prior to post time and ends one hour following the last posted race.

3. Controlling Authority. The law, the rules, and the orders of the Commission supersede the conditions of a race meeting and

govern Thoroughbred, Quarter Horse, Appaloosa, Arabian, Paint and Pinto racing, except in the event it can have no application to a specific type of racing. In the latter case, the Stewards may enforce rules or conditions of The Jockey Club for Thoroughbred racing, the American Quarter Horse Association for Quarter Horse racing; the Appaloosa Horse Club for Appaloosa racing; the Arabian Horse Racing Association of America for Arabian racing; the American Paint Horse Association for Paint racing; and the Pinto Horse Association of America, Inc., for Pinto racing; if such rules or conditions are not inconsistent with the Laws of the State of Utah and the Rules of the Commission.

4. Commission Meetings. The following provisions govern any meeting at which a voting majority of commission members appear at the anchor location, by telephone, or electronically pursuant to Utah Code Section 52-4-207:

(a) If enough commission members which constitute a voting majority intend to participate electronically or by telephone, public notices of the meeting shall be posted. In addition, the notice shall specify the anchor location where the members of the commission not participating electronically or by telephone will be meeting and where interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

(b) Notice of the meeting and the agenda shall be posted at the anchor location. Written or electronic notice shall also be posted on the Public Notice Website. These notices shall be provided at least 24 hours before the meetings.

(c) Notice of the possibility of an electronic meeting shall be given to the commission members at least 24 hours before the meeting. In addition, the notice shall describe how a commission member may participate in the meeting electronically or by telephone.

(d) When notice is given of the possibility of a member appearing electronically or by telephone, any commission member may do so and shall be counted as present for purposes of a quorum and may fully participate and vote on any matter coming before the commission. At the commencement of the meeting, or at such time as any commission member initially appears electronically or by telephone, the chair shall identify for the record all those who are appearing by telephone or electronically. Votes by members of the commission who are not at the physical location of the meeting shall be confirmed by the chair.

(e) The anchor location, unless otherwise designated in the notice, shall be at the offices of the Department of Agriculture and Food, 350 N Redwood Road, Salt Lake City, Utah. The anchor location is the physical location from which the electronic meeting originates or from which the participants are connected. In addition, the anchor location shall have space and facilities so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

[4]5. Punishment By The Commission. Violation of the Act and rules promulgated by the Commission, whether or not a penalty is fixed therein, is punishable in the discretion of the Commission by denial, revocation or suspension of any license; by fine; by exclusion from all racing enclosures under the jurisdiction of the Commission; or by any combination of these penalties. Fines imposed by the Commission shall not exceed \$10,000 against individuals for each violation, any Rules or regulations promulgated by the Commission, or any Order of the Commission; or for any other action which, in the discretion of the Commission, is a detriment or impediment to horse racing, according to Subsection 4-38-9(2).

[5]6. Extension For Compliance. If a licensee fails to perform an act or obtain required action from the Commission within the time prescribed therefore by these Rules, the Commission, at some subsequent time, may allow the performance of such act or may take the necessary action with the same effect as if the same were performed within the prescribed time.

[6]7. Notice To Licensee. Whenever notice is required to be given by the Commission or the Stewards, such notice shall be given in writing by personal delivery to the person to be notified or by mailing, Certified Mail, Return Receipt Requested, such notice to the last known address furnished to the Commission; or may be given as provided for service of process in a civil proceeding in the State of Utah and pursuant to the Administrative Procedures Act.

[7]8. Location For Information Or Filing With Commission. When information is requested or a notice in any matter is required to be filed with the Commission, such notice shall be delivered to an authorized representative of the Commission at an office of the Commission on or before the filing deadline. Offices of the Commission are currently located at: State of Utah, Department of Agriculture and Food, 350 North Redwood Road, Salt Lake City, UT 84116.

[8]9. Public Inspection Of Documents. All forms adopted by the Commission together with all Rules and other written statements of policy or interpretation; and all final orders, decisions, and opinions, formulated, adopted or used by the Commission in the discharge of its functions are available for public inspection at the above office.

[9]10. Forms And Instruction. The following forms and instructions for their use have been adopted by the Commission:

Apprentice Jockey Certificate
 Authorized Agent Agreement
 Fingerprint Card
 Identifier's Daily Report
 Lease Agreement
 Occupation Licensee Application(s)
 Occupation License Renewal Application(s)
 Open Claim Certificate
 Organization's Daily Report
 Organization Licensee Application
 Petition for Declaratory Ruling
 Petition for Promulgation, Amendment or Repeal of Rule
 Petition in and before the Utah Horse Commission
 Postmortem Examination Report
 Stable Name, Corporation, Partnership or Syndicate
 Registration Form
 Stewards' Daily Report
 Stewards' Hearing Notice
 Stewards' Hearing Reports
 Subpoena (Steward and Commission)
 Test Barn Diuretic Approval Form

[10]11. Forms for substituting petitions for promulgating or repealing of rules, and for requests for declaratory ruling are available at the Utah State Department of Agriculture and Food.

KEY: horses, horse racing

Date of Enactment or Last Substantive Amendment: ~~March 6, 2017~~ **2019**

Notice of Continuation: August 25, 2016

Authorizing, and Implemented or Interpreted Law: 4-38-4

Agriculture and Food, Animal Industry

R58-18

Elk Farming

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43754

FILED: 05/31/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule requires two forms of identification for domesticated elk. The proposed changes to this rule would change the allowed forms for animal identification. This is necessitated by the difficulties of tattooing a domesticated elk.

SUMMARY OF THE RULE OR CHANGE: The proposed rule changes remove the identification option of a tattoo and replaces it with a resistant electronic identification tag (RFID) and metal tags issued by USDA with the animal identification number on it. Other changes to this rule were made to clarify recordkeeping.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-39-106

MATERIALS INCORPORATED BY REFERENCE:

- ◆ Updates Brucellosis in Cervidae: Uniform Methods and Rules, published by United States Department of Agriculture, 09/30/2003

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no anticipated cost or benefit because there were always two forms of identification required. This change only limits the options but doesn't change the duties or responsibilities of the Department of Agriculture and Food (Department).

◆ **LOCAL GOVERNMENTS:** These rule changes are not anticipated to result in any costs or savings with respect to any local governments.

◆ **SMALL BUSINESSES:** The RFID tag required by this rule costs approximately \$1.85 per tag. Our domesticated elk producers purchase anywhere between 20-300 RFID tags per year. The estimated cost to the producer in a year will range from \$37 to \$555 depending on the amount of domesticated elk they bring in each year. The USDA metal tags are free.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These rule changes are not anticipated to have any fiscal impact on persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The RFID tag required by this rule cost approximately \$1.85 per tag. Our domesticated elk producers purchase anywhere

between 20-300 RFID tags per year. The estimated cost to the producer in a year will range from \$37 to \$555 depending on the amount of domesticated elk they bring in each year.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes to this rule will result in a cost to the producer; however, these changes are supported by the industry.

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:
 ♦ Kelly Pehrson by phone at 801-538-7102, or by Internet E-mail at kwpehrson@utah.gov
 ♦ Leann Hunting by phone at 801-538-7166, or by Internet E-mail at leannhunting@utah.gov
 ♦ Melissa Ure by phone at 801-538-4978, or by Internet E-mail at mure@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2019

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2019

AUTHORIZED BY: Kerry Gibson, Commissioner

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$555	\$555	\$555
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$555	\$555	\$555
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:	-\$555	-\$555	-\$555

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

Appendix 2: Regulatory Impact to Non-Small Businesses

The state has 35 Elk farms currently licensed in the state. Each of these farms would be considered a small business. The rule changes are not expected to have any fiscal impact on non-small businesses' revenues or expenditures because the changes are being made to solidify current Department procedure and practice and do not place additional costs on the businesses.

The Commissioner of the Department of Agriculture and Food, Kerry Gibson, has reviewed and approved this final analysis.

R58. Agriculture and Food, Animal Industry.

R58-18. Elk Farming.

R58-18-1. Authority.

Regulations governing elk farming promulgated under authority of 4-39-106.

R58-18-2. Definitions.

In addition to the definitions found in Sections 4-1-8, 4-7-3, 4-24-2, 4-32-3 and 4-39-102, the following terms are defined for purposes of this rule:

(1) "Adjacent Herd" means a herd of Cervidae occupying premises that border an affected herd, including herds separated by fences, roads or streams, herds occupying a premises where Chronic Wasting Disease (CWD) was previously diagnosed, and herds that share the same license as the affected or source herd, even if separate records are maintained and no commingling has taken place.

(2) "Affected herd" means a herd of Cervidae where an animal has been diagnosed with [~~Chronic Wasting Disease (CWD) caused by protease resistant prion protein (PrP), and~~]CWD and confirmed by means of an approved test, within the previous 5 years.

(3) "Animal identification" means a device or means of individual animal identification.

(4) "Approved test" means approved tests for [~~Chronic Wasting Disease~~]CWD surveillance which shall be those laboratory or diagnostic tests accepted nationally by USDA and approved by the State Veterinarian.

(5) "Commingled", "commingling" means that animals are commingled if they have direct contact with each other, have less than 10 feet of physical separation, or share equipment, pasture, feed, or water sources/watershed. Animals are considered to have commingled if they have had any such contact with a CWD positive animal or contaminated premises within the last 5 years.

(6) "CWD-exposed animal" means an animal that is part of a CWD-positive herd, or that has been exposed to a CWD-positive animal or contaminated premises within the previous 5 years.

(7) "CWD-exposed herd" means a herd in which a CWD-positive animal has resided for any period of time within 5 years prior to that animal's diagnosis as CWD-positive.

(8) "CWD Herd Certification Program" means the Chronic Wasting Disease Herd Certification Program.

(9) "CWD-positive animal" means an animal that has had a diagnosis of CWD confirmed by means of an official CWD test.

(10) "CWD-positive herd" means a herd in which a CWD positive animal resided at the time it was diagnosed and which has not been released from quarantine.

(11) "CWD-suspect animal" means an animal for which has been determined that laboratory evidence or clinical signs suggest a diagnosis of CWD.

(12) "CWD-suspect herd" means a herd in which a CWD suspect animal resided and which has not been released from quarantine.

(13) "Destination Herd" means the intended herd of residence, which will be occupied by the animal which is proposed for importation.

(14) "Domestic elk" as used in this chapter, in addition to 4-39-102, means any elk which has been born inside of, and has spent its entire life within captivity.

(15) "Elk" as used in this chapter means North American Wapiti or Cervus Elaphus [~~Canadensis~~]nelsoni.

(16) "Herd of Origin" means the herd, which an imported animal has resided in, or does reside in, prior to importation.

(17) "Official slaughter facility" means a place where the slaughter of livestock occurs that is under the authority of the state or federal government and receives state or federal inspection.

(18) "Quarantine Facility" means a confined area where selected elk can be secured, contained and isolated from all other elk and livestock.

(19) "Raised" as used in the act means any possession of domestic elk for any purpose other than hunting.

(20) "Secure Enclosure" means a perimeter fence or barrier that is so constructed as to prevent domestic elk from escaping into the wild or the ingress of native wildlife into the facility.

(21) "Separate location" as used in Subsection 4-39-203(5) means any facility that may be separated by two distinct perimeter fences, not more than 10 miles apart, owned by the same person.

(22) "Trace Back Herd/Source Herd" means a herd of Cervidae where an animal affected with CWD has formerly resided.

(23) "Trace Forward Herd" means a herd of Cervidae which has received exposed animals that originated from a CWD positive herd within 5 years prior to the diagnosis of CWD in the positive herd or from the identified date of entry of CWD into the positive herd.

R58-18-3. Application and Licensing Process.

(1) Each applicant for a license shall submit a signed, complete, accurate and legible application on a Department issued form.

(2) In addition to the application, a general plot plan should be submitted showing the location of the proposed farm in conjunction with roads, towns, etc. in the immediate area.

(3) A facility number shall be assigned to an elk farm at the time a completed application is received by the Department.

(4) A complete facility inspection and approval shall be conducted prior to the issuing of a license or entry of elk to any facility. This inspection shall be made by an approved Department of

Agriculture and Food employee and Division of Wildlife Resources employee. It shall be the responsibility of the applicant to request this inspection at least [~~72 hours~~]three working days in advance.

(5) Upon receipt of an application, inspection and approval of the facility, ~~and~~ completion of the facility approval form, and receipt of the license fee, a license will be issued.

(6) All licenses expire on July 1st in the year following the year of issuance.

(7) Elk may enter into the facility only after a license is issued by the Department and received by the applicant.

R58-18-4. License Renewal.

(1) Each elk farm must make renewal application to the Department on the prescribed form no later than April 30th indicating its desire to continue as an elk farm. This application shall be accompanied by the required fee. Any license renewal application received after April 30th [~~will have a late fee assessed~~].

(2) Any [~~license~~]application received after July 1st is delinquent and any animals on the [~~farm~~]premises will be quarantined until due process of law against the current owner has occurred. This may result in any or all of the following:

- _____ a) revocation of the license[;];
- _____ b) loss of the facility number[;];
- _____ c) closure of the facility; ~~and~~ or
- _____ d) removal of the elk from the premises.

~~_____ (3) Documentation showing that genetic purity has been maintained throughout the year is also required for annual license renewal.~~

~~_____ (4) The licensee shall provide a copy of the inventory sheet to the inspector at the time of inspection.~~

~~[(5)](3)~~ Prior to renewal of the license, the facility will again be inspected by a Utah Department of Agriculture and Food employee.

(a) The employee will document that all fencing and facility requirements are met [~~as required~~].

_____ (b) The licensee shall provide a copy of the complete inventory sheet of live animals to the inspector at the time of inspection.

~~[(b)](c)~~ The employee will perform [~~an~~]a physical inventory count [~~on~~]of all elk on the premises.

_____ (i) The individual animal identification numbers shall match with the inventory records received from the owner or manager of the elk facility and those maintained by the department.

~~[(e)](d)~~ The employee will perform a visual general health check of all animals.

~~[(d)](e)~~ Every year, the employee will perform an inventory of all elk by matching individual animal identification with the inventory records received from the owner/manager of the elk facility.

~~[(e)](f)~~ The physical inventory and bookkeeping inventory must have at least a 95% match.

R58-18-5. Facilities.

(1) All perimeter fences and gates shall meet the minimum standard as defined in Section 4-39-201.

(a) The perimeter fences and gates shall be constructed to prevent the movement of cervids, both captive and wild, into or out of the facility.

(2) Internal handling facilities shall be capable of humanely restraining an individual animal for the applying or reading of any

animal identification, the taking of blood or tissue samples, or conducting other required testing by an inspector or veterinarian.

(a) Any such restraint shall be properly constructed to protect inspection personnel while handling the animals.

(b) Minimum requirements include a working pen, an alley way and a restraining chute.

(3) The licensee shall provide an isolation or quarantine holding facility which is adequate to contain the animals and provide proper feed, water and other care necessary for the physical well being of the animal(s) for the period of time necessary to separate the animal from other animals on the farm.

(4) Each location of a licensed facility with separate perimeter fences must have its own separate loading facility.

R58-18-6. Records.

(1) Licensed elk farms shall maintain accurate and legible office records showing the inventory of all elk on the facility.

(2) The inventory record of each animal shall include:

(a) Name and address of agent(s) which the elk was purchased from,

(b) Official identification~~Identification~~ number ~~[(tattoo or microchip)](tamper-resistant ear tag or USDA metal tag)~~ and ~~[official ear tag number]~~the secondary identification number.

(c) Age,

(d) Sex,

(e) Date of purchase or birth,

(f) Date of death or change of ownership (name of new owner and address should be recorded and retained), and

(g) Certificate of Veterinary Inspection if purchased out of state.

(3) The inventory sheet may be one that is either provided by the Department or may be a personal design of similar format.

(4) Any animal born on the property or transported into a facility must be added to the inventory sheet within seven days.

(5) Any elk purchased must be shown on the inventory sheet within 30 days after acquisition, including source.

(6) A death record of all elk 12 months of age and over that die; or that are otherwise harvested, slaughtered, killed, or destroyed shall be submitted to the Department within 48 hours after the discovery of the death of the animal.

R58-18-7. Genetic Purity.

(1) All elk entering Utah, except those going directly to slaughter, must have written evidence of genetic purity.

(2) Written evidence of genetic purity will include one of the following:

(a) Test charts from an approved lab that have run either a:

(i) Blood genetic purity test or

(ii) DNA genetic purity test.

(b) Registration papers from the North American Elk Breeders Association.

(c) Herd purity certification papers issued by another state agency.

(3) Genetic purity records must be kept on file and presented to the inspector at the time elk are brought into the state ~~and also each year during the license renewal process~~.

(4) Any elk identified as having red deer genetic ~~[influence]~~factor shall be destroyed, or immediately removed from the state.

R58-18-8. Acquisition of or Slaughter of Elk.

(1) Only domesticated elk will be allowed to enter and be kept on any elk farm in Utah.

(2) All new elk brought into a facility shall be held in a quarantine facility until a livestock inspector has inspected the animal(s) to verify that all health, identification and genetic purity requirements have been met. New animals may not co-mingle with any elk already on the premises until this verification is completed by the livestock inspector.

(3) All elk presented for slaughter at an official slaughter facility, that have come from an out of state source, must arrive on a day when no Utah raised elk or elk carcasses are present at the plant.

(4) Individual elk identification must be maintained throughout slaughter and processing until such time that CWD test results have been returned from the laboratory.

(5) Out of state elk shall be tested for Brucellosis at the time of slaughter.

R58-18-9. Identification.

(1) All elk shall ~~[be permanently identified with either a tattoo or electronic identification tag]~~have two forms of identification attached to each animal.

(2) Each animal shall be permanently identified with a tamper-resistant electronic identification tag (RFID) or USDA metal tag.

~~[(2)]~~(3) If the identification method chosen to use is the ~~[electronic identification]~~RFID tag, a reader must be made available, by the owner, to the inspector at the time of any inspection to verify electronic identification number. The ~~[electronic identification]~~RFID tag shall be placed in the right ear.

~~[(3)]~~(3) If ~~tattooing is the chosen method of identification,~~ each elk shall bear a tattoo number consisting of the following:

~~[(a)]~~(a) UT (indicating Utah) followed by a number assigned by the Department (indicating the facility number of the elk farm) and

~~[(b)]~~(b) Any alphanumeric combination of letters or numbers consisting of not less than 3 digits, indicating the individual animal number herein referred to as the "ID number".

~~Example:~~

~~UTxxx~~

~~ID number (001)~~

~~[(c)]~~(c) Each elk shall be tattooed on either the right peri-anal hairless area beside the tail or in the right ear.

~~[(d)]~~(d) Each alphanumeric character must be at least 3/8 inch high.]

~~[(e)]~~(4) Each newly purchased elk will not need to be ~~[retattooed or microchipped]~~re-tagged using the RFID tag if they already have this type of identification.

~~[(f)]~~(5) Any purchased elk not already identified shall ~~[be tattooed or microchipped]~~have the RFID tag applied within 30 days after arriving on the ~~[farm]~~premises.

~~[(g)]~~(6) All calves ~~[must]~~shall ~~[be tattooed or microchipped]~~have the RFID tag applied within 15 days after weaning or in no case later than ~~[September 15th]~~January 31st or before leaving the premises where they were born.

~~[(4)]~~(7) In addition to ~~[one of the two above mentioned identification methods,~~ each elk shall be identified ~~]the RFID tag an additional form of identification either a metal tag with a number unique to the farm, or a visible dangle ear tag within 15 days after weaning or in no case later than January 31st or before leaving the~~

~~premises where they were born or within 30 days after arriving on the premises [by an official USDA ear tag or other ear tag approved by the State Veterinarian within 15 days after weaning or in no case later than September 15th or before leaving the premises where they were born or within 30 days after arriving on the farm.]~~

R58-18-10. Inspections.

(1) All facilities must be inspected within 60 days before a license or the renewal of an existing license is issued. It is the responsibility of the applicant to arrange for an appointment with the Department for such inspection, giving the Department ample time to respond to such a request.

(2) All elk must be inspected for inventory purposes within 60 days before a license renewal can be issued.

(3) All elk must be inspected when any change of ownership, ~~moving~~ movement out of state, leaving the facility, or slaughter ~~[or selling of elk products, such as antlers,]~~ occurs except as indicated in (f) below.

(a) It is the responsibility of the licensee to arrange for any inspection with the local state livestock inspector.

(b) A minimum of 48 hours advance notice shall be given to the inspector.

(c) ~~[When inspected]~~ For the inspection, the licensee or his representative shall make available such records as will certify ownership, genetic purity, and animal health.

(d) All elk to be inspected shall be properly contained in facilities adequate to confine each individual animal for proper inspection.

(e) Animals shall be inspected before being loaded or moved outside the facility.

(f) Animals moving from one perimeter fence to another within the facility or from a licensed facility to another licensed facility owned by the same person within the state may move directly from one site to another site without a brand inspection, but must be accompanied with a copy of the facility license.

(4) Any elk purchased or brought into the facility from an out-of-state source shall be inspected upon arrival at a licensed farm before being released into an area inhabited by other elk. All requirements of R58-18-10(3) above shall apply to the inspection of such animals.

(5) A Utah Brand Inspection Certificate shall accompany any shipment of elk ~~[or elk products, including velveted antlers,]~~ which are to be moved from a Utah elk farm.

(a) Shed antlers are excluded from needing an inspection.

(6) Proof of ownership and proper health papers shall accompany all interstate movement of elk to a Utah destination.

(7) Proof of ownership may include:

(a) A brand inspection certificate issued by another state.

(b) A purchase invoice from a licensed public livestock market showing individual animal identification.

(c) Court orders.

(d) Registration papers showing individual animal identification.

(e) A duly executed bill (notarized) of sale.

R58-18-11. Health Rules.

(1) Prior to the importation of elk, whether by live animals, gametes, eggs, sperm or other genetic material into the State of Utah,

the importing party must obtain an import permit from the Utah State Veterinarian's office.

(a) An import permit number shall be issued only if the destination is licensed as an elk farm by the Utah Department of Agriculture and Food or an official slaughter facility.

(b) The import permit number for Utah shall be obtained by the local veterinarian conducting the official health inspection by contacting the Utah Department of Agriculture and Food.

(2) All elk imported into Utah must be examined by an accredited veterinarian prior to importation and must be accompanied by a valid Certificate of Veterinary Inspection, health certificate, certifying a disease free status.

(a) Minimum specific disease testing results or health statements must be included on the Certificate of Veterinary Inspection. Minimum disease testing requirement may be waived on elk traveling directly to an official slaughter facility.

(b) A negative tuberculosis test must be completed within 60 days prior to entry into the state. A retest is also optional at the discretion of the State Veterinarian.

(c) If animals do not originate from a tuberculosis accredited, qualified or monitored herd, they may be imported only if accompanied by a certificate stating that such domestic cervidae have been classified negative to two official tuberculosis tests that were conducted not less than 90 days apart, that the second test was conducted within 60 days prior to the date of movement. The test eligible age is six months or older, or less than six months of age if not accompanied by a negative testing dam.

(d) All elk being imported shall test negative for brucellosis if six months of age or older, by at least two types of official USDA brucellosis tests.

(e) The Certificate of Veterinary Inspection must also include the following signed statement: "To the best of my knowledge the elk listed herein are not infected with Johne's Disease (Paratuberculosis), ~~[Chronic Wasting Disease]~~ CWD or Malignant Catarrhal Fever and have never been east of the 100 degree meridian."

(f) The Certificate of Veterinary Inspection shall also contain the name and address of the shipper and receiver, the number, sex, age and any individual identification on each animal.

(3) Additional disease testing may be required at the discretion of the State Veterinarian prior to importation or when there is reason to believe other disease(s), or parasites ~~[are present]~~, or that some other health concerns are present.

(4) Imported or existing elk may be required to be quarantined at an elk farm ~~[if]~~ when the State Veterinarian determines the need for and the length of such ~~[a]~~ quarantine.

(5) Any movement of elk outside a licensed elk farm shall comply with standards as provided in the document entitled: "Uniform Methods and Rules (UM and R)", as approved and published by the USDA. The documents, entitled: "Tuberculosis Eradication in Cervidae, Uniform Methods and Rules", the May 15, 1994 edition, and "Brucellosis ~~[Eradication]~~ Cervidae, Uniform Methods and Rules", the ~~[May 6, 1992]~~ September 30, 2003 edition as published by the USDA, are hereby incorporated by reference into this rule. These are the standards for tuberculosis and brucellosis eradication in domestic cervidae.

(6) Treatment of all elk for internal and external parasites is required within 30 days prior to entry, except elk going directly to slaughter.

(7) All elk imported into Utah must originate from a state or province, which requires that all suspected or confirmed cases of [~~Chronic Wasting Disease (CWD)~~], be reported to the State Veterinarian or regulatory authority. The state or province of origin must have the authority to quarantine source herds and herds affected with or exposed to CWD.

(8) Based on the State Veterinarian's approval, all elk imported into Utah shall originate from states, which have implemented a Program for Surveillance, Control, and Eradication of CWD in Domestic Elk.

(a) All elk imported to Utah must originate from herds that have been participating in a verified CWD surveillance program for a minimum of 5 years.

(b) Animals will be accepted for movement only if epidemiology based on vertical and horizontal transmission is in place.

(9) No elk originating from a CWD affected herd, trace back herd/source herd, trace forward herd, adjacent herd, or from an area considered to be endemic to CWD, may be imported to Utah.

(10) Elk semen, eggs, or gametes[;] require a Certificate of Veterinary Inspection verifying the individual source animal has [~~been tested for~~]genetic purity [~~for Rocky Mountain Elk genes~~]and certifying that it has never resided on a premises where [~~Chronic Wasting Disease~~]CWD has been identified or traced. An import permit obtained by the issuing veterinarian must be listed on the Certificate of Veterinary Inspection.

R58-18-12. [~~Chronic Wasting Disease~~]CWD Surveillance and Investigation.

(1) The owner, veterinarian, or inspector of any elk which is suspected or confirmed to be affected with [~~Chronic Wasting Disease (CWD)~~]CWD in Utah is required to report that finding to the State Veterinarian immediately upon finding.

(2) The State Veterinarian will promptly investigate all animals reported as CWD-exposed, CWD-suspect, or CWD-positive animals, including but not limited to:

(a) Conduct an epidemiologic investigation of CWD-positive, CWD-exposed, and CWD-suspect herds that includes the designation of suspect and exposed animals and that identifies animals to be traced;

(b) Conduct tracebacks of CWD-positive animals and traceouts of CWD-exposed animals and report any out-of-State traces to the appropriate State promptly after receipt of notification of a CWD-positive animal; and

(c) Conduct tracebacks based on slaughter or other sampling promptly after receipt of notification of a CWD-positive animal at slaughter.

(d) With the approval of the Commissioner of Agriculture, the State Veterinarian will place the facility under quarantine and any trace-back or trace-forward facility as needed.

(e) Any elk over 12 months of age that dies or is otherwise slaughtered or destroyed from a CWD-positive, CWD-exposed, and CWD-suspect herd shall have the brain stem (obex portion of the medulla) and medial retropharyngeal lymph nodes collected for testing for [~~Chronic Wasting Disease (CWD)~~]CWD by an official test.

(i) The samples shall be collected by an accredited veterinarian, or an approved laboratory, [~~or~~]person trained and approved by the State Veterinarian.

(ii) Carcasses and tissues from these animals will be either [~~incinerated or stored~~]secured by a state or federally inspected slaughter establishment until testing is completed.

(iii) Carcasses and tissues from animals testing positive must be disposed of by incineration or other means approved by the State Veterinarian.

(3) Each elk farm, licensed in Utah, shall be required to submit the brain stem (obex portion of the medulla) and medial retropharyngeal lymph nodes of any elk over 12 months of age that dies or is otherwise slaughtered or destroyed, for testing for [~~Chronic Wasting Disease (CWD)~~]CWD by an official test. The samples shall be collected by an accredited veterinarian, [~~or~~]an approved laboratory, or person trained and approved by the State Veterinarian. Farms owning 20 or more elk maybe allowed up to a 10% error rate on samples per year; farms owning less than 20 elk will not have an acceptable error rate.

(4) Each hunting park, licensed in Utah, shall be required to submit the brain stem (obex portion of the medulla) and medial retropharyngeal lymph nodes of all elk over 12 months of age that die[;], or that are otherwise harvested, slaughtered, killed, or destroyed, for testing for [~~Chronic Wasting Disease~~]CWD with an official test. The samples shall be collected by an accredited veterinarian, approved laboratory, or person trained and approved by the State Veterinarian. Hunting parks maybe allowed up to a 10% error rate on samples per year with consideration taken when elk are shot in an area of the elk that causes an unacceptable sample.

(5) The CWD surveillance samples from elk residing on licensed elk farms and elk hunting parks shall be collected and preserved in formalin within 48 hours following the death of the animal, and submitted within 7 days[;] to a laboratory approved by the State Veterinarian. Training of approved personnel shall include collection, storing, handling, shipping, and identification of specimens for submission.

(6) Laboratory fees and expenses incurred for collection and shipping of samples shall be the responsibility of the participating elk farm or hunting park.

(7) The designation and disposition of CWD exposed, positive, or suspect animals or herds in Utah shall be determined by the State Veterinarian.

R58-18-13. CWD Herd Certification Status.

(1) Initial and subsequent status.

(a) When a herd is first enrolled in the CWD Herd Certification Program, it will be placed in First Year status, except that; if the herd is comprised solely of animals obtained from herds already enrolled in the Program, the newly enrolled herd will have the same status as the lowest status of any herd that provided animals for the new herd.

(b) If the herd continues to meet the requirements of the CWD Herd Certification Program, each consecutive year, on the anniversary of the enrollment date the herd status will be upgraded by 1 year[;], i.e., Second Year status, Third Year status, Fourth Year status, and Fifth Year status.

(c) One year from the date a herd is placed in Fifth Year status, the herd status will be changed to "Certified"[;] and the herd will remain in "Certified" status as long as it is enrolled in the program, provided its status is not lost or suspended in accordance with this section.

(2) Loss or suspension of herd status.

(a) If a herd is designated a CWD-positive herd or a CWD-exposed herd, it will immediately lose its program status and may only ~~re-enroll~~ re-enroll after entering into ~~a~~ an approved herd plan.

(b) If a herd is designated a CWD-suspect herd, a trace back herd, or a trace forward herd, it will immediately be placed in Suspended status pending an epidemiologic investigation.

(i) If the epidemiologic investigation determines that the herd was not commingled with a CWD-positive animal, the herd will be reinstated to its former program status, and the time spent in Suspended status will count toward its promotion to the next herd status level or maintenance of certified status.

(ii) If the epidemiologic investigation determines that the herd was commingled with a CWD-positive animal, the herd will lose its program status and will be designated a CWD-exposed herd.

(iii) If the epidemiological investigation is unable to make a determination regarding the exposure of the herd, because the necessary animal or animals are no longer available for testing (i.e., a trace animal from a known positive herd died and was not tested) or for other reasons, the herd status will continue as Suspended unless and until a herd plan is developed for the herd.

(iv) If a herd plan is developed and implemented, the herd will be reinstated to its former program status, and the time spent in Suspended status will count toward its promotion to the next herd status level; Except that, if the epidemiological investigation finds that the owner of the herd has not fully complied with program requirements for animal identification, animal testing, and recordkeeping, the herd will be reinstated into the CWD Herd Certification Program at the First Year status level, with a new enrollment date set at the date the herd entered into Suspended status.

(v) Any herd reinstated after being placed in Suspended status must then comply with the requirements of the herd plan as well as the requirements of the CWD Herd Certification Program. The herd plan will require testing of all animals that die in the herd for any reason, regardless of the age of the animal, may require movement restrictions for animals in the herd based on epidemiologic evidence regarding the risk posed by the animals in question, and may include other requirements found necessary to control the risk of spreading CWD.

(c) If the Department determines that animals from a herd enrolled in the program have commingled with animals from a herd with a lower program status, the herd with the higher program status will be reduced to the status of the herd with which its animals commingled.

(3) Cancellation of enrollment by the Department.

(a) The Department may cancel the enrollment of an enrolled herd by giving written notice to the herd owner.

(b) In the event of such cancellation, the herd owner may not reapply to enroll in the CWD Herd Certification Program for 5 years from the effective date of the cancellation.

(c) The Department may cancel enrollment after determining that the herd owner failed to comply with any requirements of this section. Before enrollment is canceled, the Department will inform the herd owner of the reasons for the proposed cancellation in writing.

(d) Herd owners may appeal cancellation of enrollment, ~~loss~~ loss, or suspension of herd status by writing to the Commissioner of Agriculture within 10 days after being informed of the reasons for the proposed action.

(i) The appeal must include all of the facts and reasons upon which the herd owner relies to show that the reasons for the proposed action are incorrect or do not support the action.

(ii) The Commissioner of Agriculture will grant or deny the appeal in writing as promptly as circumstances permit, stating the reason for his or her decision.

(iii) If there is a conflict as to any material fact, a hearing will be held to resolve the conflict.

(iv) The cancellation of enrollment, ~~loss~~ loss, or suspension of herd status shall become effective pending final determination in the proceeding if the Commissioner of Agriculture determines that such action is necessary to prevent the possible spread of CWD.

(A) Such action shall become effective upon oral or written notification, whichever is earlier, to the herd owner.

(B) In the event of oral notification, written confirmation shall be given as promptly as circumstances allow.

(v) This cancellation of enrollment or loss or suspension of herd status shall continue in effect pending the completion of the proceeding, and any judicial review thereof, unless otherwise ordered by the Commissioner of Agriculture.

(4) Herd status of animals added to herds.

(a) A herd may add animals from herds with the same or a higher herd status in the CWD Herd Certification Program with no negative impact on the certification status of the receiving herd.

(b) If animals are acquired from a herd with a lower herd status, the receiving herd reverts to the program status of the sending herd.

(c) If a herd participating in the CWD Herd Certification Program acquires animals from a nonparticipating herd, the receiving herd reverts to First Year status with a new enrollment date of the date of acquisition of the animal.

R58-18-14. Herd Plan.

(1) A written herd plan will be developed by the State Veterinarian with input from the herd owner, USDA, and other affected parties.

(2) The herd plan sets out the steps to be taken to eradicate CWD from a CWD positive herd, to control the risk of CWD in a CWD-exposed or CWD-suspect herd, or to prevent introduction of CWD into another herd.

(3) A herd plan will require:

(a) specified means of identification for each animal in the herd;

(b) regular examination of animals in the herd by a veterinarian for signs of disease;

(c) reporting to a State or USDA representative of any signs of central nervous system disease in herd animals;

(d) maintaining records of the acquisition and disposition of all animals entering or leaving the herd, including the date of acquisition or removal, name and address of the person from whom the animal was acquired or to whom it was disposed~~;~~ and cause of death, if the animal died while in the herd.

(4) A herd plan may also contain additional requirements to prevent or control the possible spread of CWD, depending on the particular condition of the herd and its premises, including but not limited to:

(a) specifying the time for which a premises must not contain cervids after CWD positive, exposed, or suspect animals are removed from the premises;

- (b) fencing requirements;
 - (c) depopulation or selective culling of animals;
 - (d) restrictions on sharing and movement of possibly contaminated livestock equipment;
 - (e) cleaning and disinfection requirements, or other bio-security requirements.
- (5) The State Veterinarian must approve all movement of cervids onto or off of the facility.
- (a) Movement restriction of cervids will remain in place until requirements of the plan have been met.
 - (6) The State Veterinarian may review and revise a herd plan at any time in response to changes in the situation of the herd or premises or improvements in understanding of the nature of CWD epidemiology or techniques to prevent its spread.

R58-18-15. Grounds for Denial, Suspension, or Revocation of Licenses for Domestic Elk Facilities.

- (1) A license to operate a domestic elk facility may be denied, suspended, or revoked by the Department for any of the following reasons:
- (a) Incomplete application or incorrect application information;
 - (b) Incorrect records or failure to maintain required records;
 - (c) Not presenting animals for identification at the request of the Department;
 - (d) Failure to notify Department of movement of elk onto or off of the facility;
 - (e) Failure to identify elk as required;
 - (f) Movement of imported elk onto facility without obtaining a Certificate of Veterinary Inspection which has an import permit number obtained from the Department;
 - (g) Importing animals that are prohibited or controlled as listed in rule R657-3;
 - (h) Failure to notify the Department concerning an escape of an animal from a domestic elk facility;
 - (g) Failure to maintain a perimeter fence that prevents escape of domestic elk or ingress of wild cervids into the facility;
 - (i) Failure to notify the Division of Wildlife Resources that there are wild cervids inside a domestic elk farm or hunting park;
 - (j) Failure to participate with the Utah Department of Agriculture and Food and the Utah Division of Wildlife Resources in a cooperative wild cervid removal program;
 - (k) Failure to have inventories match with at least a 95% match;
 - (l) Failure to submit the acceptable rate of CWD test samples;
 - (m) Failure to have the minimum proper equipment necessary to safely and humanely handle animals in the facility; or
 - (1) Inhumane handling or neglect of animals on the facility as determined by the Department.
- (2) Once the Department has notified the operator of a domestic elk facility of the denial, suspension, or revocation of a license to operate a domestic elk facility, the operator has 15 calendar days to request an appeal with the Commissioner of Agriculture.
- (3) An operator of a domestic elk facility that has had their license revoked shall remove all elk from the facility within 30 calendar days by:
- (a) Sending all elk to an inspected facility for slaughter; or

- (b) Selling elk to another facility;
- (4) Any elk remaining on the facility at the end of 30 days will be sold by the Department during a special sale conducted for that purpose.

KEY: chronic wasting disease, elk, inspections

Date of Enactment or Last Substantive Amendment: [September 19, 2016]2019

Notice of Continuation: January 12, 2017

Authorizing, and Implemented or Interpreted Law: 4-39-106

Agriculture and Food, Animal Industry R58-20 Domesticated Elk Hunting Parks

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43752

FILED: 05/31/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These changes clarify the procedure for obtaining a refund for unused harvest permits.

SUMMARY OF THE RULE OR CHANGE: The changes to this rule establish the process for an owner of a licensed domesticated elk hunting park to purchase harvest permits, and clarifies the time frame for the harvest season. The changes establish a method for exchanging harvest permits and refunds.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-39-106

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no cost or savings to the state budget associate with the proposed changes. The changes to this rule reflect current Department of Agriculture and Food (Department) procedures. These changes are being made to solidify the procedure in rule.
- ◆ **LOCAL GOVERNMENTS:** These rule changes are not anticipated to result in any costs or savings with respect to any local governments.
- ◆ **SMALL BUSINESSES:** There is no cost or savings associate with the proposed changes. These changes to this rule reflect current Department procedures. These changes are being made to solidify the procedure in rule.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no cost or savings associate with the proposed changes. These changes to this rule reflect current Department procedures. These changes are being made to solidify the procedure in rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no cost or savings associate with the proposed changes. These changes to this rule reflect current Department procedures. These changes are being made to solidify the procedure in rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no cost or savings associate with the proposed changes. These changes to this rule reflect current Department procedures. These changes are being made to solidify the procedure in rule.

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:

- ◆ Kelly Pehrson by phone at 801-538-7102, or by Internet E-mail at kwpehrson@utah.gov
- ◆ Leann Hunting by phone at 801-538-7166, or by Internet E-mail at leannhunting@utah.gov
- ◆ Melissa Ure by phone at 801-538-4978, or by Internet E-mail at mure@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2019

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2019

AUTHORIZED BY: Kerry Gibson, Commissioner

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0

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

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

Appendix 2: Regulatory Impact to Non-Small Businesses

The rule changes is not expected to have any fiscal impact on non-small businesses revenues or expenditures because the changes are being made to solidify current Department procedure and practice and do not place additional costs on the businesses.

The Commissioner of the Department of Agriculture and Food, Kerry Gibson, has reviewed and approved this final analysis.

R58. Agriculture and Food, Animal Industry.

R58-20. Domesticated Elk Hunting Parks.

R58-20-1. Authority and Purpose.

In accordance with the Domesticated Elk Act, and the provisions of Section 4-39-106, Utah Code, this rule specifies:

- (a) procedures for obtaining domesticated elk facility licenses,
- (b) requirements for operating those facilities,
- (c) standards for disposal/removal of animals within those facilities,~~and~~
- (d) health standards and requirements in such facilities[-];
- (e) issuance of domesticated elk hunting permits;
- (f) exchange of domesticated elk hunting permits; and
- (g) refund of domesticated elk hunting permits.

R58-20-2. Definitions.

In addition to terms used in Section 4-39-102, and R58-18-2: (1) "Division" means the Division of Animal Industry, in the Utah Department of Agriculture and Food.

(2) "Domestic elk" means any elk which is born inside of, and has spent its entire life in captivity, and is the offspring of domestic elk.

(3) "Elk farm" means a place where domestic elk are raised, bred and sold within the practice of normal or typical ranching operations.

(4) "Hunting Park" means a place where domestic elk are harvested through normal or typical hunting methods.

(5) "Isolation Facility" means a confined area where selected elk can be secured, contained and isolated from all other elk or livestock.

(6) "Secure Enclosure" means a perimeter fence or barrier that is constructed and maintained in accordance with Section 4-39-

201 and will prevent domestic elk from escaping into the wild or the ingress of big game wildlife into the facility.

R58-20-3. Application and Licensing Process.

(1) Pursuant to Section 4-39-203, Utah Code, the owner of each facility that is involved in the hunting of domestic elk must first fill out and complete a separate elk hunting park application which shall be submitted to the Division for approval.

(2) In addition to the application, a general plot plan should be submitted showing the location of the proposed hunting park in conjunction with roads, town, etc. in the immediate area.

(3) A facility number shall be assigned to an elk hunting park at the time a completed application is received at the Department of Agriculture and Food building.

(4) A complete facility inspection and approval shall be conducted prior to the issuing of a license or entry of elk to any facility. This inspection shall be made by an approved Department of Agriculture and Food employee and Division of Wildlife Resources employee. It shall be the responsibility of the applicant to request this inspection at least 72 hours in advance.

(5) Upon receipt of an application, inspection and approval of the facility, completion of the facility approval form, and receipt of the license fee, a license will be issued.

(6) All licenses for hunting parks expire on July 1 in the year following the year of issuance.

(7) No domestic elk shall be allowed to enter a hunting park until a license is issued by the division and received by the applicant.

R58-20-4. License Renewal.

(1) All laws found in Section 4-39-205 and rules found in R58-18-4 pursuant to the renewal of elk farms are applicable to elk hunting parks.

R58-20-5. Facilities.

(1) Fencing requirements established by Section 4-39-201 of the Utah Code are applicable to both domestic elk farms and hunting parks.

(2) A hunting park for domesticated elk may be no smaller than 600 fenced contiguous acres, with sufficient trees, rocks, hills and natural habitat, etc. to provide cover for the animals. Hunting park owners intending to operate facilities larger than 5,000 acres must obtain prior written approval of the Elk Advisory Council, following studies, reviews or assessments, etc., which the Council may deem necessary to undertake, in order to make an informed decision.

(3) There shall be notices posted on the outside fence and spaced a minimum of every 100 yards, to notify the public that the land area is a private hunting park.

(4) Each location of a licensed facility with separate perimeter fences must have its own separate loading facility.

(5) To be licensed, the park must include a handling and isolation facility which can be accessed and operated with reasonable ease for identification and disease control purposes. An exception to this rule may be granted in cases where there is a licensed farm owned by the same individual within 50 miles of the hunting park which can be accessed in a reasonably short period of time.

R58-20-6. Records.

(1) All laws and rules set forth in Sections 4-39-206 and R58-18-6 apply to hunting parks.

R58-20-7. Genetic Purity.

(1) All laws and rules found in Sections 4-39-301 and R58-18-7 pursuant to genetic purity are applicable to hunting parks.

R58-20-8. Acquisition of Elk.

(1) All laws and rules found in Sections 4-39-302, 4-39-303, R58-18-8 and R58-18-11 pursuant to importation or acquisition of domestic elk are applicable to hunting parks.

R58-20-9. Identification.

(1) All laws and regulations provided in Sections 4-39-304 and R58-18-9 governing individual animal identification are applicable in hunting parks.

R58-20-10. Inspections.

(1) All hunting park facilities must be inspected yearly within 60 days before a license or the renewal of an existing license is issued. It is the responsibility of the applicant to arrange for an appointment with the department for such inspection, giving the department ample time to respond to such a request.

(2) All elk must be inspected for inventory purposes within a reasonable timely period before a license renewal can be issued.

(a) All elk must be removed from hunting grounds by harvest or recapture by December 31 of each year to ensure conclusive inventory.

(3) All live domestic elk must be brand inspected prior to entering or leaving the park.

(4) Any elk purchased or brought into the facility from an out-of-state source shall be inspected upon arrival at a licensed hunting park before being released into an area inhabited by other domestic elk.

(5) A Utah Brand Inspection Certificate shall accompany any shipment of live elk into or out of the hunting park including those which move from facility to facility within Utah.

(6) A Domestic Elk Harvest Permit must be filled out by the park owner at the time of harvest. One copy of the permit shall be sent to the division office, one copy shall go to the hunter and one copy shall be kept on file at the facility. Validated tags must be attached to the carcass and the antlers prior to leaving the park and remain affixed during transportation to residence, meat processor, taxidermist, etc.

(7) Pursuant to Section 4-39-207, agricultural inspectors may, at any reasonable time during regular business hours, have free and unimpeded access to inspect all facilities, animals and records where domestic elk are kept.

R58-20-11. Health Rules.

(1) All laws and rules found in Sections 4-39-107, R58-18-11 and R58-18-12 pursuant to animal health are applicable to hunting parks.

R58-20-12. Meat.

(1) The selling of domestic elk meat obtained from a licensed hunting park will not be allowed and:

(a) Must be consumed by either the hunter or park owner or their immediate family members, regular employees or guests, or the meat shall be:

(b) Donated as a charitable food item in compliance with Section 4-34-2 of the Utah Agriculture Code.

R58-20-13. Dissolution of an Elk Hunting Park.

(1) Before an elk hunting park can be dissolved all elk must be removed from the premises.

(2) Any abandoned elk will be removed by the Utah Department of Agriculture and Food using lethal means.

(a) Carcasses will be disposed of by either disposal in an approved landfill, incineration, or donated as a charitable food item in compliance with Section 4-34-2 of the Utah Agriculture Code.

(b) Costs for removal of abandoned elk will be charged to the owner of the elk hunting park.

R58-20-14. Liability.

(1) All laws found in Section 4-39-401 concerning the escape of domesticated elk are applicable to hunting parks.

(2) A hunting park owner shall remove all wild big game animals prior to enclosing the park. If wild big game animals are found within the park after it has been licensed, the owner shall notify the Division of Wildlife Resources within 48 hours. A cooperative removal program may be designed by the parties involved to remove the animals.

(3) No person(s) may hunt domestic elk in an approved park without first being issued written permission to do so from the owner. The approval document shall be in the hunter's possession during hunting times. Hunting hours will be from 1/2 hour before sunrise to 1/2 hour after sunset.

(4) In accordance with the state's governmental immunity act, as found in Section 63G-7-101, et seq., the granting of a hunting park license or the imposing of a requirement to gain an owner's permission does not attach any liability to the state for any accident, mishap or injury that occurs on, adjacent to, or in connection with the hunting park.

R58-20-15. Obtaining Domesticated Elk Harvest Permits.

(1) An owner of a licensed domesticated elk hunting park may purchase domesticated elk harvest permits beginning July 1st.

(2) Application for the domesticated elk harvest permits shall be made on forms approved by the Department.

(3) Payment for harvest permits shall be received prior to issuance of any harvest permits.

R58-20-16. Harvest Permit Terms.

(1) Harvest season for domesticated elk begins on August 1st and ends December 31st.

(2) Permits are only valid for the hunting season for which they are issued.

R58-20-17. Exchanges of Harvest Permits.

(1) An owner of a licensed domesticated hunting park may exchange a harvest permit issued to a hunter without paying an additional fee for a permit provided:

(a) a signed affidavit by the owner of the hunting park stating that a domesticated elk was not harvested by the person listed on the permit; and

(b) all unused copies of the permit are returned to the department before the replacement permit may be issued.

R58-20-18. Refunds.

(1) A refund may be issued to the owner of a domesticated elk hunting park if a domesticated elk harvest provided the owner of the facility:

(a) submits an application for refund prior to May 1st; and

(b) the harvest permit is returned unused.

KEY: elk, hunting parks, inspections, hunting permits

Date of Enactment or Last Substantive Amendment: [September 19, 2016]2019

Notice of Continuation: January 7, 2019

Authorizing, and Implemented or Interpreted Law: 4-39-106

Agriculture and Food, Plant Industry

R68-28

Cannabis Processing

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43758

FILED: 05/31/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed rule sets forth the licensing and operational requirements for an individual seeking to process medical cannabis in accordance with Title 4, Chapter 41a, Cannabis Production Establishments.

SUMMARY OF THE RULE OR CHANGE: This proposed rule sets forth the licensing requirements for those interested in processing cannabis into the approved forms to be used by medical cannabis patients. It establishes the facility requirements, as well as the additional requirements for the operation plan. This proposed rule establishes minimum requirements for storage and handling of cannabis and cannabis products, as well as the conditions that shall be maintained in a facility. In addition, this proposed rule establishes violation categories with the range of fines that may be assessed for violations.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 4-2-103(1)(i) and Subsection 4-41a-103(5) and Subsection 4-41a-302(3)(b)(ii) and Subsection 4-41a-404(3) and Subsection 4-41a-405(2)(b)(iv) and Subsection 4-41a-701(3) and Subsection 4-41a-801(1)

MATERIALS INCORPORATED BY REFERENCE:

- ◆ Adds 21 CFR 111, Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary supplements, published by Department of Health and Human Services, 04/01/2018

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** As this is a new program, the state will have the significant start cost for hiring personnel and buying equipment necessary to effectively run the medical cannabis program. The Department of Agriculture and Food (Department) will need to hire and train employees to inspect these facilities. In addition to inspectors, the Department will need to hire administrative staff to help issue the agent registration cards, to do background checks for all employees and those with 2% or greater financial or voting interest in the cannabis processing facility. The inspector will need to be out doing quarterly inspections of the facility and will need the equipment necessary to conduct the inspection. In total, the cost of the employees is estimated at \$973,000 for the first year. In addition to the cost of the employees, there is \$133,500 cost for the equipment, training, and transportation cost for these employees to effectively regulate this product. Additionally, the Department will need to help with the purchase and upkeep of the electronic verification system as required by Title 4, Chapter 41a. The Department anticipates contributing at least \$58,500 to maintaining the system as it is key to the program. Total cost in the first year is anticipated to be \$1,165,000. In the second year, the Department anticipates that cost will stay much the same with a slight increase in the amount of inspection that are necessary as more of the facilities reach their capacity. It may be necessary to hire more inspectors as the program grows in the third year, but the Department anticipates that the cost for the program will remain similar to the second year in the third year. The Department anticipates an application fee of \$1,250 for each applicant. In addition, a Tier 1 processing license will have \$100,000 licensing fee while a Tier 2 processor will have a \$35,000 licensing fee. The cannabis processing licenses are not limited. Providing the applicants meet the qualifications, they may be issued a license. The Department has estimated that there will be at least nine qualified Tier 1 processors and seven potential Tier 2 processors. Thus, the amount of revenue generated could be at least \$1,165,000 in application and licensing fees for the first year. The licensee will not have to pay the application fee after having successfully received a license. The revenue for years two and three will decreased to \$1,145,000, unless additional processors apply.

◆ **LOCAL GOVERNMENTS:** Local governments may experience an increase in law enforcement cost do to the nature of the product being processed. However, the Department cannot adequately estimate the cost or benefits to local governments.

◆ **SMALL BUSINESSES:** This rule allows for the processing of a controlled substances in the state of Utah. This is a new and controlled industry in the state. As it has not been allowed, the proposed rule does not place any additional cost to businesses aside from the anticipated application fee of \$1,250 and the licensing fee of \$35,000 or \$100,000 depending on the type of processing license.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This proposed rule allows for the growth of medical cannabis

in the state. It will allow for qualified patients to have access to a quality-controlled product. However, due to the nature of the industry, it is impossible for the Department to estimate the costs or benefits to the consumer.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is anticipated to be \$1,250 application fee for all those who chose to apply for a license. Those who are awarded the license will then have a \$35,000 or \$100,000 licensing fee. Due to this being a controlled substance and still federally illegal, there has been no prior legal growing in the state. Therefore, the only cost to the affected persons is the application and licensing fees. All other costs are the costs of engaging in the processing of medical cannabis.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This is a newly created program which will allow the growth of a controlled substance for medical use. It is necessary for the Department to ensure the safe growing, processing, and transportation of this product for the safety of the qualified patients. The application and licensing fees are necessary for the Department to run the program effectively to ensure that qualified patients receive a quality product.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 AGRICULTURE AND FOOD
 PLANT INDUSTRY
 350 N REDWOOD RD
 SALT LAKE CITY, UT 84116-3034
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Kelly Pehrson by phone at 801-538-7102, or by Internet E-mail at kwpehrson@utah.gov
 ◆ Melissa Ure by phone at 801-538-4978, or by Internet E-mail at mure@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2019

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
 ◆ 06/26/2019 02:00 PM, Dept. of Agriculture and Food, 350 North Redwood Road, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2019

AUTHORIZED BY: Kerry Gibson, Commissioner

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$1,165,000	\$1,165,000	\$1,165,000
Local Government	\$0	\$0	\$0

Small Businesses	\$1,165,000	\$1,145,000	\$1,145,000
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$2,330,000	\$2,310,000	\$2,310,000
Fiscal Benefits			
State Government	\$1,165,000	\$1,145,000	\$1,145,000
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$1,165,000	\$1,145,000	\$1,145,000
Net Fiscal Benefits:	-\$1,165,000	-\$1,165,000	-\$1,165,000

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

Appendix 2: Regulatory Impact to Non-Small Businesses

Title 4, Chapter 41a, allows for the issuance of processing licenses to qualifying facilities. This rule will allow for the controlled processing, packaging, and labeling of medical cannabis for patients of Utah. As the processing of cannabis has previously been illegal under state law, the full impact to these businesses cannot be estimated as the necessary data is not available to the Department.

The Commissioner of the Department of Agriculture and Food, Kerry Gibson, has reviewed and approved this fiscal analysis.

R68. Agriculture and Food, Plant Industry.

R68-28. Cannabis Processing.

R68-28-1. Authority and Purpose.

1) Pursuant to sections 4-41a-103(5), 4-41a-302(3)(b)(ii), 4-41a-404(3), 4-41a-405(2)(b)(iv), 4-41a-701(3), 4-41a-801(1), and 4-2-103(1)(i), this rule establishes the application process, qualifications and requirements to obtain and maintain a cannabis processing license.

R68-28-2. Definitions.

- 1) "Applicant" means any person or business entity who applies for a cannabis processing facility license.
- 2a) "Cannabis" means any part of a marijuana plant;
- b) "cannabis" does not mean, for the purposes of this rule, industrial hemp.
- 3) "Batch" means a quantity of:
 - a) cannabis extract produced on a particular date and time, following clean up until the next clean up during which lots of cannabis are used;

b) cannabis product produced on a particular date and time, following clean up until the next clean up during which cannabis extract is used; or

c) cannabis flower packaged on a particular date and time, following clean up until the next clean up during which lots of cannabis are being used.

4) "Department" means the Utah Department of Agriculture and Food.

5) "Cannabis cultivation facility" means a person that:

- a) possesses cannabis;
- b) grows or intends to grow cannabis; and
- c) sells or intends to sell cannabis to a cannabis cultivation facility or to a cannabis processing facility.

6) "Cannabis processing facility" means a person that:

a) acquires or intends to acquire cannabis from a cannabis production establishment or a holder of an industrial hemp processor license under title 4 chapter 41, Hemp and Cannabidiol Act;

b) possesses cannabis with the intent to manufacture a cannabis product;

c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and

d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or the state central fill medical cannabis pharmacy.

7) "Cannabis processing facility agent" means an individual who:

- a) is an employee of a cannabis processing facility; and
- b) holds a valid cannabis production establishment agent registration card.

8) "Cannabis production establishment agent registration card" means a registration card that the department issues that:

- a) authorizes an individual to act as a cannabis production establishment agent; and
- b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.

9) "Lot" means the quantity of:

a) flower produced on a particular date and time, following clean up until the next clean up during which the same materials are used; or

b) trim, leaves or other plant matter from cannabis plants produced on a particular date and time, following clean up until the next clean up.

R68-28-3. Cannabis Processing Facility License.

1) A Tier 1 cannabis processing facility license allows the licensee to receive cannabis from a licensed cannabis cultivation facility or to accept THC or THC byproduct from a Utah licensed cannabis processing facility or industrial hemp processor.

2) A Tier 1 cannabis processing facility license allows the licensee to process, manufacture, dry, cure, package, and label cannabis and cannabis products for sale or transfer to another cannabis processing facility, a medical cannabis pharmacy, or the state central fill medical cannabis pharmacy.

3) A Tier 2 cannabis processing facility license allows the licensee to receive cannabis from a licensed cannabis cultivation facility or a cannabis processing facility.

4) A Tier 2 cannabis processing facility allows for the licensee to package and label cannabis and cannabis products for sale or transfer to another cannabis processing facility, a medical cannabis pharmacy, or the state central fill medical cannabis pharmacy.

5) A complete application shall include the required fee, statements, forms, diagrams, operation plans, and other applicable documents required in the application packet to be accepted and processed by the department.

6) Prior to approving an application, the department may contact the applicant and request additional supporting documentation or information.

7) Prior to issuing a license, the department shall inspect the proposed premises to determine if the applicant complies with state laws and rules.

8) Each cannabis processing facility license shall expire on December 31st.

9) An application for renewals shall be submitted to the department by December 1st.

10) If the renewal application is not submitted by December 31st the licensee may not continue to operate.

11) A license may not be sold or transferred.

R68-28-4. Cannabis Processing Facility Requirements.

1) A cannabis processing facility operating plan shall contain a blue print of the facility containing the following information:

a) the square footage of the areas where cannabis is to be extracted;

b) the square footage of the areas where cannabis or cannabis products are to be packaged and labeled;

c) the square footage of the areas where cannabis products are manufactured;

d) the square footage of the area where cannabis products are packaged or labeled;

e) the square footage and location of storerooms for cannabis awaiting extraction;

f) the square footage and location of storerooms for cannabis awaiting further manufacturing;

g) the area where finished cannabis and cannabis products are stored;

h) the location of toilet facilities and hand washing facilities;

i) the location of a break room and location of personal belonging lockers;

j) the location of the areas to be used for loading and unloading of cannabis and cannabis products; and

k) the total square footage of the overall cannabis processing facility.

2) A cannabis processing facility shall process, manufacture, package, and label cannabis and cannabis products in accordance with 21 CFR 111, "Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operation for Dietary Supplements".

3) A cannabis processing facility shall have written emergency procedures to be followed in case of:

a) fire;

b) chemical spill; or

c) other emergency at the facility.

4) A cannabis processing facility shall have a written plan to handle potential recall and destruction of cannabis due to contamination.

5) A cannabis processing facility shall use a standardized scale which is registered with the department when cannabis is:

a) packaged for sale by weight;

b) bought and sold by weight; or

c) weighed for entry into the inventory control system.

6) A cannabis processing facility shall compartmentalize all areas in the facility based on function and shall limit access between compartments.

7) A cannabis processing facility shall limit access to the compartments to the appropriate agents.

8) A cannabis processing facility creating cannabis extract shall develop standard operating procedures.

R68-28-5. Cannabis Extraction Requirements.

1) A cannabis processing facility shall ensure hydrocarbons n-butane, isobutane, propane, or heptane are of at least ninety-nine percent purity.

2) A cannabis processing facility shall use a professional grade closed loop extraction system designed to recover the solvents, work in an environment with proper ventilation, and control all sources of ignition where a flammable atmosphere is or may be present.

3) A cannabis processing facility using carbon dioxide (CO₂) gas extraction system shall use a professional grade closed loop CO₂ gas extraction system where every vessel is rated to a minimum of six hundred pounds per square inch and CO₂ shall be at least ninety-nine percent purity.

4) Closed loop systems for hydrocarbon or CO₂ extraction systems shall be commercially manufactured and bear a permanently affixed and visible serial number.

5) A cannabis processing facility using a closed loop system shall, upon request, provide the department with certification from a licensed engineer stating the system is:

a) safe for its intended use;

b) commercially manufactured, and

c) built to codes of recognized and generally accepted good engineering practices, such as:

i) the American Society of Mechanical Engineers (ASME);

ii) American National Standards Institute (ANSI);

iii) Underwriters Laboratories (UL); or

iv) The American Society for Testing and Materials (ASTM).

6) The certification document shall contain the signature and stamp of a professional engineer and the serial number of the extraction unit being certified.

7) A cannabis processing facility may use food grade glycerin, ethanol, and propylene glycol solvents to create extracts.

8) A cannabis processing facility shall remove all ethanol from the extract in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.

9) A cannabis processing facility may use heat, screens, presses, steam distillation, ice water, and other mechanical methods which do not employ solvents or gases.

10) A cannabis establishment agent using solvents or gases in a closed loop system shall be fully trained on how to use the system and have direct access to applicable material safety data sheets.

11) Parts per million for one gram of finished extract cannot exceed residual solvent or gas levels provided in Utah Admin. Code R68-29.

R68-28-6. Security Requirements.

1) At a minimum, each cannabis processing facility shall have a security alarm system on all perimeter entry points and perimeter windows.

2) At a minimum, a licensed cannabis processing facility shall have complete video surveillance system:

a) with minimum camera resolution of 640 x 470 pixels or pixel equivalent for analog, and

b) that retains footage for at least 45 days.

3) All cameras shall be fixed and placement shall allow for the clear and certain identification of any person and activities in controlled areas.

4) Controlled areas included:

a) all entrances and exits, or ingress and egress vantage points;

b) all areas where cannabis or cannabis products are stored;

c) all areas where cannabis or cannabis products are extracted;

d) all areas where cannabis or cannabis products are manufactured, packaged, or labeled; and

e) all areas where cannabis waste is being moved, processed, stored or destroyed.

5) All cameras shall record continuously.

6) For locally stored footage, the surveillance system storage device shall be secured in the facility in a lockbox, cabinet, closet, or secured in another manner to protect from employee tampering or criminal theft.

7) For footage stored on a remote server, access shall be restricted to protect from employee tampering.

8) Any gate or entry point must be lighted in low-light conditions sufficient to record activity occurring.

9) All visitors to a cannabis processing facility shall be required to have a properly displayed identification badge issued by the facility at all times while on the premises of the facility.

10) All visitors shall be escorted by a cannabis processing facility agent at all times while in the facility.

11) A cannabis processing facility shall keep and maintain a visitors log showing:

a) the full name of each visitor entering the facility;

b) the badge number issued;

c) the time of arrival;

d) the time of departure, and

e) the purpose of the visit.

12) The cannabis processing facility shall keep the visitors log for a minimum of a year.

13) The cannabis processing facility shall make the visitor log shall available to the department upon request.

R68-28-7. Inventory Control.

1) Every batch or lot of cannabis, cannabis extract, cannabis product, test sample, or cannabis waste shall have a unique identifier in the inventory control system.

2) Every batch or lot of cannabis, cannabis extract, cannabis product, sample, or cannabis waste shall be traceable to the lot used as the base material from a cannabis cultivation facility.

3) Unique identification numbers may not be reused.

4) Each batch or lot of cannabis, cannabis extract, cannabis product, test sample, or cannabis waste that has been issued a unique identification number shall have a physical tag placed on it with the unique identification number.

5) The tag shall be legible and placed in a position that can be clearly read and shall be kept free from dirt and debris.

6) The following shall be reconciled in the inventory control system at the close of business each day:

a) date and time cannabis, cannabis extract, or cannabis product is being transported to a cannabis production establishment, medical cannabis pharmacy, or the state central fill medical cannabis pharmacy;

b) all samples used for testing and the test results;

c) a complete inventory of cannabis, cannabis extract, cannabis product, trim, or other plant material;

d) cannabis product by unit count;

e) weight per unit of product;

f) weight and disposal of cannabis waste materials;

g) the identity of who disposed of the cannabis waste and the location of the waste receptacles; and

h) theft or loss or suspected theft or loss of cannabis, cannabis extract, or cannabis product.

7) A receiving cannabis processing facility shall document in the inventory tracking system any cannabis, cannabis extract, or cannabis product received, and any difference between the quality specified in the transport and the quantities received.

8) A cannabis processing facility shall immediately upon receipt of THC extract from a licensed industrial hemp processor enter the following information into the inventory control system:

a) the amount of THC extract received;

b) the name, address, and licensing number of the industrial hemp processor;

c) the weight per unit of product received; and

d) the assigned unique identification number.

R68-28-8. Cannabis Processing Facility Agents.

1) A cannabis processing facility shall apply to the department for a cannabis establishment agent on a form provided by the department.

2) An application is not considered complete until the background check has been completed and the facility has paid the registration fee.

3) The cannabis processing facility agent registration card shall contain:

a) the agent's full name;

b) the name of the cannabis processing establishment;

c) the job title or position of the agent; and

d) a photograph of the agent.

4) A cannabis processing facility is responsible to ensure that all agents have received:

a) the department approved training as specified in Utah Code 4-41a-301; and

b) any task specific training as outlined in the operating plan submitted to the department.

5) A cannabis processing facility agent shall have a properly displayed identification badge which has been issued by the department at all times while on the facility premises or while engaged in the transportation of cannabis.

6) All cannabis production establishment agents shall have their state issued identification card in their possession to certify the information on their badge is correct.

7) An agent's identification badge shall be returned to the department immediately upon termination of their employment with the cannabis processing facility.

R68-28-9. Minimum Storage and Handling Requirements.

1) A cannabis processing facility shall have separate storage for cannabis, cannabis extract, or cannabis products that are outdated, damaged, deteriorated, misbranded, or adulterated, or whose containers or packaging have been opened or breached until the cannabis, cannabis extract, or cannabis products are destroyed.

2) All cannabis, cannabis extract, and cannabis products shall be stored at least six inches off the ground.

3) Storage areas shall:

a) be maintained in a clean and orderly condition; and

b) be free from infestation by insects, rodents, birds, or vermin.

4) A cannabis processing facility shall store all cannabis, cannabis extract, or cannabis products in process in a manner so as to prevent diversion, theft, or loss.

5) A cannabis processing facility shall make cannabis, cannabis extract, or cannabis product accessible only to the minimum number of specifically authorized employees essential for efficient operation and shall return the cannabis or cannabis extract to its secure location immediately after completion of the process or at the end of the scheduled business day.

6) If a manufacturing process cannot be completed at the end of a working day, the processor shall securely lock the processing area or tanks, vessels, bins, or bulk containers containing cannabis inside an area or room that affords adequate security.

R68-28-10. Product Appearance and Flavor.

1) A cannabis processing facility may not produce a cannabis product that is designed to mimic a candy product.

2) A cannabis processing facility may not produce a product that includes a candy-like flavor or another flavor the facility knows or should know appeals to children.

3) A cannabis processing facility may use only the following artificial flavors:

a) apple;

b) banana;

c) cherry;

d) grape;

e) lemon;

f) mint;

g) orange;

h) raspberry;

i) strawberry;

j) vanilla; or

k) watermelon.

4) Cannabis or cannabis product may retain the natural flavor provided the flavor is not candy-like or another flavor the facility knows or should know appeals to children.

5) A cannabis processing facility may not shape a cannabis product in any way to appeal to children.

R68-28-11. Packaging of Cannabis and Cannabis Product.

1) A cannabis processing facility shall package cannabis or cannabis products in accordance with this rule and Utah Code 4-41a-602 prior to transportation to a medical cannabis pharmacy or the state central fill medical cannabis pharmacy.

2) Cannabis and cannabis product shall be packaged in child-resistant packaging in accordance with 16 C.F.R. Section 1700.

3) Any container or packaging containing cannabis or cannabis product shall protect the product from contamination and shall not impart any toxic or deleterious substance to the cannabis or cannabis product.

R68-28-12. Labeling of Cannabis and Cannabis Product.

1) The text used on all labeling shall be printed in at least 10-point font and may not be in italics.

2) A cannabis processing facility shall label all cannabis and cannabis product before it sells the cannabis or cannabis product to a medical cannabis pharmacy or the state central fill medical cannabis pharmacy.

3) The label shall be securely affixed to the package and be in legible English.

4) A label for cannabis flower shall include the following information in the order as listed:

a) the name of the cannabis cultivation facility followed by the name of cannabis processing facility with the cannabis processing establishment licensing number;

b) the lot number;

c) the date of harvest;

d) the date of final testing;

e) the batch number;

f) the date on which the product was packaged;

g) the cannabinoid profile, potency levels, and terpenoid profile as determined by the independent testing laboratory;

h) the expiration date; and

i) the quantity of cannabis being sold.

5) THC potency levels for cannabis flower shall be total potential THC and not include any other calculated level of THC.

6) A label for cannabis products shall include the following information in the order listed:

a) the name of the cannabis processing facility and licensing number;

b) the batch number;

c) the date of production;

d) the date of the final testing;

e) the date on which the product was packaged;

f) the cannabinoid profile, potency level; and terpenoid profile as determined by the independent testing laboratory;

g) the expiration date;

h) the total amount of THC measured in milligrams;

_____ i) a list of all ingredients and all major food allergens as identified in 21 U.S.C. 343;

_____ j) the net weight of the product; and

_____ k) a disclosure of the type of extraction process used and any solvent, gas, or other chemical used in the extraction process or any other compound added to the concentrated cannabis.

_____ 7) All cannabis or cannabis product labels shall contain the following warning: "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a qualified medical provider."

_____ 8) A cannabis processing facility may include a small logo or brand name at the end of the label.

_____ 9) No other information, illustrations, or depiction shall appear on the label.

R68-28-13. Transportation.

_____ 1) A printed transport manifest shall accompany every transport of cannabis.

_____ 2) The manifest shall contain the following information:

_____ a) the cannabis production establishment address and license number of the departure location;

_____ b) physical address and license number of the receiving location;

_____ c) strain name, quantities by weight, and unique identification numbers of each cannabis material to be transported;

_____ d) date and time of departure;

_____ e) estimated date and time of arrival; and

_____ f) name and signature of each agent accompanying the cannabis.

_____ 3) The transport manifest may not be voided or changed after departing from the original cannabis production establishment.

_____ 4) A copy of the transport manifest shall be given to the receiving cannabis processing establishment, independent laboratory, medical cannabis pharmacy, or state central fill medical cannabis pharmacy.

_____ 5) The receiving cannabis processing facility, independent laboratory, medical cannabis pharmacy, or state central fill medical cannabis pharmacy shall ensure that the cannabis material received is as described in the transport manifest and shall record the amounts received for each strain into the inventory control system.

_____ 6) The receiving cannabis processing facility, independent laboratory, medical cannabis pharmacy, or state central fill medical cannabis pharmacy shall document at time of receipt any differences between the quantity specified in the transport manifest and the quantities received in the inventory control system.

_____ 7) During transportation, cannabis shall be:

_____ a) shielded from the public view;

_____ b) secured; and

_____ c) temperature controlled if perishable.

_____ 8) A cannabis cultivation facility shall contact the department within 24 hours if a vehicle transporting cannabis is involved in an accident that involves product loss.

_____ 9) Only the registered agents of the cannabis processing facility may occupy a transporting vehicle.

R68-28-14. Recall Protocol.

_____ 1) The department may initiate a recall of cannabis or cannabis products if:

_____ a) evidence exists that pesticides not approved by the department are present on or in the cannabis or cannabis products;

_____ b) evidence exists that residual solvents are present on or in cannabis or cannabis products;

_____ c) evidence exists that harmful contaminants are present on or in cannabis or cannabis products; or

_____ d) the department believes or has reason to believe the cannabis or cannabis products are unfit for human consumption.

_____ 2) A cannabis processing facility's recall plan shall include, at a minimum:

_____ a) designation of at least one member of the staff who serves as the recall coordinator;

_____ b) procedures for identifying and isolating product to prevent or minimize distribution to patients;

_____ c) procedures to retrieve and destroy product; and

_____ d) a communications plan to notify those affected by the recall.

_____ 3) The cannabis processing facility must track the total amount of affected cannabis or cannabis product and the amount of affected cannabis or cannabis product returned to the facility as part of the recall.

_____ 4) The cannabis processing facility shall coordinate the destruction of the cannabis or cannabis product with the department and allow the department to oversee the destruction of the affected product.

_____ 5) The department shall periodically check on the progress of the recall until the department declares an end to the recall.

_____ 6) A cannabis cultivation facility shall notify the department before initiating a voluntary recall.

R68-28-15. Cannabis Waste Disposal.

_____ 1) Solid and liquid wastes generated during cannabis cultivation shall be stored, managed, and disposed of in accordance with applicable state laws and regulations.

_____ 2) Wastewater generated during the cannabis production and processing shall be disposed of in compliance with applicable state laws and regulations.

_____ 3) Cannabis waste generated from the cannabis plant, trim, and leaves is not considered hazardous waste unless it has been treated or contaminated with a solvent, or pesticide.

_____ 4) All cannabis waste shall be rendered unusable prior to leaving the cannabis processing facility.

_____ 5) Cannabis waste, which is not designated as hazardous, shall be rendered unusable by grinding and incorporating the cannabis waste with other ground materials so the resulting mixture is at least fifty percent non-cannabis waste by volume or other methods approved by the department before implementation.

_____ 6) Materials used to grind and incorporate with cannabis fall into two categories:

_____ a) compostable; or

_____ b) non-compostable.

_____ 7) Compostable waste is cannabis waste to be disposed of as compost or in another organic waste method mixed with:

- _____ a) food waste;
- _____ b) yard waste; or
- _____ c) vegetable based grease or oils.
- 8) Non-compostable waste is cannabis waste to be disposed of in a landfill or another disposal method, such as incineration, mixed with:
 - _____ a) paper waste;
 - _____ b) cardboard waste;
 - _____ c) plastic waste; or
 - _____ d) soil.
- 9) Cannabis waste includes:
 - _____ a) cannabis plant waste including roots, stalks, leaves, and stems;
 - _____ b) excess cannabis or cannabis products from any quality assurance testing;
 - _____ c) cannabis or cannabis products that fail to meet testing requirements; and
 - _____ d) cannabis or cannabis products subject to a recall.

R68-28-16. Change in Operation Plans.

- 1) A cannabis processing facility shall submit a notice, on a form provided by the department, prior to making any changes to:
 - _____ a) ownership or financial backing of the facility;
 - _____ b) the facility's name;
 - _____ c) a change in location;
 - _____ d) any modification, remodeling, expansion, reduction or physical, non-cosmetic alteration of a facility; or
 - _____ e) change to the number of production lines.
- 2) A cannabis processing facility may not implement changes to the approved operation plan without department approval.
- 3) The department shall respond to the request for changes within 15 business days.
- 4) The department shall approve of requested changes unless approval would lead to a violation of the applicable laws and rules of the state.
- 5) The department shall specify reason for the denial of approval for a change to the operation plan.

R68-28-17. Renewals.

- 1) A cannabis processing facility shall submit a notice of intent to renew and the licensing fee to the department by December 31st.
- 2) If the licensing fee and intent to renew are not submitted December 31st the licensee may not continue to operate.
- 3) The department may take into consideration violations issued in determining license renewals.

R68-28-18. Violation Categories.

- 1) Public Safety Violations: \$3,000- \$5,000 per violation. This category is for violations which present a direct threat to public health or safety including, but not limited to:
 - _____ a) cannabis sold to an unlicensed source;
 - _____ b) cannabis purchased from an unlicensed source;
 - _____ c) refusal to allow inspection;
 - _____ d) failure to comply with testing requirements;
 - _____ e) a test result for high pesticide residue in the cannabis produced or cannabis product;

- _____ f) a test result for high residual solvents, heavy metal, microbials, molds, or other harmful contaminants;
- _____ g) failure to maintain required cleanliness and sanitation standards;
- _____ h) unauthorized personnel on the premises;
- _____ i) permitting criminal conduct on the premises;
- _____ j) possessing, manufacturing, or distributing cannabis products which the person knows or should know appeal to children; or
- _____ k) engaging in or permitting a violation of the Utah Code 4-41a which amounts to a public safety violation as described in this subsection.
- 2) Regulatory Violations: \$1,000-\$5,000 per violation. This category is for violations involving this rule and other applicable state rules including, but not limited to:
 - _____ a) failure to maintain alarm and security systems;
 - _____ b) failure to keep and maintain records;
 - _____ c) failure to maintain traceability;
 - _____ d) failure to follow transportation requirements;
 - _____ e) failure to follow the waste and disposal requirements;
 - _____ f) engaging in or permitting a violation of Utah Code 4-41a or this rule which amounts to a regulatory violation as described in this subsection; or
 - _____ g) failure to maintain standardized scales.
- 3) Licensing Violations: \$500- \$5,000 per violation. This category is for violations involving licensing requirements including, but not limited to:
 - _____ a) an unauthorized change to the operating plan;
 - _____ b) failure to notify the department of changes to the operating plan;
 - _____ c) failure to notify the department of changes to financial or voting interests of greater than 2%;
 - _____ d) failure to follow the operating plan as approved by the department;
 - _____ e) engaging in or permitting a violation of this rule or Utah Code 4-41a which amounts to a licensing violation as described in this subsection; or
 - _____ f) failure to respond to violations.
- 4) The department shall calculate penalties based on the level of violation and the adverse effect or potential adverse effect at the time of the incidents giving rise to the violation.
- 5) The department may enhance or reduce the penalty based on the seriousness of the violation.

KEY: cannabais processing, cannabis production establishment
Date of Enactment or Last Substantive Amendment: 2019
Authorizing, and Implemented or Interpreted Law: 4-41a-103(5); 4-41a-404(3); 4-41a-701(3); 4-41a-302(3)(b)(ii); 4-2-103(1)(i); 4-41a-405(2)(b)(iv); 4-41a-801(1)

Commerce, Occupational and
Professional Licensing
R156-55a
Utah Construction Trades Licensing Act
Rule

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43747

FILED: 05/30/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule filing is to comply with the changes established by H.B. 187 passed in the 2019 General Session, and to make substantive and other technical changes as approved by the Construction Services Commission.

SUMMARY OF THE RULE OR CHANGE: In Section R156-55a-301, technical changes are made to the classification scope of practices, including elimination of superfluous language, clarifying scope of practice, and correction of cross-references. More substantive changes are detailed as follows: E202 Solar Photovoltaic classification is renamed the S202 Solar Photovoltaic classification. I101 General Engineering Trades Instruction Facility, I102 General Building Trades Instruction Facility, I103 Electrical Trades Instruction Facility, and I104 Plumbing Trades Instruction Facility, and I105 Mechanical Trades Instruction Facility classification are eliminated based on the changes to Section R156-55a-302e. P202 Boiler Installation Contractor, P204 Industrial Piping Contractor, P205 Water Conditioning Equipment Contractor, P206 Solar Thermal Systems Contractor, P207 Residential Sewer Connection and Septic Tank Contractor, S390 Sewer and Waste Water Pipeline Contractor, S450 Mechanical Insulation Contractor, S470 Petroleum Systems Contractor classifications are consolidated into the S410 Boiler, Pipeline, Waste Water, and Water Conditioner Contractor classification. P203 Irrigation Sprinkling Contractor classification is consolidated into the S330 Landscaping and Recreation Contractor classification. S220 Carpentry Contractor classification is renamed the S220 Carpentry and Flooring Contractor classification. S221 Cabinet, Millwork and Countertop Installation Contractor, S222 Overhead and Garage Door contractor, S320 Steel Erection Contractor, S321 Steel Reinforcing Contractor, S322 Metal Building Erection Contractor, S323 Structural Stud Erection Contractor, S490 Flooring Contractor, and S491 Laminate Floor Installation Contractor classifications are consolidated into the S220 Carpentry and Flooring Contractor classification. The S220 Carpentry and Flooring Contractor classification scope of practice is expanded to include insulation of pipes and incidental concrete work. S230 Siding and Rain Gutter Contractor classification is renamed the S230 Masonry, Siding, Stucco, Glass, and Rain Gutter Contractor classification. S231 Rain Gutter Installation Contractor, S240 Glass and Glazing Contractor, S290 General Masonry Contractor, S291 Stone Masonry Contractor, S292 Terrazzo Contractor, S293 Marble, Tile and Ceramic Contractor, S294 Cultured Marble and S600 General Stucco Contractor are consolidated into S230 Masonry, Siding, Stucco, Glass, and Rain Gutter Contractor classification. S260 Concrete Contractor classification is renamed the S260 Asphalt and Concrete Contractor

classification. S261 Concrete Form Setting and Shoring Contractor, S262 Gunnite and Pressure Grouting Contractor, and S263 Cementitious Coating Systems Resurfacing and Sealing Contractor, and S400 Asphalt Paving Contractor are consolidated into the S260 Asphalt and Concrete Contractor classification. S270 General Drywall and Plastering Contractor classification is renamed the S270 Drywall, Paint, and Plastering Contractor. S250 Insulation Contractor, S272 Ceiling Grid Systems, Ceiling Tile, and Panel Systems Contractor, S273 Light-weight Metal and Non-Bearing, and S300 General Painting Contractor classifications are consolidated into the S270 Drywall, Paint, and Plastering Contractor classification. S280 General Roofing Contractor classification is renamed the S280 Roofing Contractor. The scope of practice for the S280 Roofing Contractor is expanded to include insulating media. S310 Excavation and Grading Contractor is renamed the S310 Foundation, Excavation, and Demolition Contractor. The S460 Wrecking and Demolition Contractor and S480 Piers and Foundations Contractor classifications are consolidated into the S310 Foundation, Excavation, and Demolition Contractor classification. S330 Landscaping Contractor classification is renamed the S330 Landscape and Recreation Contractor classification. P203 Irrigation Sprinkling Contractor, S380 Swimming Pool and Spa Contractor, S420 General Fencing, Ornamental Iron and Guardrail Contractor, S421 Residential Fencing Contractor, S430 Metal Firebox and Fuel Burning Stove Installer, and S500 Sports and Athletic Courts, Running Tracks, and Playground Installation Contractor classifications are consolidated into the S330 Landscape & Recreation Contractor classification. The S330 Landscape and Recreation Contractor scope of practice is expanded to include authority to subcontract with plumbing and electrical contractors, and includes incidental asphalt work for their projects within the scope of practice. S351 Refrigerated Air Conditioning Contractor, S352 Evaporative Cooling Contractor, S353 Warm Air Heating Contractor, S360 Refrigeration Contractor, and I105 Mechanical Trades Instruction Facility classifications are consolidated into the S350 HVAC Contractor classification. S410 Pipeline and Conduit Contractor classification is renamed the S410 Boiler, Pipeline, Waste Water, and Water Conditioner Contractor classification. The S410 Boiler, Pipeline, Waste Water, and Water Conditioner Contractor classification scope of practice is expanded to include incidental asphalt and concrete work. S441 Non-Electrical Outdoor Advertising Sign Contractor classification is consolidated into the S440 Sign Installation Contractor classification. Expands the S440 Sign Installation Contractor classification to permit subcontracting with electrical contractors for their projects. An effective date of 07/22/2019 is established to convert all current licensees to their consolidated classification. Previous classification conversion language is deleted. Subsection R156-55a-301(6) is clarified to eliminate subclassifications that no longer exist after the effective date of the rule based on the consolidation of the classifications. Subsection R156-55a-301(7) is amended based on H.B. 187 (2019) to clarify that installation of class two or class three power-limited circuits is exempt from contractor licensing. In Section R156-55a-302a,

eliminates the requirement for the trade exam for the B100, R100, or E100 classifications based on H.B. 187 (2019). In Section R156-55a-302b, clarifies the definition of "experience in the construction industry" pursuant to Subsection 58-55-302(1)(e)(ii) as more broad in scope than the definition of "construction trades" and clarifies that this experience includes paid experience regardless if as an owner, W-2, or 1099 individuals, and regardless of licensure. The experience requirement is amended to include experience in the military and experience obtained in an educational program. "Two years of full-time paid employment" as defined in Subsection 58-55-302(1)(e)(ii)(A) is clarified to mean 4,000 hours of paid employment. Clarifies that a passing score on the NASCLA (National Association of State Contractor Licensing Agencies) Accredited Examination for Commercial General Building Contractors shall satisfy the experience requirement in Subsection 58-55-302(1)(e)(ii)(A). It is also clarified that a person holding a four-year bachelors degree or a two-year associates degree in Construction Management and a person holding a Utah professional engineer license satisfy the experience requirement in Subsection 58-55-302(1)(e)(ii)(A). In Section R156-55a-302c, deleted in its entirety based on the amendments in Section R156-55a-302e. In Section R156-55a-302e, amends and clarifies that any school that provides instruction to students by engaging in the construction trade for the public as part of the instruction is required to be a Utah licensed contractor with the classification in the scope of practice in which the students are being instructed. No other license is required. In Section R156-55a-302f, amends rule to include 5-hour pre-licensure course for general contractors as required by H.B. 187 (2019). Clarifies exemption for pre-licensure course to include those that are qualifiers on active licenses and qualifiers without disciplinary action. Amends the rule to clarify that the 5-hour pre-license class is not required for any qualifier that has taken the 25-hour pre-licensure course prior to 07/01/2019 as mandated by H.B. 187 (2019). Establishes that the 5-hour pre-licensure course shall include 5 hours of training on test preparation for the topics covered in the Utah Contractors Business and Law examination. In Section R156-55a-303b, clarifies that for all contractors with a renewal cycle that ends after 01/01/2020, at least one of the six hours of continuing education for contractors shall include energy conservation. Provides that the energy conservation credit shall be "core continuing education". In Section R156-55a-304, deletes inapplicable provision based on Section R156-55a-302e. In Section R156-55a-308a, deleted provision based on Section R156-55a-302e.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-55-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a) and Subsection 58-55-102(39)(a) and Subsection 58-55-308(1)(a)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** No state agencies shall be directly or indirectly affected by these rule changes because the proposed changes will not result in any significant increase or

decrease in administrative costs, or revenue, compared to the currently anticipated costs and revenues. Additionally, there are no state government entities acting as businesses that will be significantly impacted by these changes. Accordingly, this rule is not expected to impact the state beyond a minimal cost to the Division of Occupational and Professional Licensing (Division) of approximately \$75 to print and distribute the rule once the proposed amendments are made effective.

◆ **LOCAL GOVERNMENTS:** Local governments will neither enforce nor be affected by the processes and requirements implemented by this rule, nor will local governments be indirectly impacted because none of the amendments create a situation requiring services from local governments. Therefore, no cost or savings to local governments are anticipated.

◆ **SMALL BUSINESSES:** The changes that are grammatical or nonsubstantive are estimated to have no impact on small businesses. As for the substantive changes, the U.S. Census North American Industry Classification System (NAICS) was searched and several relevant NAICS codes were identified including: 236115, 236116, 236117, 236118, 236210, 236220, 237120, 237990, 238111, 238112, 238121, 238122, 238131, 238132, 238141, 238142, 238151, 238152, 238161, 238162, 238171, 238172, 238191, 238211, 238212, 238221, 238222, 238311, 238312, 238321, 238322, 238331, 238332, 238341, 238342, 238351, 238352, 238381, 238392, 238911, 238912, 238991, 238992. The Department of Workforce Services' (DWS) Firm Find was referenced in compiling this information. DWS Firm Find indicates that a total of 216 medium and large businesses and 9,781 small businesses in Utah will be covered by these rule changes. Notwithstanding the number of small businesses, based on the NAICS codes, the analysis herein does not change. With respect to the substantive changes: first, small businesses may be impacted by the expanded or clarified scope of practice for the various classifications. These impacts are impossible to determine because the clarification and expansion of the applicable classifications does not necessarily result in a net increase or decrease of cost, or value to the licensee or applicant as there is no way to determine if they will actual practice in the expanded or clarified scope beyond their current work. Second, small businesses may be impacted by consolidated classification and expanded scope of practice which may reduce the number of potential fines for practicing beyond the scope of licensure. However, since it is impossible to determine whether the consolidation of classifications or expanded scope of practice will increase compliance with the unprofessional conduct provisions, there is no direct cost attributable to these changes. Future violations of unprofessional conduct cannot be quantified. Third, small businesses may be required to take the additional five-hour pre-licensure class as required by H.B. 187 (2019). An average of 11,000 contractors apply for licensure every year. This figure includes non-small and small businesses. It is estimated that the additional five-hour pre-licensure course will cost an additional \$60 per applicant. It is estimated that the contractors needing the five-hour pre-licensure course are doing so to increase the scope of

licensure and thus increase their economic benefit, opportunities, and productivity. The economic benefit from taking the extra five-hour pre-licensure course will be at least \$60 or greater for the licensed contractors and especially when considering the benefit over the lifetime of the license. Of note, the fiscal note for H.B. 187 (2019) indicated that no cost increase was attributed to any individuals or businesses, including small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** With respect to the changes that are grammatical or nonsubstantive, those changes will have no impact on other persons. With respect to the other changes, there is no perceivable impact of these rule amendments on other persons. Based on the fiscal note for H.B. 187 (2019), no cost increase was attributed to any individuals or businesses, including small businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: With respect to the changes that are grammatical or nonsubstantive, those changes will have no impact on affected persons. With respect to other changes, there are no individual impacts based on these rule amendments because contractor licenses are issued only to small and non-small business entities, and not individuals. As a result, any individual impacts are reflected in the impacts to small and non-small businesses. Based on the fiscal note for H.B. 187 (2019), no cost increase was attributed to any individuals or businesses.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The purpose of this rule filing is to comply with the changes established by H.B. 187 (2019) and to make substantive and other technical changes as approved by the Construction Services Commission. In Section R156-55a-301, technical changes to the classification scope of practices, including elimination of superfluous language, clarifying scope of practice, and correction of cross-references. An effective date of 07/22/2019 is established to convert all current licensees to their consolidated classification. Previous classification conversion language is deleted. Subsection R156-55a-301(6) is clarified to eliminate subclassifications that no longer exist after the effective date of the rule based on the consolidation of the classifications. Subsection R156-55a-301(7) is amended based on H.B. 187 (2019) to clarify that installation of class two or class three power-limited circuits is exempt from contractor licensing. In Section R156-55a-302a, eliminates the requirement for the trade exam for the B100, R100, or E100 classifications based on H.B. 187 (2019). In Section R156-55a-302b, clarifies the definition of "experience in the construction industry" pursuant to Subsection 58-55-302(1)(e)(ii) as more broad in scope than the definition of "construction trades" and clarifies that this experience includes paid experience regardless if as an owner, W-2, or 1099 individuals, and regardless of licensure. The experience requirement is amended to include experience in the military and experience obtained in an educational program. "Two years of full-time paid

employment" as defined in Subsection 58-55-302(1)(e)(ii)(A) is clarified to mean 4,000 hours of paid employment. Clarifies that a passing score on the NASCLA Accredited Examination for Commercial General Building Contractors shall satisfy the experience requirement in Subsection 58-55-302(1)(e)(ii)(A). It is also clarified that a person holding a four-year bachelors degree or a two-year associates degree in Construction Management and a person holding a Utah professional engineer license satisfy the experience requirement in Subsection 58-55-302(1)(e)(ii)(A). In Section R156-55a-302c, deleted in its entirety based on the amendments in Section R156-55a-302e. In Section R156-55a-302e, amends and clarifies that any school that provides instruction to students by engaging in the construction trade for the public as part of the instruction is required to be a Utah licensed contractor with the classification in the scope of practice in which the students are being instructed. No other license is required. In Section R156-55a-302f, amends rule to include 5-hour pre-licensure course for general contractors as required by H.B. 187 (2019). Clarifies exemption for pre-licensure course to include those that are qualifiers on active licenses and qualifiers without disciplinary action. Amends the rule to clarify that the five-hour pre-license class is not required for any qualifier that has taken the 25-hour pre-license course prior to 07/01/2019 as mandated by H.B. 187 (2019). Establishes that the five-hour pre-licensure course shall include five hours of training on test preparation for the topics covered in the Utah Contractors Business and Law examination. In Section R156-55a-303b, clarifies that for all contractors with a renewal cycle that ends after 01/01/2020, at least one of the six hours of continuing education for contractors shall include energy conservation. Provides that the energy conservation credit shall be "core continuing education". In Section R156-55a-304, deletes inapplicable provision based on Section R156-55a-302e. In Section R156-55a-308a, deleted provision based on Section R156-55a-302e. **Small Business:** The changes that are grammatical or nonsubstantive are estimated to have no impact on small businesses. As for the substantive changes, the U.S. Census North American Industry Classification System (NAICS) was searched and more than ten relevant NAICS codes were identified. For a complete listing of NAICS codes used in this analysis, please contact the agency. DWS Firm Find was referenced in compiling this information. DWS Firm Find indicates that a total of 216 medium and large businesses and 9,781 small businesses in Utah will be covered by these changes. Notwithstanding the number of small businesses, based on the NAICS codes, the analysis herein does not change. With respect to substantive changes: First, small businesses may be impacted by the expanded or clarified scope of practice for the various classifications. These impacts are impossible to determine because the clarification and expansion of the applicable classifications does not necessarily result in a net increase or decrease of cost or value to the licensee or applicant as there is no way to determine if they will actually practice in the expanded or clarified scope beyond their current work. Second, small businesses may be impacted by consolidated classification and expanded scope of practice which may

reduce the number of potential fines for practicing beyond the scope of licensure. However, since it is impossible to determine whether the consolidation of classifications or expanded scope of practice will increase compliance with the unprofessional conduct provisions, there is no direct cost attributable except to these changes. Future violations of unprofessional conduct cannot be quantified. The fiscal note for H.B. 187 (2019) provided that no cost increase was attributed to any individuals or business, including small businesses. The rule changes conform the rule to the statute and result in no fiscal impacts outside of the parameters of H.B. 187 (2019).

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Chris Rogers by phone at 801-530-6720, by FAX at 801-530-6511, or by Internet E-mail at crogers@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2019

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 06/26/2019 09:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2019

AUTHORIZED BY: Mark Steinagel, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$60	\$60	\$60
Non-Small Businesses	\$60	\$60	\$60
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$60	\$60	\$60
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$60	\$60	\$60

Non-Small Businesses	\$60	\$60	\$60
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$60	\$60	\$60
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

As the U.S. Census North American Industry Classification System (NAICS) was searched, several relevant NAICS codes were identified including: 236115, 236116, 236117, 236118, 236210, 236220, 237120, 237990, 238111, 238112, 238121, 238122, 238131, 238132, 238141, 238142, 238151, 238152, 238161, 238162, 238171, 238172, 238191, 238211, 238212, 238221, 238222, 238311, 238312, 238321, 238322, 238331, 238332, 238341, 238342, 238351, 238352, 238381, 238392, 238911, 238912, 238991, 238992. The Department of Workforce Services' (DWS) Firm Find was referenced in compiling this information. DWS Firm Find indicates that there are a total of 216 medium and large businesses and 9,781 small businesses in Utah covered by these changes. This proposed rule change is not expected to have any significant fiscal impacts on large business revenues or expenditures. An average of 11,000 contractors apply for licensure every year. This figure includes non-small and small businesses. It is estimated that the additional 5-hour pre-licensure course will cost an additional \$60 per applicant. It is estimated that the contractors needing the five-hour pre-licensure course are doing so to increase the scope of licensure and thus increase their economic benefit, opportunities, and productivity. The economic benefit from taking the extra five-hour pre-licensure course will be at least \$60 or greater for the licensed contractors and especially when considering the benefit over the lifetime of the license. With respect to the other changes, they are not expected to have any significant fiscal impacts and the approximate fiscal impacts are impossible to determine because the changes do not necessarily result in a net increase or decrease of cost or value to the licensee, applicant, small business, or non-small business.

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

R156. Commerce, Occupational and Professional Licensing.

R156-55a. Utah Construction Trades Licensing Act Rule.

R156-55a-301. License Classifications - Scope of Practice.

(1) In accordance with Subsection 58-55-301(2), the classifications of licensure are listed and described in this section. The contractor classifications listed are those determined to significantly impact the public health, safety, and welfare. A person engaged in work included in Subsections R156-55a-301(7) and (8) is exempt from licensure in accordance with Subsection 58-55-305(1)(i).

(2) Licenses shall be issued in the following primary classifications and subclassifications:

E100 - General Engineering Contractor. A contractor licensed to perform work as defined in Subsection 58-55-102(24).

B100 - General Building Contractor. A contractor licensed to perform work as defined in Subsection 58-55-102(22). The scope of practice includes the scope of practice of every specialty contractor in Subsection R156-55a-301(2) except:

(a) activities described in this Subsection under specialty classification [E]S202 - Solar Photovoltaic Contractor unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the NABCEP; and

(b) activities described in this Subsection under specialty classification S354-Radon Mitigation Contractor, unless:

(i) the work is performed under the immediate supervision of an employee who holds a current certificate issued by the NRSB or the AARST-NRPP; or

(ii) the work is limited to installation of passive radon gas controls on new construction in accordance with Appendix F of the International Residential Code.

B200 - Modular Unit Installation Contractor. Set up or installation of modular units as defined in Subsection 15A-1-302(8) and constructed in accordance with Section 15A-1-304. The scope of practice:

(a) includes construction of the permanent or temporary foundations, placement of the modular unit on a permanent or temporary foundation, securing the units together, if required, and securing the modular units to the foundations; and

(b) excludes installation of factory built housing and connection of required utilities.

R100 - Residential and Small Commercial Contractor. A contractor licensed to perform work as defined in Subsection 58-55-102(35). The scope of practice does not include:

(a) activities described in this Subsection under specialty classification [E]S202 - Solar Photovoltaic Contractor, unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the NABCEP; and

(b) activities described in this Subsection under specialty classification S354-Radon Mitigation Contractor, unless:

(i) the work is performed under the immediate supervision of an employee who holds a current certificate issued by the NRSB or the AARST-NRPP; or

(ii) the work is limited to installation of passive radon gas controls on new construction in accordance with Appendix F of the International Residential Code.

R101 - Residential and Small Commercial Non Structural Remodeling and Repair. Remodeling and repair to any existing structure built for support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind with the restriction that:

(a) no change is made to the bearing portions of the existing structure, including footings, foundation, and weight bearing walls; and

(b) the entire project is less than \$50,000 in total cost, including materials and labor.

R200 - Factory Built Housing Contractor. Disconnection, setup, installation, or removal of manufactured housing on a temporary or permanent basis. The scope of work:

(a) includes placing the manufactured housing on a permanent or temporary foundation, securing the units together if required, securing the manufactured housing to the foundation, and connecting the utilities from the near proximity, such as a meter, to the manufactured housing unit, and construction of foundations of less than four feet six inches in height;

(b) excludes preparation or finishing, excavation of the ground in the area where a foundation is to be constructed, back

filling, and grading around the foundation, construction of foundations of more than four feet six inches in height, and construction of utility services from the utility source to and including the meter or meters if required or if not required to the near proximity of the manufactured housing unit from which they are connected to the unit. [

~~I101 - General Engineering Trades Instruction Facility. A construction trades instruction facility authorized to teach the construction trades and subject to the scope of practice defined in Subsection 58-55-102(24).~~

~~I102 - General Building Trades Instruction Facility. A construction trades instruction facility authorized to teach the construction trades and subject to the scope of practice defined in Subsections 58-55-102(22) or 58-55-102(35).~~

~~I103 - Electrical Trades Instruction Facility. A construction trades instruction facility authorized to teach the electrical trades and subject to the scope of practice defined in Subsection R156-55a-301(E200).~~

~~I104 - Plumbing Trades Instruction Facility. A construction trades instruction facility authorized to teach the plumbing trades and subject to the scope of practice defined in Subsection R156-55a-301(P200).~~

~~I105 - Mechanical Trades Instruction Facility. A construction trades instruction facility authorized to teach the mechanical trades and subject to the scope of practice defined in Subsection R156-55a-301(S350).~~

E200 - General Electrical Contractor. A contractor licensed to perform work as defined in Subsection 58-55-102(23). The scope of practice does not include activities described in this Subsection under specialty classification S354-Radon Mitigation Contractor unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the NRSB or the AARST-NRPP.

E201 - Residential Electrical Contractor. A contractor licensed to perform work as defined in Subsection 58-55-102(37). The scope of practice does not include activities described in this subsection under specialty classification S354-Radon Mitigation Contractor unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the NRSB or the AARST-NRPP.

[E]S202 - Solar Photovoltaic Contractor. Fabrication, construction, installation, and replacement of photovoltaic modules and related components, subject to the following:

(a) An [E]S202 Solar Photovoltaic Contractor shall hold a current certificate issued by [NRSB or AARST-NRPP]NABCEP.

(b) Wiring, connections and wire methods as governed in the National Electrical Code and Subsection R156-55b-102(1) shall only be performed by an E200 General Electrical Contractor or E201 Residential Electrical Contractor.

(c) [E]S202 - Solar Photovoltaic Contractor licensure is not required to install standalone solar systems that do not tie into premises wiring or into the electrical utility, such as signage or street or parking lighting.

(d) An [E]S202 Solar Photovoltaic Contractor may subcontract with an E200 General Electrical Contractor or E201 Residential Electrical Contractor for their projects.

P200 - General Plumbing Contractor. A contractor licensed to perform work as defined in Subsection 58-55-102(25).

The scope of practice:

(a) includes the furnishing of materials, fixtures, and labor to extend service from a building out to the main water, sewer, or gas pipeline; and

(b) does not include activities described under specialty classification S354-Radon Mitigation Contractor, unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the NRSB or the AARST-NRPP.

~~P201 - Residential Plumbing Contractor. A contractor licensed to perform work as defined in Subsection 58-55-102(42). The Residential Plumbing Contractor scope of practice does not include activities described in this subsection under specialty classification S354-Radon Mitigation Contractor unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the NRSB or the AARST-NRPP.~~

~~P202 - Boiler Installation Contractor. Fabrication and/or installation of fire-tube and water-tube power boilers and hot water heating boilers, including all fittings and piping, valves, gauges, pumps, radiators, converters, fuel oil tanks, fuel lines, chimney flues, heat insulation and all other devices, apparatus, and equipment related thereto in a closed system not connected to the culinary water system. If water delivery for the closed system is connected to the culinary water system and separated from the culinary water system by a backflow prevention device, a P202-Boiler Installation Contractor may connect the closed system to the backflow prevention device, but the device must be installed by an actively licensed plumber.~~

~~P203 - Irrigation Sprinkling Contractor. Layout, fabrication, and/or installation of water distribution systems for artificial watering or irrigation.~~

~~P204 - Industrial Piping Contractor. Fabrication and/or installation of pipes and piping for the conveyance or transmission of steam, gases, chemicals, and other substances including excavating, trenching, and back-filling related to such work. This classification includes the above work for geo thermal systems.~~

~~P205 - Water Conditioning Equipment Contractor. Fabrication and/or installation of water conditioning equipment and only such pipe and fittings as are necessary for connecting the water conditioning equipment to the water supply system within the premises.~~

~~P206 - Solar Thermal Systems Contractor. Construction, repair and/or installation of solar thermal systems up to the system shut off valve or where the system interfaces with any other plumbing system.~~

~~P207 - Residential Sewer Connection and Septic Tank Contractor. Construction of residential sewer lines including connection to the public sewer line, and excavation and grading related thereto. Excavation, installation and grading of residential septic tanks and their drainage.]~~

S220 - Carpentry & Flooring Contractor. The scope of practice includes the construction, fabrication, installation, placing, tying, welding, or repair:

(a) [Fabrication for structural and finish purposes in a structure or building] using wood, wood products, metal, metal products, metal studs, vinyl materials, plastic, fiberglass, countertops, cabinets, millwork, garage doors, doors, tub liners, wall systems, partitions, or other wood/plastic/metal composites as

is by custom and usage accepted in the building industry as carpentry for structural, non-structural, and finish purposes.[-Incidental work includes the installation of tub liners and wall systems.]

(b) metal or steel structures and sheet metal, including metal cornices, marquees, metal soffits, flashings, skylights, and skydomes;

(c) metal structural studs and bearing walls, reinforcing bars, erecting shapes, plates of any profile, perimeter cross-section that are used in structures, including riveting, welding, and rigging;

(d) incidental concrete work and footings, grading, and surface preparation related to any Carpentry & Flooring Contractor scope of work;

(e) laminate, tile, cement, wood, synthetic wood, or similar flooring product, including prefinished and unfinished material, sanding, staining and finishing of new and existing flooring, the underlayment, and subfloors; and

(f) mechanical insulation of pipes, ducts, or conduits.

~~S221 - Cabinet, Millwork and Countertop Installation Contractor. On-site construction and/or installation of milled wood products or countertops.~~

~~S222 - Overhead and Garage Door Contractor. Installation of overhead and garage doors and door openers.]~~

S230 - Masonry, Siding, Stucco, Glass, [and]& Rain Gutter Contractor. The scope of practice includes the construction fabrication, and installation of:

(a) [Fabrication, construction, and/or installation of] siding, stucco, stucco to lathe, plaster, glass, glass substitutes, glass-holding members, [or]rain gutters, drains, roof flashings, gravel stops, and metal ridges;

(b) natural or synthetic stone, onyx, ceramic, granite, onice, corian, brick, block, forms, brick substitutes, clay, concrete blocks, terra-cotta, marble, tile, gypsum tile, glass block, clay tile, copings, plastic refractories, and castables;

(c) shower pans.]

~~S231 - Rain Gutter Installation Contractor. On-site fabrication and/or installation of rain gutters and drains, roof flashings, gravel stops and metal ridges.~~

~~S240 - Glass and Glazing Contractor. Fabrication, construction, installation, and/or removal of all types and sizes of glass, glass substitutes, glass-holding members, frames, and hardware.~~

~~S250 - Insulation Contractor. Installation of any insulating media in buildings and structures for the sole purpose of temperature control, sound control, or fireproofing, but shall not include mechanical insulation of pipes, ducts, or conduits.]~~

S260 - [General]Asphalt and Concrete Contractor. Fabrication, construction, mixing, batching, injecting, spraying, resurfacing, sealing, and/or installation of asphalt, asphalt overlay, chip seal, fog seal, slurry seal, concrete, gunnite, grouting, coatings, sealant, and related concrete products along with the placing and setting of screeds for pavement for flatwork, the construction of forms, shoring material, placing and erection of bars for reinforcing and application of plaster and other cement-related products. The scope of practice includes:

(a) excavation, grading, compacting, and laying of fill or base-related thereto;

(b) painting or coating the surfaces, including striping, directional, and other types of symbols or letters;

~~(c) fabrication, construction, and/or installation of forms and shoring material.~~

~~[S261 - Concrete Form Setting and Shoring Contractor. Fabrication, construction, and/or installation of forms and shoring material; but does not include the placement of concrete, finishing of concrete, or embedded items such as metal reinforcement bars or mesh.]~~

~~S262 - Gunnite and Pressure Grouting Contractor. Installation of a concrete product either injected or sprayed under pressure.~~

~~S263 - Cementitious Coating Systems Resurfacing and Sealing Contractor. Fabrication, construction, mixing, batching and installation of cementitious coating systems or sealants limited to the resurfacing or sealing of existing surfaces, including the preparation or patching of the surface to be covered or sealed.]~~

~~S270 - [General] Drywall, Paint, and Plastering Contractor. The scope of practice includes the construction, installation, fabrication, and application of:~~

~~(a) [Fabrication, construction, and installation of] drywall, gypsum, wallboard panels and assemblies, lightweight metal and non-bearing wall partitions, ceiling tile and panels, and the grid system required for placement. [Preparation of drywall or plaster surfaces for suitable painting or finishing. Application to surfaces of coatings made of plaster, including the preparation of the surface and the provision of a base. This does not include applying]~~

~~(b) insulating media in buildings and structures for the purpose of temperature control, sound control, fireproofing, mechanical insulation of pipes, ducts, or conduits; and~~

~~(c) stucco, stucco to lathe, plaster, and other surfaces; and~~

~~(d) paints, varnishes, shellacs, stains, waxes and other coatings or pigments. [Exempted is the plastering of foundations.]~~

~~[S272 - Ceiling Grid Systems, Ceiling Tile, and Panel Systems Contractor. Fabrication and/or installation of wood, mineral, fiber, and other types of ceiling tile and panels and the grid systems required for placement.]~~

~~S273 - Light weight Metal and Non-bearing Wall Partitions Contractor. Fabrication and/or installation of light weight metal and other non-bearing wall partitions.]~~

~~S280 - [General] Roofing Contractor. Application and/or installation of asphalt, pitch, tar, felt, flax, shakes, shingles, roof tile, slate, and any other material or materials, or any combination of the above which use and custom has established as usable for, or which are now used as, water-proof, weatherproof, or watertight seal or membranes for roofs and surfaces; and roof conversion; non-electrical skylights; and electrical skylights provided that the electrical connection is performed by a licensed electrical contractor. The scope of practice includes installation of any insulating media in buildings and structures for the sole purpose of temperature control, sound control, fireproofing, and mechanical insulation of pipes, ducts, or conduits. Incidental work includes the installation of roof clamp ring to the roof drain.]~~

~~S290 - General Masonry Contractor. Construction by cutting, and/or laying of all of the following brick, block, or forms: architectural, industrial, and refractory brick, all brick substitutes, clay and concrete blocks, terra cotta, thin set or structural quarry tile, glazed structural tile, gypsum tile, glass block, clay tile, copings, natural stone, plastic refractories, and castables and any~~

~~incidental works, including the installation of shower pans, as required in construction of the masonry work.~~

~~S291 - Stone Masonry Contractor. Construction using natural or artificial stone, either rough or cut and dressed, laid at random, with or without mortar. Incidental work includes the installation of shower pans.~~

~~S292 - Terrazzo Contractor. Construction by fabrication, grinding, and polishing of terrazzo by the setting of chips of marble, stone, or other material in an irregular pattern with the use of cement, polyester, epoxy or other common binders. Incidental work includes the installation of shower pans.~~

~~S293 - Marble, Tile and Ceramic Contractor. Preparation, fabrication, construction, and installation of artificial marble, burned clay tile, ceramic, encaustic, falence, quarry, semi-vitreous, and other tile, excluding hollow or structural partition tile. Incidental work includes the installation of shower pans.~~

~~S294 - Cultured Marble Contractor. Preparation, fabrication and installation of slab and sheet manmade synthetic products including cultured marble, onyx, granite, onice, corian, and corian type products. Incidental work includes the installation of shower pans.~~

~~S300 - General Painting Contractor. Preparation of surface and/or the application of all paints, varnishes, shellacs, stains, waxes and other coatings or pigments.]~~

~~S310 - Foundation, Excavation, and Demolition [and Grading] Contractor. The scope of practice includes:~~

~~(a) m[M]oving of the earth's surface or placing earthen materials on the earth's surface, by use of hand or power machinery and tools, including explosives, in any operation of cut, fill, excavation, grading, trenching, backfilling, or combination thereof as they are generally practiced in the construction trade; and~~

~~(b) excavation, drilling, compacting, pumping, sealing and other work necessary to construct, alter, or repair piers, piles, footings, and foundations placed in the earth's subsurface to prevent structural settling and to provide an adequate capacity to sustain or transmit the structural load to the soil or rock below; and~~

~~(c) raising, cribbing, underpinning, moving, and removal of a building, structure, or matter appurtenant or incidental to any building or structure.~~

~~[S320 - Steel Erection Contractor. Construction by fabrication, placing, and tying or welding of steel reinforcing bars or erecting structural steel shapes, plates of any profile, perimeter or cross-section that are used to reinforce concrete or as structural members, including riveting, welding, and rigging.]~~

~~S321 - Steel Reinforcing Contractor. Fabricating, placing, tying, or mechanically welding of reinforcing bars of any profile that are used to reinforce concrete buildings or structures.~~

~~S322 - Metal Building Erection Contractor. Erection of pre-fabricated metal structures including concrete foundation and footings, grading, and surface preparation.~~

~~S323 - Structural Stud Erection Contractor. Fabrication and installation of metal structural studs and bearing walls.]~~

~~S330 - [Landseaping] Landscape & Recreation Contractor. This scope of practice includes the following construction, fabrication, and installation:~~

~~(a) grading and preparing land for architectural, horticultural, or decorative treatment;~~

(b) arrangement, and planting of gardens, lawns, shrubs, vines, bushes, trees, or other decorative vegetation;

(c) swimming pools, prefabricated pools, spas, [construction of small] decorative pools, tanks, fountains, sprinkler systems, water distribution systems for artificial watering or irrigation, for [closed-]systems not connected to the culinary water system, or, if water delivery for the [closed-]system is connected to the culinary water system and separated from the culinary water system by a backflow prevention device, the contractor may connect the [closed-]system to the backflow prevention device, if the backflow prevention device is installed by an actively licensed plumber;

(d) metal fireboxes, fireplaces, and wood or coal-burning stoves, including the installation of venting and exhaust systems, provided the individual performing the installation is RMGA-certified;

([d]e) [construction of-]retaining walls except retaining walls which are intended to hold vehicles, structures, equipment or other non-natural fill materials within the area located within a 45 degree angle from the base of the retaining wall to the level of where the additional weight bearing vehicles, structures, equipment or other non-natural fill materials are located;

([e]f) [construction of-]patios, patio areas, and decking, including the deck structure and substructure;

([f]g) [construction of-]hothouses, greenhouses, [fences-] walks, and garden lighting of class two or class three power-limited circuits as defined in the National Electrical Code; [of 49 volts or less; and]

(h) fences, guardrails, handrails, and barriers;

(i) sports and athletic courts and fields including football fields, tennis courts, racquetball courts, handball courts, basketball courts, running tracks, playgrounds, or any similar court or field; this includes poles, standards, surface painting or coatings, floors, floor subsurface, wall surface, perimeter walls, perimeter fencing, or other equipment; and

([g]j) [performing-]incidental concrete or asphalt work related to any [Landscaping]Landscape & Recreation Contractor scope of practice.

([h]k) This classification does not include any electrical or plumbing trade work, but an S330 Landscape & Recreation Contractor may subcontract with a plumbing and electrical contractor for their projects. [

~~S340 - Sheet Metal Contractor. Layout, fabrication, and installation of air handling and ventilating systems. All architectural sheet metal such as cornices, marquees, metal soffits, flashings, and skylights and skydomes including both plastic and fiberglass.]~~

S350 - HVAC Contractor. Fabrication and installation of complete warm air heating, air conditioning and ventilating systems. This scope of practice includes installation of refrigeration equipment, including built-in refrigerators, refrigerated rooms, insulated refrigerated spaces and equipment related thereto. The scope of practice does not include activities described under S354-Radon Mitigation Contractor unless the work is performed under the immediate supervision of an employee who holds a current certificate issued by the NRSB or the AARST-NRPP. An HVAC Contractor may hire or subcontract an RMGA-certified licensed contractor for any gas-related work. The scope of practice does not include electrical trade work.[

~~S351 - Refrigerated Air Conditioning Contractor. Fabrication and installation of air conditioning ventilating systems to control air temperatures below 50 degrees. The scope of practice does not include electrical trade work.~~

~~S352 - Evaporative Cooling Contractor. Fabrication and installation of devices, machinery, and units to cool the air temperature employing evaporation of liquid. The scope of practice does not include electrical trade work.~~

~~S353 - Warm Air Heating Contractor. Layout, fabrication, and installation of such sheet metal, gas piping, and furnace equipment as necessary for a complete warm air heating and ventilating system. The scope of permitted work does not include electrical trade work.]~~

S354 - Radon Mitigation Contractor. Layout, fabrication, and installation of a radon mitigation system. Work performed under this classification shall be performed under the immediate supervision of an employee who holds a current certificate issued by the NRSB or the AARST-NRPP. The scope of practice does not include:

(a) work on heat recovery ventilation or makeup air components that must be performed by an HVAC Contractor; or

(b) electrical trade work that must be performed by an Electrical Contractor.[

~~S360 - Refrigeration Contractor. Construction and/or installation of refrigeration equipment, including built-in refrigerators, refrigerated rooms, insulated refrigerated spaces and equipment related thereto. The scope of practice does not include the installation of gas fuel or electrical trade work.]~~

S370 - Fire Suppression Systems Contractor. Layout, fabrication, and installation of fire protection systems using water, steam, gas, or chemicals. When a potable sanitary water supply system is used as the source of supply, connection to the water system must be accomplished by a licensed plumbing contractor. Excluded from this classification are persons engaged in the installation of fire suppression systems in hoods above cooking appliances.[

~~S380 - Swimming Pool and Spa Contractor. Fabrication, construction, and installation of swimming pools, prefabricated pools, spas, and tubs. The scope of practice:~~

~~(a) does not include plumbing or electrical trade work, but an S380 Swimming Pool and Spa Contractor may subcontract with a plumbing and electrical contractor for their projects;~~

~~(b) includes a closed system not connected to a culinary water system; and~~

~~(c) includes, if water delivery for a closed system is connected to a culinary water system and separated from the culinary water system by a backflow prevention device, connection of the closed system to the backflow prevention device (however, the backflow prevention device must be installed by an actively licensed plumber).~~

~~S390 - Sewer and Waste Water Pipeline Contractor. Construction of sewer lines, sewage disposal and sewage drain facilities including excavation and grading with respect thereto, and the construction of sewage disposal plants and appurtenances thereto.~~

~~S400 - Asphalt Paving Contractor. Construction of asphalt highways, roadways, driveways, parking lots or other asphalt surfaces, including asphalt overlay, chip seal, fog seal and rejuvenation, micro surfacing, plant mix sealcoat, slurry seal, and~~

~~the removal of asphalt surfaces by milling. The scope of practice includes:~~

~~(a) excavation, grading, compacting, and laying of fill or base-related thereto; and~~

~~(b) painting on asphalt surfaces, including striping, directional, and other types of symbols or words.]~~

~~S410 - Boiler, Pipeline, Waste Water, and Water Conditioner [Conduit] Contractor. [Fabrication] The scope of practice includes the fabrication, construction, and installation of:~~

~~(a) pipes, conduit, or cables for the conveyance and transmission from one station to another of such products as water, steam, gases, chemicals, slurries, other substances, data or communications, geo-thermal systems, or solar thermal systems up to where the system interfaces with any other plumbing system; [-The scope of practice includes the-]~~

~~(b) installation of above and below ground petroleum and petro-chemical storage tanks, piping, dispensing equipment, monitoring equipment, and associated petroleum and petro-chemical equipment including excavation, backfilling, concrete and asphalt;~~

~~(c) insulation of pipes, ducts, and conduits;~~

~~(d) excavation, cabling, horizontal boring, grading, trenching, and backfilling necessary for construction of any work related to the Boiler, Pipeline, Waste Water, and Water Conditioner Contractor scope of practice; [the system.]~~

~~(e) fire-tube and water-tube power boilers and hot water heating boilers, including all fittings and piping, valves, gauges, pumps, radiators, converters, fuel oil tanks, fuel lines, chimney flues, heat insulation and all other devices, apparatus, and equipment related thereto in a system not connected to the culinary water system. If water delivery for the system is connected to the culinary water system and separated from the culinary water system by a backflow prevention device, a S410 Boiler, Pipeline, Waste Water, and Water Conditioner Contractor may connect the system to the backflow prevention device, but the device must be installed by an actively licensed plumber;~~

~~(f) water conditioning equipment and only such pipe and fittings as are necessary for connecting the water conditioning equipment to the water supply system within the premises;~~

~~(g) sewer, sewer lines, sewage disposal, septic tank, and drainage including excavation and grading with respect thereto, and the construction of sewage disposal plants and appurtenances thereto; and~~

~~(h) incidental cement or asphalt work related to the Boiler, Pipeline, Waste Water, and Water Conditioner Contractor scope of practice.~~

~~S420 - General Fencing, Ornamental Iron and Guardrail Contractor. Fabrication, construction, and installation of fences, guardrails, handrails, and barriers.~~

~~S421 - Residential Fencing Contractor. Fabrication and installation of residential fencing up to and including a height of six feet.~~

~~S430 - Metal Firebox and Fuel Burning Stove Installer. Fabrication, construction, and installation of metal fireboxes, fireplaces, and wood or coal-burning stoves, including the installation of venting and exhaust systems, provided the individual performing the installation is RMGA-certified.]~~

~~S440 - Sign Installation Contractor. Installation of electrical or non-electrical signs and graphic displays which require~~

~~installation permits or permission as issued by state or local governmental jurisdictions, subject to the following:~~

~~(a) "Signs and graphic displays" includes signs of all types, both lighted and unlighted, permanent highway marker signs, illuminated awnings, electronic message centers, sculptures or graphic representations including logos and trademarks intended to identify or advertise the user or product, building trim or lighting with neon or decorative fixtures, and any other animated, moving or stationary device used for advertising or identification purposes.~~

~~(b) "Non-electrical signs and graphics displays" means outdoor advertising signs that do not have electrical lighting or other electrical requirements, and that are fabricated, installed, and erected in accordance with professionally engineered specifications.~~

~~([b]c) Signs and graphic displays must be fabricated, installed and erected in accordance with professionally engineered specifications and wiring in accordance with the National Electrical Code;~~

~~([e]d) The scope of practice does not include electrical trade work, but an S440 Sign Installation Contractor may subcontract with an electrical contractor for their projects.]~~

~~S441 - Non-Electrical Outdoor Advertising Sign Contractor. Installation of non-electric signs and graphic displays which require installation permits or permission as issued by state and local governmental jurisdictions. "Non-electrical signs and graphics displays" means outdoor advertising signs that do not have electrical lighting or other electrical requirements, and that are fabricated, installed, and erected in accordance with professionally engineered specifications.~~

~~S450 - Mechanical Insulation Contractor. Fabrication, application, and installation of insulation materials to pipes, ducts and conduits.~~

~~S460 - Wrecking and Demolition Contractor. Raising, eribbing, underpinning, moving, and removal of a building, structure, or matter appurtenant or incidental to any building or structure.~~

~~S470 - Petroleum Systems Contractor. Installation of above and below ground petroleum and petro-chemical storage tanks, piping, dispensing equipment, monitoring equipment, and associated petroleum and petro-chemical equipment including excavation, backfilling, concrete and asphalt.~~

~~S480 - Piers and Foundations Contractor. Excavation, drilling, compacting, pumping, sealing and other work necessary to construct, alter, or repair piers, piles, footings, and foundations placed in the earth's subsurface to prevent structural settling and to provide an adequate capacity to sustain or transmit the structural load to the soil or rock below.~~

~~S490 - Flooring Contractor. Installation of laminate, tile, wood or wood product flooring, including prefinished and unfinished material, sanding, staining and finishing of new and existing flooring, the underlayment, and non-structural subfloors.~~

~~S491 - Laminate Floor Installation Contractor. Installation of laminate floors including the underlayment, non-structural subfloors, and other incidental related work, but does not include the installation of solid wood flooring.~~

~~S500 - Sports and Athletic Courts, Running Tracks, and Playground Installation Contractor. Installation of sports and athletic courts including tennis courts, racquetball courts, handball courts, basketball courts, running tracks, playgrounds, or any combination. Includes non-structural floor subsurface,~~

~~nonstructural wall surface, perimeter walls, and perimeter fencing. Includes installation and attachment of equipment such as poles, basketball standards, or other equipment.]~~

S510 - Elevator Contractor. Erecting, constructing, installing, altering, servicing, repairing or maintaining an elevator. [

~~S600 - General Stucco Contractor. Applying stucco to lathe, plaster, and other surfaces.]~~

S700 - Limited Scope License Contractor.

(a) A limited scope license is a license that confines the scope of the allowable contracting work to a specialized area of construction, which the Division grants on a case-by-case basis.

(b) When applying for a limited scope license, an applicant, if requested, shall submit to the Division the following:

(i) a detailed statement of the type and scope of contracting work that the applicant proposes to perform and an explanation why the scope of practice is not included in any other current classification; and

(ii) any brochures, catalogs, photographs, diagrams, or other material to further clarify the scope of the work that the applicant proposes to perform.

(3)(a) A specialty license contractor, as defined in Subsection 58-55-102(45), shall be confined to the field and scope of work as outlined by the Division.

(b) A specialty license contractor may subcontract with a specialty license contractor that holds the same classification as the hiring contractor.

(4)(a) A licensee may hold up to three specialty license classifications, in addition to any general contractor classifications, except that an R101 Residential and Small Commercial Non-Structural Remodeling and Repair contractor may not have any other specialty classifications.

(b) A licensee may change classifications at any time by surrendering a license, and by applying for any license for which the licensee is qualified and as permitted by law.

(c) To qualify for licensure, an applicant for renewal or reinstatement shall surrender or replace the applicant's contractor classifications as needed to comply with Subsection (4)(a). [

~~(5) Effective November 7, 2017:~~

~~(a) Contractor licenses shall only be issued to applicants or licensees in:~~

~~(i) primary classification listed in Subsection(6); or~~

~~(ii) primary or subclassifications of B200, R101, R200, E201, E202, P201, P202, P203, P204, P205, P206, P207, S240, S250, S280, S300, S310, S330, S340, S354, S360, S370, S380, S390, S400, S410, S430, S450, S460, S470, S480, S500, S510, S600, S700; or~~

~~(iii) a general contractor or facility classification listed in Subsection R156-55a-302a(2).~~

~~(b) Except for subclassifications listed in Subsection (5)(a)(ii), an application for renewal or reinstatement of a license with a subclassification listed in Subsection (6) shall be converted to the corresponding primary classification.]~~

~~(5) Effective July 22, 2019:~~

~~(a) Contractor licenses that have the following contractor classifications shall be converted to the corresponding classifications in Table 1:~~

TABLE 1

Current Classification	Converted To
P202	S410
P204	S410
P205	S410
P206	S410
P207	S410
P203	S330
E202	S202
S221, S222	S220
S231	S230
S240	S230
S250	S270
S261, S262, S263	S260
S272, S273	S270
S290, S291, S292, S293, S294	S230
S300	S270
S320, S321, S322, S323	S220
S340	S220
S351, S352, S353	S350
S360	S350
S380	S330
S390	S410
S400	S260
S420, S421	S330
S430	S330
S441	S440
S450	S410
S460	S310
S470	S410
S480	S310
S490	S220
S491	S220
S500	S330
S600	S230
I101	E100
I102	B100
I103	E200
I104	P200
I105	S350

(6) The scope of practice for the following primary classifications includes the scope of practice stated in the descriptions for the following subclassifications and a licensee with the following primary classification may subcontract with a licensee with an included subclassification:

TABLE [1]2

Primary Classification	Included subclassifications
E200	E201, [E]S202
P200	P201[, P202, P203, P204, P205, P206, P207
S220	S221, S222
S230	S231
S260	S261, S262, S263
S270	S272, S273
S290	S291, S292, S293, S294
S320	S321, S322, S323]
S350	[S351, S352, S353, -]S354
S420	S421
S440	S441
S490	S491

(7) The following activities are determined to not significantly impact the public health, safety and welfare and therefore do not require a contractors license:

- (a) sandblasting;
- (b) pumping services;
- (c) tree stump or tree removal;
- (d) installation within a building of communication cables including phone and cable television;
- (e) installation of class two or class three power-limited circuits as defined in the National Electrical Code~~[low voltage electrical that is 49 volts or less];~~
- (f) construction of utility sheds, gazebos, or other similar items which are personal property and not attached to:
 - (i) a residential or commercial building; or
 - (ii) a foundation;
- (g) building and window washing, including power washing;
 - (h) central vacuum systems installation;
 - (i) concrete cutting;
 - (j) interior decorating;
 - (k) wall paper hanging;
 - (l) drapery and blind installation;
 - (m) welding on personal property which is not attached;
 - (n) chimney sweepers other than repairing masonry;
 - (o) carpet and vinyl floor installation;
 - (p) artificial turf installation;
 - (q) general cleanup of a construction site which does not include demolition or excavation;
 - (r) installation or removal of weather-stripping but does not include moisture vapor barriers;
 - (s) fabrication, installation, or removal of mirrors; and
 - (t) construction, installation, or removal of awnings and canopies, including attached or detached;
 - (u) pallet racking or metal shelving, whether attached or detached to the structure; and
 - (v) seismic strapping for pipes, appliances, and water heaters.
- (8) The following activities are those determined to not significantly impact the public health, safety and welfare beyond the regulations by other agencies and therefore do not require a contractor's license:
 - (a) lead removal regulated by the Department of Environmental Quality;
 - (b) asbestos removal regulated by the Department of Environmental Quality; and
 - (c) fire alarm installation regulated by the Fire Marshal.

R156-55a-302a. Qualifications for Licensure - Examinations.

- (1) In accordance with Subsection 58-55-302(1)(c), no examination is required for the qualifier of an applicant for licensure as a contractor ~~[or construction trades instruction facility]~~ except for [
 - (a) an examination may be required as part of a 25-hour course described in Subsection 58-55-302(1)(c)(iii);
 - (b) an approved contractor classification examination required for the classifications listed in Subsection (2); and
 - (c) [the Utah Contractor Business and Law Examination for the classifications listed in Subsection 58-55-302(1)(c)(ii)]~~(2) and the P200, P201, E200, and E201 classifications.~~
- (2) A contractor classification examination, given currently or in the past by the Division, or determined by the

Division to be substantially equivalent, is required for the following contractor license classifications:

- ~~E100 - General Engineering Contractor~~
- ~~B100 - General Building Contractor~~
- ~~R100 - Residential and Small Commercial Contractor~~
- ~~H101 - General Engineering Trades Instruction Facility~~
- ~~H102 - General Building Trades Instruction Facility~~
- (3) For the B100 or R100 classifications, a passing score on the NASCLA Accredited Examination for Commercial General Building Contractors shall satisfy the examination requirement.
- (4) Except for the NASCLA exam described in Subsection (3), the passing score for all examinations is 70%.
- (5)2) An applicant who fails an examination may retake the failed examination as follows:
 - (a) no sooner than 30 days following any failure, up to three failures; and
 - (b) no sooner than six months following any failure thereafter.

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

- (1) "Experience in the construction industry" as defined in ~~[in accordance with]~~ Subsection 58-55-302(1)(e)(ii) is more broad in scope than the definition of "construction trades" and includes~~[-, the minimum experience requirements are established as follows:]~~
- (1)1) Experience in the construction industry regardless if paid as a W-2, or as an owner, and regardless of whether licensed or exempt. ~~No experience is required for any contractor classification except those listed in Subsection R156-55a-302a(2).~~
- (2) The experience requirements for all contractor license classifications listed in Subsection R156-55a-302a(2) are:
 - (a) Unless otherwise provided in this rule, two years of experience lawfully performed preceding the date of application under the general supervision of a contractor, and subject to the following:
 - (i) If the experience was completed in Utah, it shall be:
 - (A) completed while a W-2 employee of a licensed contractor; or
 - (B) completed while working as an owner of a licensed contractor, which has for all periods of experience claimed, employed a qualifier who performed the duties and served in the capacities specified in Subsection 58-55-304(4) and in Subsection R156-55a-304.
 - (ii) If the experience was completed outside of the state of Utah, it shall:
 - (A) be completed in compliance with the laws of the jurisdiction in which the experience is completed;
 - (B) not be considered qualifying experience if the construction activities in the other jurisdiction would be exempt from licensure in Utah; and
 - (C) be completed with supervision that is substantially equivalent to the supervision required in Utah.]
 - (1)1)1) Experience while performing construction activities in the military~~[military, regardless of licensure or Subsection (2)(a)(v), may be determined to be substantially equivalent if lawfully obtained in a setting which has supervision of qualified persons and an equivalent scope of work.~~

~~(iv) Experience obtained while incarcerated is not qualifying experience.~~

~~(v) Experience obtained while exempt from licensure under Subsection 58-55-305(1) is not qualifying experience.]~~

~~(vi)c) Experience obtained under the supervision of a construction trades instructor as a part of an educational program is [not] qualifying experience for a contractor's license.~~

~~(2)(a) "Two years full-time paid employment", as defined in Subsection 58-55-302910(e)(ii)(A), shall be a total of 4,000 hours paid employment.~~

~~(b) The following shall satisfy the experience requirement in Subsection 58-55-302(1)(e)(ii)(A):~~

~~(i) a passing score on the NASCLA Accredited Examination for Commercial General Building Contractors;~~

~~(ii) a four-year bachelor's degree or a two-year associate's degree in Construction Management; or~~

~~(iii) a Utah professional engineer license.~~

~~(b) One year of work experience means 2,000 hours.~~

~~(c) No more than 2,000 hours of experience during any 12-month period may be claimed.~~

~~(d) If the applicant is unable to provide sufficient evidence of qualifying experience and the applicant's qualifying experience was previously approved in the state of Utah, a passing score on the contractor examination and the laws and rules examination obtained within the one-year period preceding the date of application will requalify the applicant's experience.~~

~~(3) Requirements for E100 General Engineering, B100 General Building, R100 Residential and Small Commercial Building license classifications:~~

~~(a) One of the required two years of experience shall be in a supervisory or managerial position.~~

~~(b) A person holding a four-year bachelors degree or a two-year associates degree in Construction Management may have one year of experience credited towards the supervisory or managerial experience requirement.~~

~~(c) A person holding a Utah professional engineer license may be credited with satisfying one year toward the supervisory or managerial experience required for E100 contractor license.~~

~~(4) Requirements for H01 General Engineering Trades Instruction Facility, H02 General Building Trades Instruction Facility, H03 Electrical Trades Instruction Facility, H04 Plumbing Trades Instruction Facility, H05 Mechanical Trades Instruction Facility license classifications:~~

~~An applicant for construction trades instruction facility license shall have the same experience that is required for the license classifications for the construction trade they will instruct.]~~

~~(5)3) Requirements for [E]S202 Solar Photovoltaic Contractor. In addition to the requirements of Subsections (1) and (2), an applicant shall hold a current certificate by the NABCEP.~~

~~(6)4) Requirements for S354 Radon Mitigation Contractor. In addition to the requirements of Subsections (1) and (2), an applicant shall hold a current certificate issued by the NRSB or the AARST-NRPP.]~~

~~R156-55a-302c. Qualifications for Licensure Requiring Licensure in a Prerequisite Classification.~~

~~(1) An applicant as a qualifier for licensure as a H03 Electrical Trades Instruction Facility shall also be licensed as a master electrician or a residential master electrician.~~

~~(2) An applicant as a qualifier for licensure as a H04 Plumbing Trades Instruction Facility shall also be licensed as a master plumber or a residential master plumber.]~~

~~R156-55a-302e. [Additional] Requirements for Construction Trades Instructors, Schools and Colleges [Classifications].~~

~~In accordance with Subsection 58-55-302(1)(f), [the following additional requirements for licensure are established:~~

~~(1) A]any school that provides instruction to students by engaging in the construction trade for the public as part of the instruction is required to be a Utah licensed contractor with the classification in the scope of practice in which the students are being instructed.[building houses for sale to the public is required to become a Utah licensed contractor with a B100 General Building Contractor or R100 Residential and Small Commercial Building Contractor classification or both.~~

~~(2) Any school that provides instruction to students by building houses for sale to the public is also required to be licensed in the appropriate instructor classification.~~

~~(a) Before being licensed in a construction trades instruction facility classification, the school shall submit the name of an individual person who acts as the qualifier in each of the construction trades instructor classifications in accordance with Section R156-55a-304. The applicant for licensure as a construction trades instructor shall:~~

~~(i) provide evidence that the qualifier has passed the required examinations established in Section R156-55a-302a; and~~

~~(ii) provide evidence that the qualifier meets the experience requirement established in Subsection R156-55a-302b(4).~~

~~(3) Each individual employed by a school licensed as a construction trades instruction facility and working with students on a job site shall meet any teacher certification, or other teacher requirements imposed by the school district or college, and be qualified to teach the construction trades instruction facility classification as determined by the qualifier.]~~

~~R156-55a-302f. Pre-licensure Education - Standards.~~

~~(1) Qualifier Education Requirement. The 25-hour pre-licensure course required by Subsection 58-55-302(1)(e)(iii) and the five-hour pre-licensure course required by Subsection 58-55-302(1)(e)(iv) shall be completed by the qualifier for a contractor license applicant.~~

~~(a) Any approved 20-hour pre-licensure course completed by the [applicant]qualifier before November 30, 2017 shall be accepted by the Division as satisfaction of the 25-hour and five-hour pre-licensure course requirements in Subsection 58-55-302(1)(e)(iii) and (iv).~~

~~(b) Any approved 25-hour pre-licensure course completed by the qualifier before July 1, 2019 shall be accepted by the Division as satisfaction of the 25-hour and five-hour pre-licensure course requirements in Subsection 58-55-302(1)(e)(iii) and (iv).~~

~~(2) Program Pre-Approval. A pre-licensure course provider shall submit an application for approval as an approved pre-licensure course provider on the form provided by the Division. The applicant shall demonstrate compliance with Section R156-55a-302f.~~

~~(3) Eligible Providers. The following may be approved to provide pre-licensure courses:~~

~~_____ (a) a nationally or regionally recognized accredited college or university having a physical campus located within the State of Utah; or~~

~~_____ (b) a non-profit Utah construction trades association involved in the construction trades in the State of Utah:~~

~~_____ (i) representing multiple construction classifications;~~

~~_____ (ii) with membership of:~~

~~_____ (A) at least 250 contractors licensed in Utah; or~~

~~_____ (B) less than 250 members, if the association is:~~

~~_____ (I) competent, as determined by the Commission and the Director according to their sole discretion; and~~

~~_____ (H) compliant with all other standards of this rule; and~~

~~_____ (iii) having five years of experience providing education to contractors in Utah.]~~

([4]2) Content of the 25-hour course. The 25-hour course may include a [n] provider-administered exam at the end of the course for no additional fee, and shall include the following topics and hours of education relevant to the practice of the construction trades consistent with the laws and rules of this state:

(a) 15 hours of financial responsibility instruction that includes the following:

(i) record keeping and financial statements;

(ii) payroll, including:

(A) payroll taxes;

(B) worker compensation insurance requirements;

(C) unemployment insurance requirements;

(D) professional employer organization (employee leasing) alternatives;

(E) prohibitions regarding paying employees on 1099 forms as independent contractors, unless licensed or exempted;

(F) employee benefits; and

(G) Fair Labor Standard Act;

(iii) cash flow;

(iv) insurance requirements including auto, liability, and health; and

(v) independent contractor licensure and exemption requirements;

(b) six hours of construction business practices that includes the following:

(i) estimating and bidding;

(ii) contracts;

(iii) project management;

(iv) subcontractors; and

(v) suppliers;

(c) two hours of regulatory requirements that includes the following:

(i) licensing laws;

(ii) Occupational Safety and Health Administration (OSHA);

(iii) Environmental Protection Agency (EPA); and

(iv) consumer protection laws; and

(d) two hours of mechanic lien fundamentals that include the State Construction Registry.

(3) Content of the five-hour course. The five-hour course shall include five hours of education on the topics covered in the Utah Contractor Business and Law examination. The five-hour course may include a provider-administered exam at the end of the course for no additional fee.

([5]4) Program Schedule.

(a) An approved pre-licensure course provider shall offer the 25-hour ~~and five-hour~~ course:

(i) at least 12 times per year; and

(ii) comply with Subsection 58-55-102(7)(b).

(b) An approved pre-licensure course provider is not obligated to provide a course if the provider determines the enrollment is not sufficient to reach breakeven on cost.

([6]5) Program Instruction Requirements: The pre-licensure course shall meet the following standards:

(a) Time. Each hour of pre-licensure course credit shall consist of 50 minutes of education in the form of live lectures or training sessions. Time allowed for lunches or breaks may not be counted as part of the course time for which course credit is issued.

(b) Learning Objectives. The learning objectives of the pre-licensure course shall be reasonably and clearly stated.

(c) Teaching Methods. The pre-licensure course shall be presented in a competent and well organized manner consistent with the stated purpose and objective of the program. The student must demonstrate knowledge of the course material.

(d) Faculty. The pre-licensure course shall be prepared and presented by individuals who are qualified by education, training or experience.

(e) Distance Learning. Distance learning, internet courses, and home study courses are not allowed to meet pre-licensure course requirements.

(f) Registration and Attendance. The provider shall have a competent method of registration and verification of attendance of individuals who complete the pre-licensure education.

(g) Education Curriculum and Study/Resource Guide. The provider shall be responsible to provide or develop pre-licensure course curriculum and study/resource guide for the pre-licensure course that must be pre-approved by the Commission and the Division prior to use by the provider.

(h) Live Broadcast. The pre-licensure education course may be taught by live broadcast if:

(i) the student and the instructor are able to see and hear each other; and

(ii) a representative of the provider is at any remote location to monitor registration and attendance at the course.

([7]6) Certificates of Completion. The pre-licensure course provider shall provide individuals completing the pre-licensure course a certificate that contains the following information:

(a) the date of the pre-licensure course;

(b) the name of the pre-licensure course provider;

(c) the attendee's name;

(d) verification of completion[~~of the 25-hour requirement~~]; and

(e) the signature of the pre-licensure course provider.

([8]7) Reporting of Program Completion. A pre-licensure course provider shall, within seven calendar days, submit directly to the Division verification of attendance and completion on behalf of persons attending and completing the program. This verification shall be submitted on forms provided by the Division.

([9]8) Program Monitoring. On a random basis, the Division or Commission may assign monitors at no charge to attend a pre-licensure course for the purpose of evaluating the course and the instructor(s).

~~[(10)]2~~ Documentation Retention. Each provider shall for a period of four years maintain adequate documentation as proof of compliance with this section and shall, upon request, make such documentation available for review by the Division or the Commission. Documentation shall include:

- (a) the dates of all pre-licensure courses that have been completed;
- (b) registration and attendance logs of individuals who completed the pre-licensure course;
- (c) the name of instructors for each course provided as a part of the program; and
- (d) pre-licensure course handouts and materials.

~~[(11)]10~~ Disciplinary Proceedings. As provided in Section 58-1-401 and Subsection 58-55-302(1)(e)(iii), the Division may refuse to renew or may revoke, suspend, restrict, place on probation, issue a public reprimand to, or otherwise act upon the approval of any pre-licensure course provider, if the pre-licensure course provider fails to meet any of the requirements of this section or the provider has engaged in other unlawful or unprofessional conduct.

~~[(12)]11~~ Exemptions. In accordance with Subsections 58-55-302(1)(e)(iii) and (iv), the following persons are not required to complete the pre-licensure course program requirements:

- (a) a person holding a four-year bachelor degree or a two-year associate degree in Construction Management from an accredited program;
- (b) a person holding an active and unrestricted Utah professional engineer license ~~who is applying for the E100 contractor license classification~~; ~~or~~
- (c) a person who ~~is~~ ~~or has been~~ a qualifier on an active and unrestricted contractor license within the past five years; ~~is~~
 - ~~(i) became the qualifier on the license on or before October 9, 2014; and~~
 - ~~(ii) is applying to:~~
 - ~~(A) add additional contractor classifications to the license; or~~
 - ~~(B) become a qualifier on a new entity that is applying for initial licensure.~~

R156-55a-303b. Continuing Education - Standards.

(1) Required Hours. Pursuant to Subsection 58-55-302.5, each licensee shall complete six hours of continuing education during each two-year license term. A minimum of three hours shall be core education; the remaining three hours may be professional education or core education. A minimum of three hours shall consist of live in-class attendance; the remaining three hours may consist of distance learning courses.

(a) Regular attendance by a commission member on the Construction Services Commission shall satisfy the member's continuing education requirements under Section 58-55-302.5.

(b) For an HVAC contractor licensee, at least three of the six hours described in Subsection (1) shall include continuing education directly related to the installation, repair, or replacement of a heating, ventilation, or air conditioning system.

(c) For all contractors with a renewal cycle that ends after January 1, 2020, at least one of the six hours described in Subsection (1) shall include energy conservation.

~~[(e)]d~~ "Core continuing education" is defined as construction codes, construction laws, job site safety, OSHA 10 or OSHA 30 safety training, governmental regulations pertaining to the construction trades and employee verification and payment practices, finance, bookkeeping, energy conservation, and construction business practices.

~~[(e)]e~~ "Professional continuing education" is defined as substantive subjects dealing with the practice of the construction trades, including land development, land use, planning and zoning, ~~energy conservation,~~ professional development, arbitration practices, estimating, marketing techniques, servicing clients, personal and property protection for the licensee and the licensee's clients and similar topics.

~~[(e)]f~~ The following course subject matter is not acceptable as core education or professional education hours: mechanical office and business skills, such as typing, speed reading, memory improvement and report writing; physical well-being or personal development, such as personal and business motivation, stress management, time management, dress for success, or similar subjects; presentations by a supplier or a supplier representative to promote a particular product or line of products; and meetings held in conjunction with the general business of the licensee or employer.

~~[(f)]g~~ The Division may defer or waive the continuing education requirements as provided in Section R156-1-308d.

(2) A continuing education course shall meet the following standards:

(a) Time. Each hour of continuing education course credit shall consist of 50 minutes of education in the form of seminars, lectures, conferences, training sessions or distance learning modules. The remaining ten minutes is to allow for breaks.

(b) Provider. The course provider shall be among those specified in Subsection 58-55-302.5(2).

(c) Content. The content of the course shall be relevant to the practice of the construction trades and consistent with the laws and rules of this state.

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

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

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

(g) Distance learning. A course that is provided through Internet or home study may be recognized for continuing education if the course verifies registration and participation in the course by means of a test demonstrating that the participant has learned the material presented. Test questions shall be randomized for each participant. A home study course shall include no fewer than five variations of the final examination, distributed randomly to participants. Home study courses, including the five exam variations, shall be submitted in their entirety to the Division for review. Providers shall track the following:

- (i) the amount of time each student has spent in the course;
- (ii) what activities the student did or did not access; and
- (iii) all of the student's test scores.

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

- (i) the date of the course;
- (ii) the name of the course provider;
- (iii) the name of the instructor;
- (iv) the course title;
- (v) the hours of continuing education credit and type of credit (core or professional);
- (vi) the attendee's name; and
- (v) the signature of the course provider.

(i) Live Broadcast. A course provided through live broadcast may be recognized for live in-class continuing education credit if the student and the instructor are able to see and hear each other.

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

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

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

(6) The continuing education requirement for electricians, plumbers and elevator mechanics as established in Subsections 58-55-302.7, if offered by a provider specified in Subsection 58-55-302.5(2), shall satisfy the continuing education requirement for contractors as established in Subsection 58-55-302.5 and implemented herein. The contractor licensee shall assure that the course provider has submitted the verification of the electrician's, plumber's or elevator mechanic's attendance on behalf of the licensee to the continuing education registry as specified in Subsection (8).

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

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

(9) As provided in Section 58-1-401 and Subsections 58-55-302.5(2) and 58-55-302.7(4)(a), the Division may refuse to renew or may revoke, suspend, restrict, place on probation, issue a

public reprimand to, or otherwise act upon the approval of any course or provider, if the course or provider fails to meet any of the requirements of this section or the provider has engaged in unlawful or unprofessional conduct.

(10) Continuing Education Registry.

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

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

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

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

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

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

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

(c) Fees. A continuing education registry may charge a reasonable fee to continuing education providers or licensees for services provided for review and approval of continuing education programs.

R156-55a-304. Contractor License Qualifiers.

(1) The capacity and material authority specified in Subsection 58-55-304(4) is clarified as follows:

(a) Except as allowed in Subsection (b), the qualifier must receive remuneration for work performed for the contractor licensee for not less than 12 hours of work per week.

(i) If the qualifier is an owner of the business, the remuneration may be in the form of owner's profit distributions or dividends with a minimum ownership of 20 percent of the contractor licensee.

(ii) If the qualifier is an officer or manager of the contractor licensee, the remuneration must be in the form of W-2 wages.

(b) The 12 hour minimum in Subsection (a) may be reduced if the total of all hours worked by all owners and employees is less than 50 hours per week, in which case the minimum may not be less than 20 percent of the total hours of work performed by all owners and employees of the contractor.

(2)(a) A qualifier may hold up to three specialty classifications, in addition to any general contractor classifications, except that an R101 Residential and Small Commercial Non-Structural Remodeling and Repair qualifier may not have any other specialty classifications.

(b) A qualifier may change classifications at any time by surrendering a classification, and by applying for any classification for which the qualifier is permitted by law.

(c) A current qualifier shall surrender or replace the qualifier's classifications as needed to comply with Subsection (2)

(a) at the time of any renewal or reinstatement involving the qualifier.

(3) A qualifier may not act as the qualifier for more than three licensees at any one time, unless:

(a) the qualifier demonstrates by sufficient evidence satisfactory to the Commission and the Division that the qualifier exercises material authority over the businesses; and

(b) written approval is granted by the Commission and the Division.

~~(4) Construction Trades Instruction Facility Qualifier. In accordance with Subsection 58-55-302(1)(f), the contractor license qualifier requirements in Section 58-55-304 shall also apply to construction trades instruction facilities.~~

~~**[R156-55a-308a. Operating Standards for Schools or Colleges Licensed as Contractors:**~~

~~(1) Each school licensed as a B100 General Building Contractor or a R100 Residential and Small Commercial Contractor or both shall obtain all required building permits for homes built for resale to the public as part of an educational training program.~~

~~(2) Each employee that works as a teacher for a school licensed as a construction trades instruction facility shall:~~

~~(a) have on their person a school photo ID card with the trade they are authorized to teach printed on the card; and~~

~~(b) if instructing in the plumbing or electrical trades, also carry on their person their Utah journeyman or residential journeyman plumber license or Utah journeyman, residential journeyman, master, or residential master electrician license.~~

~~(3) Each school licensed as a construction trades instruction facility shall not allow any teacher or student to work on any portion of the project subcontracted to a licensed contractor unless the teacher or student are lawful employees of the subcontractor.~~

KEY: contractors, occupational licensing, licensing

Date of Enactment or Last Substantive Amendment: ~~January 17,~~ **2019**

Notice of Continuation: August 4, 2016

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-55-101; 58-55-308(1)(a); 58-55-102(39)(a)

Education, Administration
R277-462
Comprehensive Counseling and
Guidance Program

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 43728

FILED: 05/21/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These changes to Rule R277-462 are required

due to the passage of H.B. 81 from the 2019 General Session.

SUMMARY OF THE RULE OR CHANGE: Utah State Board of Education (Board) Rule R277-462 has been amended to provide more clarity regarding existing program approval requirements. These amendments include incorporating by reference the State Board of Education's School Counseling, Model Program.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X Section 3 and Subsection 53E-2-304(2)(b) and Subsection 53E-3-401(4)

MATERIALS INCORPORATED BY REFERENCE:

- ◆ Updates College and Career Readiness School Counseling Model, published by Utah State Board of Education, 01/11/2017

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** These rule changes are not expected to have any fiscal impact on state government's revenues or expenditures. This rule contains standards and procedures for a local education agencies (LEA) applying for funds appropriated for the School Counseling Program; outlines counselor to student ratios; and contains provisions for a LEA not meeting the minimum school counselor to student ratio. This rule is amended due to passage of H.B. 81 (2019). The School Counseling Program is funded through a state appropriation and the amended provisions do not contain substantive changes, and thus this rule change will not have a fiscal impact.

◆ **LOCAL GOVERNMENTS:** These rule changes are not expected to have any fiscal impact on local governments' revenues or expenditures. This rule contains standards and procedures for an LEA applying for funds appropriated for the School Counseling Program; outlines counselor to student ratios; and contains provisions for a LEA not meeting the minimum school counselor to student ratio. This rule is amended due to passage of H.B. 81 (2019). The School Counseling Program is funded through a state appropriation and the amended provisions do not contain substantive changes, and thus this rule change will not have a fiscal impact.

◆ **SMALL BUSINESSES:** These rule changes are not expected to have any fiscal impact on small businesses' revenues or expenditures. This rule is for the School Counseling Program, and thus does not apply to small businesses.

◆ **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. This rule is for the School Counseling Program, and thus does not apply to other individuals.

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

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). These rule changes have no fiscal impact on local education agencies and will not have a fiscal impact on non-small or small businesses. The Program Analyst at the Utah State Board of Education, Jill Curry, 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 07/15/2019

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2019

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

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). Thus, these rule changes are not expected to have any fiscal impact on non-small businesses' revenue or expenditures because there are no applicable non-small businesses and it does not require any expenditures or generate revenues for non-small businesses.

The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
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

R277. Education, Administration.

[R277-462. Comprehensive Counseling and Guidance Program.

R277-462-1. Definitions.

- A. "Board" means the Utah State Board of Education.
- B. "Comprehensive Counseling and Guidance Program" or "Program" means the organization of resources to meet the priority needs of students and inform and involve parents or guardians through four delivery system components:
 - (1) school guidance curriculum which means providing guidance content to all students in a systemic way;
 - (2) individual student planning which means individualized education and career planning, including student college and career planning with all students;
 - (3) responsive services and dropout prevention component designed to meet the immediate concerns of certain students; and
 - (4) system support component which addresses management of the Program and the needs of the school system itself.
- C. "Comprehensive Counseling and Guidance Steering and Advisory Committee" means representatives designated by the USOE comprised of school district counseling supervisors, school district

career and technical education directors, PTA, the school counselor professional association, practicing school counselors, and others designated by the USOE.

D. "Counselor to student ratio" means licensed school counselors full time equivalent (FTE), or percentage thereof, who by license and assignment are identified as school counselors for secondary students on October 1 of each year compared to the secondary student enrollment on October 1 of each year.

E. "Direct services" means time spent on the school guidance curriculum, individual student planning, including SEOP/Plan for College and Career Readiness, and responsive services/dropout prevention activities meeting students' identified needs as discerned by students, school personnel and parents or guardians consistent with LEA policy.

F. "LEA" means a local education agency, including local school boards/public school districts and charter schools.

G. "School counselor" means an educator licensed as a school counselor in the state of Utah consistent with R277-506 and assigned to provide counseling and information to students to make appropriate educational and career choices.

H. "Secondary school" means a school providing services to students in grades 7-12.

I. "Secondary student" means a student in grades 7-12.

J. "SEOP/Plan for College and Career Readiness" means a student education occupation plan. An SEOP/Plan for College and Career Readiness is a developmentally organized intervention process that includes:

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

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

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

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

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

K. "Student achievement" means academic performance, career development, multi-cultural/global citizenship, personal/social development, continued student engagement in learning, attendance, SEOP/Plan for College and Career Readiness outcomes and other measures of adequate yearly progress.

L. "USOE" means the Utah State Office of Education.

M. "Utah Career and Technical Education Consortium" means representatives of nine Career and Technical Education Regional Planning Areas.

N. "WPU" means weighted pupil unit, the basic unit used to calculate the amount of state funds for which an LEA is eligible.

R277-462-2. Authority and Purpose.

A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and authority over public education in the Board, by Subsection 53E-2-304(2)(b) which directs local boards to develop policies for the implementation of student SEOP/Plan for College and Career Readiness, and by Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities:

B. This rule establishes standards and procedures for entities applying for funds appropriated for Comprehensive Counseling and Guidance Programs administered by the Board.

C. This rule establishes counselor to student ratios as a requirement for all secondary schools.

D. This rule establishes provisions for LEAs not meeting the minimum counselor to student ratios.

E. This rule directs that LEA and building level policies and practices shall free licensed school counselors for appropriate identified activities with secondary students.

R277-462-3. Comprehensive Counseling and Guidance Program Approval and Qualifying Criteria.

A. Comprehensive Counseling and Guidance disbursement criteria:

(1) In order to qualify for Comprehensive Counseling and Guidance Program funds, secondary schools shall implement SEOP/Plan for College and Career Readiness policies and practices, consistent with Sub53E-2-304(2)(b), local board or charter school governing board policies, and the school improvement plans developed for AdvancED Accreditation and required under Section 53G-7-1204.

(2) Consistent with the Utah Model for Comprehensive Counseling and Guidance: K-12 Programs, the USOE shall designate to each LEA secondary school, that has a USOE-approved school-counseling program, a WPU base for the first 400 students as determined by the October 1 enrollment of the previous fiscal year. The USOE shall also designate a per student allotment, as funds are available, for each additional student beyond 400, capping at a maximum 1200 students, if the local Program maintains Program criteria and ratios required in R277-462-5.

(3) The USOE shall give priority for funding to grades nine through twelve for career and technical education programs including the Comprehensive Counseling and Guidance Program and any remaining funds to grades seven and eight for the schools which meet Comprehensive Counseling and Guidance Program standards. The USOE shall distribute funds directed to grades seven and eight according to the formula under R277-462-3A(2) following the distribution of funds for grades nine through twelve.

(4) The USOE shall integrate the LEA Comprehensive Counseling and Guidance Program into the mission of the schools consistently with the AdvancED Accreditation process as defined in R277-410, Accreditation of Schools. School counselors shall provide evidence that the Comprehensive Counseling and Guidance Program contributes to student achievement included in the local school improvement plan.

(5) Secondary schools shall qualify for Comprehensive Counseling and Guidance Program funds through participation in a regular schedule of on-site reviews by the USOE Comprehensive Counseling and Guidance Program specialist in the formal process and team members determined by the LEA's authorizing agency during the interim review process. The USOE shall schedule the on-site review process for secondary schools as defined in R277-410 which shall take place at a minimum every six years with three year interim reviews, in a format determined by the LEA authorizing agency. Successful on-site reviews of the Comprehensive Counseling and Guidance Program shall indicate a balance of activities consistent with Program models and goals in individual student planning, guidance curriculum, responsive services and system support.

~~(6) If a charter school requires assistance from a school district in conducting the charter school's on-site review, the charter school shall negotiate that payment.~~

~~(7) The USOE shall distribute Comprehensive Counseling and Guidance Program funds to LEAs for secondary schools that have completed a regular schedule of on-site reviews and that meet all of the following criteria:~~

~~(a) Approval of the Comprehensive Counseling and Guidance Program by the local board of education or charter school governing board and on-going communication with the local or governing board regarding Program goals and outcomes supported by data;~~

~~(b) Regular participation of guidance team members in USOE sponsored Comprehensive Counseling and Guidance training;~~

~~(c) Adequate resources and support for guidance facilities; material, equipment, clerical support, and school improvement processes;~~

~~(d) Evidence that eighty-five percent of aggregate counselors' time is devoted to DIRECT service to students through a balanced program of individual planning, school guidance curriculum, and responsive services consistent with the results of the school needs data;~~

~~(e) Communication, collaboration, and coordination within the feeder system regarding the Comprehensive Counseling and Guidance Program;~~

~~(f) School-wide student/parent/teacher needs assessment data for the Comprehensive Counseling and Guidance Program gathered and analyzed at least every three years;~~

~~(g) Structures and processes to ensure effective Program management including advisory/steering committees functioning effectively, school counselors working as Program leaders, and the Comprehensive Counseling and Guidance Program contributing to school improvement teams;~~

~~(h) Available responsive services to address the immediate concerns and identified needs of students through an education-oriented and programmatic approach; services should compliment and coordinate with existing school programs, families, and school and community resources;~~

~~(i) Delivery to students of a developmental and sequential school guidance curriculum in harmony with content standards identified in the Utah model for the Comprehensive Counseling and Guidance Program. A school/LEA shall set priorities for Guidance curriculum consistent with the results of the school needs assessment process;~~

~~(j) Assistance for students in career development, including awareness and exploration, job-seeking and finding skills, and post high school placement;~~

~~(k) Facilitation by school counselors of SEOP/Plan for College and Career Readiness, both as a process and a product;~~

~~(l) Involvement of parents/guardians in all available Comprehensive Counseling and Guidance Program steering/advisory committees; and~~

~~(m) Program elements that are designed to recognize and address the needs of diverse students.~~

~~B. All LEA governing boards that receive Comprehensive Counseling and Guidance Program funds shall provide written certification that all Program standards are met by each school consistent with USOE cycles and using USOE forms.~~

~~(1) All LEAs receiving Comprehensive Counseling and Guidance Program funds shall provide school-based data projects demonstrating program or intervention effectiveness as required by the USOE.~~

~~(2) School counselors shall not devote significant time to non-school counseling activities, including test coordination and assessment, and other activities inconsistent with the Program.~~

~~R277-462-4. Student Education Occupation Planning in a Plan for College and Career Readiness.~~

~~A. Secondary schools that receive Comprehensive Counseling and Guidance funds shall complete a written SEOP/Plan for College and Career Readiness for all students.~~

~~B. Parents/guardians shall sign plans.~~

~~C. Students shall complete four year plans at the beginning of their seventh grade year.~~

~~D. Students' schools shall maintain plans.~~

~~E. Students' course registration and class changes shall be consistent with their written SEOP/Plan for College and Career Readiness.~~

~~F. Schools shall implement students' SEOP/Plan for College and Career Readiness process consistent with the policies and goals of the LEAs' Comprehensive Counseling and Guidance Program models. The student, student's parent/guardian and school personnel shall cooperatively develop the SEOP/Plan for College and Career Readiness during the first two years in which the student is enrolled in grades 7-12 in the LEA. The implementation for the SEOP/Plan for College and Career Readiness shall include the following conferences:~~

~~(1) 7th and 8th grades: minimally one individual and one group conference during the two years;~~

~~(2) 9th and 10th grades: minimally one individual conference and one group conference during the two years;~~

~~(3) 11th and 12th grades: minimally one individual conference and one group conference during the two years; and~~

~~(4) other meetings, as necessary.~~

~~R277-462-5. School Counselor to Student Ratios.~~

~~A. All LEAs shall certify to the USOE by October 1 annually:~~

~~(1) the full time equivalent licensed school counselors employed and assigned to each school;~~

~~(2) that secondary school counselor to secondary student ratios at the LEA level are one (counselor) to 350 (students) or better; and~~

~~(3) that variations requiring less than a .25 full time equivalent licensed school counselor shall be permitted at the school level.~~

~~B. June 1 annually, LEAs not meeting the ratio required under R277-462-5A(2), shall submit to the Board a plan to be approved for meeting established ratios in a reasonable time frame to continue to receive Comprehensive Counseling and Guidance Program and Minimum School Program funding.~~

~~C. LEAs that do not satisfy required counselor to student ratios shall receive reasonable notice and reasonable time periods and opportunities to explain and remedy the failure to comply.~~

~~D. As additional funds for Comprehensive Counseling and Guidance Programs become available, the Board may require LEAs to have lower counselor to student ratios, following notice to LEAs.~~

~~R277-462-6. Use of Comprehensive Counseling and Guidance Program Funds:~~

- ~~A. LEAs shall satisfy all provisions of R277-462 including established counselor to student ratios, in order to receive Comprehensive Counseling and Guidance Program funds.~~
- ~~B. LEAs shall use funds for students in grades 7-12.~~
- ~~C. LEAs may use funds to provide a school guidance curriculum.~~
- ~~D. LEAs may use funds to provide student activities that support the SEOP/Plan for College and Career Readiness process.~~
- ~~E. LEAs may use funds for personnel costs including clerical positions that support the SEOP/Plan for College and Career Readiness process.~~
- ~~F. LEAs may use funds for Career Center equipment or materials such as computers, media equipment, computer software, occupational information, SEOP/Plan for College and Career Readiness folders or educational information.~~
- ~~G. LEAs may use funds for professional development for personnel involved in the Comprehensive Counseling and Guidance Program.~~
- ~~H. LEAs may use funds for the expenses of extended days or years which are required to run the Program.~~
- ~~I. LEAs may use funds for classroom guidance curriculum materials.~~
- ~~J. LEAs may use funds to pay for at least one secondary school counselor, per school, per year for membership in the American School Counselor Association (ASCA) to facilitate accessing research and resources for effective Program implementation and effective student interventions and outcomes.~~
- ~~K. LEAs shall not use funds to supplant current or existing personnel or programs.~~
- ~~L. The USOE may use no more than two percent of the total Comprehensive Counseling and Guidance Program funding to provide SEOP/Plan for College and Career Readiness development and Program management.~~

~~R277-462-7. Variances, Accountability and Reporting.~~

- ~~A. New schools that are created from schools that have AdvanceED accreditation and USOE Comprehensive Counseling and Guidance Program approval may qualify for Comprehensive Counseling and Guidance Program funding under this rule in the schools' first year of operation.~~
- ~~B. New LEA schools not meeting the requirements of R277-462-5A may receive Comprehensive Counseling and Guidance Program funding following two years of planning, training and Program implementation.~~
- ~~C. USOE Data Gathering~~
- ~~(1) The USOE shall gather data annually in October from LEAs regarding the number and assignments of school counselors.~~
- ~~(2) The USOE shall use the data to determine LEA compliance with this rule, including required ratios.~~
- ~~D. The USOE shall monitor the Program statewide and prepare an annual report for the Legislature and the Board including data and compliance information.~~
- ~~E. LEAs shall certify on an annual basis that previously-qualified schools continue to meet the Program criteria and provide the USOE with data and information on the Program upon request.]~~

R277-462. School Counseling Program.**R277-462-1. Authority and Purpose.**

- (1) This rule is authorized by:
- (a) Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board;
- (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
- (c) Subsection 53E-2-304(2)(b) which directs local boards to develop policies for the implementation of student Plan for College and Career Readiness.
- (2) The purpose of this rule is to establish:
- (a) standards and procedures for an LEA applying for funds appropriated for the School Counseling Program;
- (b) the minimum counselor to student ratios within an LEA; and
- (c) provisions for an LEA not meeting the minimum counselor to student ratios;

R277-462-2. Definitions.

- (1) "LEA" means, for purposes of this rule, an LEA that serves students any of in grades 7-12.
- (2) "Program" means an LEA's school counseling program that shall be consistent with the program model described in Section R277-462-3.
- (3) "School Counselor" means an educator licensed as a school counselor consistent with R277-506 and assigned to provide direct and indirect services to students consistent with the program.
- (4) "Student" means, for purposes of this rule, only students in grades 7-12.

R277-462-3. Incorporation of College and Career Readiness School Counseling Program Model.

- (1) This rule incorporates by reference the College and Career Readiness School Counseling Model Second Edition, 2016.
- (2) A copy of the current College and Career Readiness School Counseling Program Model is located at:
- (a) <https://schools.utah.gov/file/5ff1f145-c2c4-4fe5-b8bc-61c744a27f51>
- (b) the Utah State Board of Education -- 250 East 500 South, Salt Lake City, Utah 84111.

R277-462-4. School Counseling Program Approval and Qualifying Criteria.

- (1) To qualify for a funding distribution outlined in subsection (2), an LEA shall:
- (a) have a plan for college and career readiness consistent with Section 53E-2-304 and R277-462-5;
- (b) have an approved student success framework described in Section 53G-7-1304;
- (c) participate in an on-site program review conducted by the Superintendent which shall:
- (i) at least once every six years, be conducted with an LEA's accreditation review described in R277-410; and
- (ii) assess the following components of the program:
- (A) collaborative classroom instruction;

_____ (B) implementation of the plan for college and career readiness;

_____ (C) program contribution to achieving the student success framework;

_____ (D) systemic dropout prevention; and

_____ (E) overall administration of the program.

_____ (d) at least once every three years conduct an internal on-site review consistent with elements of the on-site review conducted by the Superintendent;

_____ (e) ensure school's program is self-evaluated annually;

_____ (f) participate in statewide trainings provided by the Superintendent;

_____ (g) provide adequate resources and program management to each program within the LEA;

_____ (h) conduct a program needs assessment with relevant stakeholders at least once every three years including school-based data projects demonstrating program or intervention effectiveness;

_____ (i) provide evidence of LEA governing board approval of the program;

_____ (j) demonstrate parental involvement in the program including advisory committee participation;

_____ (k) integrate collaborative classroom instruction consistent with student success framework and standards identified by the program model;

_____ (l) maintain the required school counselor to student ratio described in Section R277-462-6;

_____ (m) design a program that includes the needs of diverse students; and

_____ (n) provide assistance for students in career literacy and future decision-making skills.

_____ (2) An LEA that meets the requirements in subsection (1) may receive a funding distribution as follows:

_____ (a) a WPU base for the first 400 students; and

_____ (b) a per student distribution for each additional student beyond 400 students, up to 1200 students.

_____ (3) An LEA shall use the October 1 enrollment count of the previous fiscal year when determining the distribution amount to request.

R277-462-5. Plan for College and Career Readiness.

_____ (1) To qualify for funding described in Section R277-462-4 an LEA shall ensure each student within the LEA has a plan for college and career readiness.

_____ (2) A student, student's parent, and school counselor shall collaboratively develop the student's plan for college and career readiness.

_____ (3) A plan for college and career readiness shall:

_____ (a) be a four-year plan and completed either:

_____ (i) initiated at the beginning of a student's seventh grade year; or

_____ (ii) within the first year the student is enrolled in grades 7-12;

_____ (b) include parents in the individual planning meetings with a student;

_____ (c) be maintained by the counseling department in each school;

_____ (d) follow a student as the student progresses through each grade; and

_____ (e) when applicable, transfer with a student between LEAs.

_____ (4) An LEA shall ensure that a student's course registration and class schedule is consistent with the student's plan for college and career readiness.

_____ (5) An LEA shall require all schools with the LEA to document parental involvement and participation in a student's planning meetings.

_____ (5) An LEA shall ensure the implementation for a plan for college and career readiness is consistent with the LEA's program goals and includes the following conference meetings:

_____ (a) at least one individual and one group conference meeting with a parent, school counselor and student during the student's:

_____ (i) grades 7 and 8;

_____ (ii) grades 9 and 10; and

_____ (iii) grades 11 and 12.

_____ (b) other meetings as needed.

R277-462-6. School Counselor to Student Ratios.

_____ (1) To qualify for funding described in Section R277-462-4 an LEA shall have at least one school counselor for every 350 students.

_____ (2) For purposes of counting toward fulfillment of this ratio, a school counselor shall be:

_____ (a) a full-time equivalent within an LEA; and

_____ (b) Board certified and licensed.

_____ (3) An LEA may be considered compliant with subsection (1) if less than .25 school counselors would be needed for the LEA to meet the required ratio.

_____ (4) No later than October 1 of each year an LEA shall certify to the Superintendent the school counselor to student ratio.

_____ (5) No later than June 1 from submitting the LEA's certified ratio, an LEA that does not meet the required ratio in subsection (1) shall submit to the Board a plan outlining a reasonable timeline and method for achieving compliance.

_____ (6) If an LEA fails to fulfill the plan described in subsection (5), the LEA may be placed on a corrective action plan described in R277-114.

_____ (7) If an LEA fails to complete the corrective action plan described in subsection (6), the LEA shall be referred to the Board for further corrective action including loss of distributed funds.

R277-462-7. Allowable Use of Distributed Funds.

_____ (1) An LEA shall ensure all funds distributed are used for any of the following purposes:

_____ (a) a school collaborative classroom curriculum;

_____ (b) personnel costs including clerical positions that support the plan for college and career readiness process;

_____ (c) career center equipment or materials such as computers, media equipment, computer software, or occupational information;

_____ (d) professional development for personnel involved in the program;

_____ (e) expenses of extended hours which are required to run the program; and

_____ (f) membership in the American School Counselor Association (ASCA) for one or more school counselors per school per year.

_____ (2) An LEA may not use funds to supplant currently existing personnel or programs.

R277-462-8. Variances, Accountability, and Reporting.

(1) A new LEA or existing LEA with a new program, may receive funding under R277-462 if the new LEA:

- (a) has received accreditation pursuant to R277-410; and
- (b) has an approved program pursuant to R277-462.

(2) A new LEA or existing LEA with a new program, that does not meet the school counselor to student ratio described in Section R277-462-6 may receive a funding distribution after two years of planning, training and program implementation.

(3) No later than October 1, an LEA shall certify annually all previously qualified schools continue to meet the program criteria.

(4) An LEA shall provide data and information about the LEA's program as requested by the Superintendent.

KEY: public education, counselors

Date of Enactment or Last Substantive Amendment: ~~August 7, 2014~~ **2019**

Notice of Continuation: June 10, 2014

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-2-304(2)(b); 53E-3-401(4)

**Education, Administration
R277-503
Licensing Routes**

**NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 43733
FILED: 05/21/2019**

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In the Utah State Board of Education's (Board) redesign of the educator licensing system, the need for this rule has been eliminated. This filing adds a sunset date of 06/30/2020 and establishes a transition procedure for educators who may be in the Alternative Routes to Licensure (ARL) pipeline at the time this rule sunsets. It also directs staff to cease accepting new applications for the program on 11/01/2019.

SUMMARY OF THE RULE OR CHANGE: This rule is amended to add a sunset date of 06/30/2020 and to establish a transition procedure for educators who may be in the ARL pipeline at the time the rule sunsets. It also directs the Board staff to cease accepting new applications for the program on 11/01/2019.

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

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** This rule change is not expected to have any fiscal impact on state government revenues or

expenditures. In the Board's redesign of the educator licensing system, the need for this rule has been eliminated. Thus, this rule change adds a sunset date of 06/30/2020 and establishes a transition procedure for educators who may be in the ARL pipeline at the time this rule sunsets. It also directs staff to cease accepting new applications for the program on 11/01/2019. This change will not have any fiscal impact because it will not bring in any revenue or cause additional expenditures.

♦ **LOCAL GOVERNMENTS:** This rule change is not expected to have any fiscal impact on local governments' revenues or expenditures. In the Board's redesign of the educator licensing system, the need for this rule has been eliminated. Thus, this rule change adds a sunset date of 06/30/2020 and establishes a transition procedure for educators who may be in the ARL pipeline at the time the rule sunsets. It also directs staff to cease accepting new applications for the program on 11/01/2019. This change will not have any fiscal impact because it will not bring in any revenue or cause additional expenditures for local governments.

♦ **SMALL BUSINESSES:** This rule change is not expected to have any fiscal impact on small businesses' revenues or expenditures. This rule applies to educator licensing and thus does not apply to small businesses since the Board is responsible for educator licensing.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule change is not expected to have any fiscal impact on persons other than small businesses', businesses', or local government entities' revenues or expenditures. In the Board's redesign of the educator licensing system, the need for this rule has been eliminated. Thus, this rule change adds a sunset date of 06/30/2020 and establishes a transition procedure for educators who may be in the ARL pipeline at the time the rule sunsets. It also directs staff to cease accepting new applications for the program on 11/01/2019. This change will not have any fiscal impact because it will not bring in any revenue or cause additional expenditures for other individuals.

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

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). 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 Program Analyst at the Utah State Board of Education, Jill Curry, 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 07/15/2019

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2019

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). Thus, this rule change is not expected to have any fiscal impact on non-small businesses' revenue or expenditures because there are no applicable non-small businesses and it does not require any expenditures or generate revenues for non-small businesses.

The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
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.

R277-503. Licensing Routes.

R277-503-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Section 53E-3-501, which directs the Board to establish rules and minimum standards for the qualification and licensing of educators and ancillary personnel who provide direct student services; and
 - (c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.
- (2) The purpose of this rule is to:
 - (a) provide minimum eligibility requirements for applicants for teacher licenses;
 - (b) provide explanation and criteria of various teacher licensing routes;
 - (c) provide criteria and procedures for licensed teachers to earn endorsements; and
 - (d) require all applicants for licenses to submit to a criminal background check.

R277-503-2. Definitions.

- (1) "Alternative Routes to Licensure advisors" or "ARL advisors" means:
 - (a) a specialist designated by the Superintendent with specific professional development and educator licensing expertise; and
 - (b) a curriculum specialist designated by the Superintendent.
- (2)(a) "Career and technical education" or "CTE" means organized educational programs that:
 - (i) prepare individuals for a wide range of high-skill, high-demand careers;

(ii) provide all students with a seamless education system from public education to post-secondary education, driven by a Plan for College and Career Readiness; and

(iii) provide students competency-based instruction, hands-on experiences, and certified occupational skills, culminating in further education and meaningful employment.

(b) CTE areas of study include:

(i) agriculture;

(ii) business and marketing;

(iii) family and consumer sciences;

(iv) health science;

(v) information technology;

(vi) skilled and technical sciences; and

(vii) technology and engineering education.

(3) "Competency-based" means a teacher training approach structured for an individual to master and demonstrate content and teaching skills and knowledge at the individual's own pace and sometimes in alternative settings.

(4) "Core academic subject" means English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography.

(5) "Council for Accreditation of Educator Preparation" or "CAEP" means the nationally-recognized organization that provides accreditation of professional teacher education programs in institutions offering baccalaureate and graduate degrees for the preparation of k-12 teachers.

(6) "Endorsement" means a supplemental qualification to a teaching license that is based on content area mastery obtained through a higher education major or minor or through a state-approved endorsement program.

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

(8) "Letter of authorization" means a formal approval given to an individual, such as an out-of-state candidate or a first year ARL candidate who:

(a) is employed by an LEA in a position requiring a professional educator license;

(b) has not completed the requirements for an ARL license or a Level 1, 2, or 3 license; or

(c) has not completed necessary endorsement requirements.

(9) "Level 1 license" means a Utah professional educator license issued by the Board to an applicant who has met all ancillary requirements established by law or rule, and:

(a) completed an approved preparation program;

(b) completed an alternative preparation program;

(c) is approved pursuant to an agreement under the NASDTEC Interstate Contract; or

(d) completed the requirements of R277-511.

(10) "Level 2 license" means a Utah professional educator license issued by the Board after satisfaction of all requirements for a Level 1 license and:

(1) satisfaction of requirements under R277-522 for teachers whose employment as a Level 1 licensed educator began after January 1, 2003 in a Utah public LEA or accredited private school;

(2) at least three years of successful education experience in a Utah public LEA or accredited private school or one year of

successful education experience in a Utah public LEA or accredited private school and at least three years of successful education experience in a public LEA or accredited private school outside of Utah;

(3) additional requirements established by law or rule.

(11) "Level 3 license" means a Utah professional educator license issued by the Board to an educator who holds a current Utah Level 2 license and has also received:

(a) National Board Certification;

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

(i) holds a Speech-Language Pathology area of concentration; and

(ii) has obtained American Speech-Language Hearing Association (ASHA) certification.

(12) "National Association of State Directors of Teacher Education and Certification" or "NASDTEC" means the educator information clearinghouse that maintains an interstate reciprocity agreement and database for its members regarding educators whose licenses have been suspended or revoked.

(13) "National Council for Accreditation of Teacher Education" or "NCATE" means the nationally-recognized organization that accredits the education units providing baccalaureate and graduate degree programs for the preparation of teachers and other professional personnel for elementary and secondary schools.

(14) "Pedagogical knowledge" means practices and strategies of teaching, classroom management, preparation and planning that are in addition to an educator's content knowledge of an academic discipline.

(15) "Regional accreditation" means formal approval of a school that has met standards considered to be essential for the operation of a quality school program by the following organizations:

(a) Middle States Commission on Higher Education;

(b) New England Association of Schools and Colleges;

(c) North Central Association Commission on Accreditation and School Improvement;

(d) Northwest Accreditation Commission;

(e) Southern Association of Colleges and Schools; and

(f) Western Association of Schools and colleges: Senior College Commission.

(16) "Restricted endorsement" means a qualification available only to teachers in necessarily existent small school settings based on content area knowledge obtained through a Board-approved program of study or demonstrated through passage of a Board-designated test.

(17) "State-approved Endorsement Plan" or "SAEP" means a plan in place developed between the Superintendent and a licensed educator to direct the completion of endorsement requirements by the educator.

(18) "Teacher Education Accreditation Council" or "TEAC" means the nationally recognized organization which provides accreditation of professional teacher education programs in institutions offering baccalaureate and graduate degrees for the preparation of K-12 teachers.

R277-503-3. Licensing Eligibility.

(1) For a license applicant following the traditional college or university license, the license applicant shall:

- (a) complete a Board approved college or university teacher preparation program;
- (b) be recommended for licensing; and
- (c) satisfy all other requirements for educator licensing required by law; or

(2) For a license applicant following an alternative licensing route, the license applicant shall:

(a) have a bachelors degree or higher from an accredited higher education institution in an area related to the position the applicant is seeking;

(b) have skills, talents or abilities, as evaluated by the employing entity, making the applicant appropriate for a licensed teaching position and eligible to participate in an ARL program; and

(c) while participating in an alternative licensing program, be approved for employment under an ARL license.

(3) An ARL program may not exceed three school years.

(4) A license applicant seeking a Level 1 Utah educator license, or an area of concentration, or an endorsement in a core academic subject area shall submit passing scores on a Board-designated content test, where tests are available, prior to the issuance of a renewable license or endorsement.

(5) For each endorsement in a core academic area to be posted on the license, a teacher shall submit passing scores on a Board-designated content tests, where tests are available.

(6) A licensure candidate recommended for a Utah Level 1 license who does not submit a passing score on the test designated in Subsection(4) is not eligible for licensure until achieving a passing score.

(7) All educators licensed under this rule shall also:

(a) complete the background check required under Section 53A-6-401;

(b) satisfy the professional development requirements of R277-500; and

(c) be subject to all Utah licensing requirements and professional standards.

R277-503-4. Licensing Routes - Traditional and Alternative Routes.

(1) An applicant seeking a Utah educator license shall successfully complete the accredited program or legislatively-mandated program consistent with this rule.

(2) To be recognized by the Board, an institution of higher education teacher preparation program shall be:

(a) Nationally accredited by:

- (i) CAEP;
- (ii) NCATE; or
- (iii) TEAC; and

(b) approved by the Board to recommend for licensure in the license area, or endorsements, or both in designated areas.

(3)(a) An applicant who meets the eligibility requirements in Section R277-503-3, and is assigned to teach exclusively in an online setting, is eligible to begin the ARL program.

(b) Upon completion of the ARL program, the applicant shall earn a license area of concentration that is restricted to providing instruction in an online setting.

R277-503-5. Alternative Routes to Licensure (ARL).

(1) To be eligible to begin the ARL program, an applicant for a school position requiring an elementary license area of concentration shall have a bachelors degree and at least 27 semester hours of applicable content courses distributed among elementary curriculum areas provided under R277-700-4.

(2) To be eligible to begin the ARL program, an applicant for a school position requiring a secondary license area of concentration shall hold at least a bachelors degree and:

(a) a degree major or major equivalent directly related to the assignment; or

(b) have completed all Board-designated content coursework required for the relevant endorsement.

(3) To be eligible to begin the ARL program, an applicant for a CTE school position who does not meet the requirements in R277-503-4(2) shall meet the requirements for a CTE license area of concentration as provided in R277-518.

(4) To be eligible for acceptance in the ARL program, an applicant shall be employed in a position at a Utah public or accredited private school where the applicant:

(a) receives a teaching assignment where the applicant has primary instruction responsibility for the assigned students;

(b) is designated the teacher of record for assigned courses for all school accountability and educator evaluation purposes;

(c) is responsible for the instructional planning of the courses including developing, adapting, and implementing the curriculum to meet student needs;

(d) analyzes and assesses student progress and adjusts instruction, materials, and delivery strategies to meet the students' needs;

(e) has final responsibility for determining student grades and credit for the courses taught by the applicant;

(f) is assigned in:

(i) a 7-12 secondary setting and employed at least 0.5 FTE in the applicant's eligible content areas; or

(ii) a K-6 elementary setting and employed at least 0.5 FTE and is responsible to teach language arts and reading, mathematics, science, and social studies or is employed in a state-sponsored dual immersion program; and

(g) shall be formally evaluated twice each school year consistent with R277-531, Public Educator Evaluation Requirements (PEER).

R277-503-6. Licensing by Agreement.

(1) An individual employed by an LEA shall satisfy the minimum requirements of R277-503-3 as a teacher with appropriate skills, training or ability for an identified licensed teaching position in the LEA.

(2) An applicant shall obtain an ARL application for licensing from the Board's web site.

(3) After evaluation of a candidate's transcripts and Board-designated content test score, the ARL advisors and the candidate shall determine the specific content knowledge and pedagogical knowledge required of the license applicant to satisfy the requirements for licensing.

(4) The ARL advisors may identify higher education courses, district sponsored coursework, Board-approved professional development, or Board-approved competency tests to

prepare or indicate content, content-specific, and developmentally-appropriate pedagogical knowledge required for licensing.

(5) An applicant who has been employed as an educator under a competency-based license or as a full-time instructional paraeducator may offer that experience in lieu of one or more pedagogy courses as follows:

(a) The applicant has had at least three years of experience as an educator or paraeducator;

(b) The applicant's experience has been successful based on documentation from the LEA; and

(c) The Superintendent and employing LEA have approved the applicant's experience in lieu of pedagogy courses.

(6) An employing LEA shall assign a trained mentor to work with an applicant for licensing by agreement.

(7)(a) An LEA shall supervise and assess a license applicant's classroom performance for a minimum of one school year if the applicant teaches full-time or a minimum of two school years if the applicant teaches part-time.

(b) An LEA may request assistance from an institution of higher education or the ARL advisors in monitoring and assessing an applicant.

(8)(a) An LEA shall assess a license applicant's disposition as a teacher following a minimum of one school year full-time teaching experience.

(b) An LEA may request assistance in assessment under Subsection (8)(a).

(9) The ARL advisors shall annually review and evaluate a license applicant following training, assessments or course work, and the full-time teaching experience and evaluation by the LEA.

(10) Consistent with evidence and documentation received, the ARL advisors may recommend a license applicant to the Board for a Level 1 educator license.

R277-503-7. Licensing by Competency.

(1) An LEA may employ an individual as a teacher if the individual:

(a) has appropriate skills, training, or ability for an identified licensed teaching position in the LEA; and

(b) satisfies the minimum requirements of Section R277-503-3.

(2)(a) An employing LEA, in consultation with the applicant and the ARL advisors, shall identify Board-approved content knowledge and pedagogical knowledge examinations.

(b) The applicant shall pass designated examinations demonstrating the applicant's adequate preparation and readiness for licensing.

(3) An employing LEA shall assign a trained mentor to work with an applicant for licensing by competency.

(4) An LEA shall monitor and assess a license applicant's classroom performance during a minimum of one-year full-time or two-years part-time teaching experience.

(5) An LEA shall assess a license applicant's disposition for teaching following a minimum of one-year full-time teaching experience.

(6) An LEA may request assistance in the monitoring or assessment of a license applicant's classroom performance or disposition for teaching.

(7) Following the one-year training period, an LEA and the Superintendent shall verify all aspects of preparation including

content knowledge, pedagogical knowledge, classroom performance skills, and disposition for teaching to the ARL advisors.

(8) If all evidence/documentation is complete and satisfactory, the Superintendent shall recommend an applicant for a Level 1 educator license.

(9) An ARL candidate under Section R277-503-5 shall be issued an ARL license or license area as appropriate that is presumed to expire at the end of the school year.

(10) An ARL license may be extended annually for two subsequent school years with the following documentation of progress in the ARL program:

(a) a copy of the supervisor's successful end-of-year evaluation;

(b) copies of transcripts and test results, or both, showing completion of required coursework;

(c) verification of working with a trained mentor; and

(d) satisfaction of the full-time full year experience.

R277-503-8. LEA Specific Competency-based Licenses.

(1)(a) An LEA may apply to the Board for a Level 1 competency-based license for an applicant to fill a position in the LEA.

(b) The application shall demonstrate that other licensing routes for the applicant are untenable or unreasonable.

(2) An employing LEA shall request a Level 1 competency-based license no later than 60 days after the date of the individual's first day of employment.

(3) An application for a Level 1 competency-based license from the LEA for an individual to teach one or more core academic subjects shall provide documentation of:

(a) the individual's bachelors degree; and

(b)(i) for a K-6 grade teacher, the satisfactory results of the state test including subject knowledge and teaching skills in the required core academic subjects under Subsection 53E-6-306(3)(a) (ii) as approved by the Board; or

(ii) for a teacher in grades 7-12, demonstration of a high level of competency in each of the core academic subjects in which the teacher teaches by passing the state core academic subject test required under Subsection R277-503-3(4), in each of the core academic subjects in which the teacher teaches at the Superintendent-established passing score.

(4) An application for a Level 1 competency-based license from an LEA for non-core teachers in grades K-12 shall provide documentation of:

(a) a bachelors degree, associates degree or skill certification; and

(b) skills, talents or abilities specific to the teaching assignment, as determined by the LEA.

(5) Following receipt of documentation and consistent with Subsection 53E-6-306(2), the Superintendent shall approve a Level 1 competency-based license.

(6) If an individual with a Level 1 competency-based license leaves the LEA before the end of the employment period, the LEA shall notify the Superintendent regarding the end-of-employment date.

(7) An individual's Level 1 competency-based license shall be valid only in the LEA that originally requested the competency-based license.

(8) A written copy of a Level 1 competency-based license shall prominently state the name of the LEA followed by LEVEL 1 - LEA SPECIFIC - COMPETENCY-BASED LICENSE.

(9)(a) An LEA may change the assignment of a competency-based license holder and provide notice to the Superintendent;

(b) The Superintendent may require additional competency-based documentation for the teacher to remain qualified.

(10) A Level 1 competency-based license is equivalent to the Level 1 license as described in R277-500 and R277-502 as to length and professional development expectations, and subject to the same renewal procedures except that an individual may renew a Level 1 competency-based license.

(11) A Level 2 competency-based license may be issued to a Level 1 competency-based license holder if that individual successfully completes the Entry years Enhancement program as detailed in R277-522.

(12) A Level 2 competency-based license is equivalent to the Level 2 license as described in R277-500 and R277-502 as to length and professional development expectations.

(13) A Level 3 competency-based license may be issued to a Level 2 competency-based license holder if that individual holds a doctorate in education or in a field related to a content unit of the public education system from an accredited institution.

(14) A Level 3 competency-based license is equivalent to the Level 3 license as described in R277-500 and R277-502 as to length and professional development expectations.

(15) If an individual holds a Utah license, an application for an LEA specific competency-based license shall be subject to additional Superintendent review based upon the following criteria:

- (a) license level;
- (b) current license status;
- (c) area of concentration and endorsements on Utah license; and
- (d) circumstances justifying the LEA specific license.

(16)(a) If an application is not approved based on the Superintendent's review of the criteria provided in Section R277-503-4, appropriate licensure procedures shall be recommended to the requesting LEA.

- (b) An applicant may be required to:
 - (i) renew an expired license;
 - (ii) apply for an endorsement;
 - (iii) pass appropriate Board approved tests consistent with Subsection R277-503-3(4);
 - (iv) obtain an additional area of concentration;
 - (v) apply to Alternative Route to Licensure; or
 - (vi) satisfy other reasonable standards.

R277-503-9. Endorsement Routes.

(1)(a) An applicant shall successfully complete one of the following programs for an endorsement:

- (i) a Board-approved institution of higher education educator preparation program with endorsements;
- (ii) assessment, approval, and recommendation by a designated and subject-appropriate Board specialist; or
- (iii) a Board-approved Utah institution of higher education or Utah LEA-sponsored endorsement program that

includes content knowledge and content-specific pedagogical knowledge approved by the Superintendent.

(b)(i) The Superintendent shall be responsible for final recommendation and approval for programs described in Subsections (1)(a)(i) and (ii).

(ii) A university or LEA shall be responsible for final review and recommendation of programs described in Subsection (1)(a)(iii), and the Superintendent shall be responsible for final approval.

(2)(a) A restricted endorsement shall be available and limited to teachers in necessarily existent small schools as determined under R277-445.

(b) Teacher qualifications shall include at least nine semester hours of Superintendent-approved university-level courses in each course taught by the teacher holding a restricted endorsement.

(3) All provisions that directly affect the health and safety of students required for endorsements, such as prerequisites for drivers education teachers or coaches, shall apply to applicants seeking endorsements through all routes under this rule.

(4) Prior to an individual taking courses, exams or seeking a recommendation in the ARL licensing program, the individual shall have LEA and Superintendent authorization.

R277-503-10. Sunset Clause.

(1) This rule will sunset on June 30, 2020.

(2) Notwithstanding Subsection (1), the Superintendent shall grant an Associate Educator license to an ARL candidate in good standing with the candidate's ARL program prior to June 30, 2020.

(3) An educator who receives an Associate Educator license under Subsection (2) may receive a Professional Educator license by completing the candidate's approved ARL program.

(4) The Superintendent may not accept new applications for the ARL program after November 1, 2019.

KEY: teachers, alternative licensing

Date of Enactment or Last Substantive Amendment: ~~January 10, 2017~~ 2019

Notice of Continuation: November 15, 2016

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-501(1)(a); 53E-3-401(4)

Education, Administration **R277-604** Private School, Home School, and Bureau of Indian Affairs (BIA) Student Participation in Public School Achievement Tests

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43732

FILED: 05/21/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: With the recent changes in state assessments, Rule R277-604, the rule governing private schools, home schools, and Bureau of Indian Education participation in public school achievement tests, needs to be updated.

SUMMARY OF THE RULE OR CHANGE: The Utah State Board of Education (Boards) updated language in Rule R277-604 to include the names of the current state assessments and update citations throughout the rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X Section 3 and Section 53E-3-401 and Section 53E-4-302

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 governing private schools, home schools, and Bureau of Indian Education participation in public school achievement tests is being updated to reflect changes in state assessments. These updates are to reflect the names of the current state assessments and correct citations, and thus it does not have a fiscal impact.

♦ **LOCAL GOVERNMENTS:** These rule changes are not expected to have any fiscal impact on local governments' revenues or expenditures. This rule governing private schools, home schools, and Bureau of Indian Education participation in public school achievement tests is being updated to reflect changes in state assessments. These updates are to reflect the names of the current state assessments and correct citations, and thus it does not have a fiscal impact.

♦ **SMALL BUSINESSES:** These rule changes are not expected to have any fiscal impact on small businesses' revenues or expenditures. This rule governing private schools, home schools, and Bureau of Indian Education participation in public school achievement tests is being updated to reflect changes in state assessments, and thus does not apply to small businesses.

♦ **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. This rule governing private schools, home schools, and Bureau of Indian Education participation in public school achievement tests is being updated to reflect changes in state assessments, and thus does not apply to other individuals.

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

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are 1,241 entities with a NAICS code 611110

(Elementary and Secondary Schools) operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). These rule changes have no fiscal impact on local education agencies and will not have a fiscal impact on non-small or small businesses. The Program Analyst at the Utah State Board of Education, Jill Curry, 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 07/15/2019

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2019

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
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). Thus, these rule changes are not expected to have any fiscal impact on non-small businesses' revenue or expenditures because there are no applicable non-small businesses and it does not require any expenditures or generate revenues for non-small businesses.

The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

R277. Education, Administration.

R277-604. Private School, Home School, and Bureau of Indian [Affairs]Education (BI[A]E) Student Participation in Public School Achievement Tests.

R277-604-1. 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-1-401]~~53E-3-401, which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
 - (c) Section ~~[53A-1-603]~~53E-4-302, which directs the Board to require school districts and charter schools to administer the U-PASS assessment system to uniformly measure statewide student performance.
- (2) The purpose of this rule is:
 - (a) to provide opportunities for Utah private school students and home school students who are Utah residents, and Utah students attending Bureau of Indian [Affairs]Education (BIE) schools to participate in U-PASS;
 - (b) to maintain the integrity and security of U-PASS;
 - (c) to provide an orderly and manageable administrative process for public schools to include Utah private school students and home school students who are Utah residents, and Utah

students attending BI[A]E schools to participate in U-PASS if they so desire; and

(d) to protect the public investment in U-PASS by making assessments available to students who are not funded by the public education system through fair, reasonable, and consistent practices.

R277-604-2. Definitions.

- (1) "Home school student" means a student who has been excused from compulsory education and for whom documentation has been completed under Section ~~[53A-11-102]~~53G-6-204.
- (2) "Private school" means a school that is not a public school but:
 - (a) has a current business license through the Utah Department of Commerce;
 - (b) is accredited as described in R277-410; and
 - (c) has and makes available a written policy for maintaining and securing student records.
- (3) "Utah Performance Assessment System for Students" or "U-PASS" means:
 - (a) the summative adaptive assessment of a student in grades 3 through ~~[4]~~8 in basic skills courses;
 - (b) the online writing assessment in grades ~~[3 through 4]~~5 and 8;
 - ~~(c) a high school assessment in grades 9 and 10;~~
 - ~~(d) a statewide English Language proficiency assessment;~~
 - ~~([e]) the college readiness assessment; and~~
 - ~~([f]) the summative assessment of a student in grade 3 to measure reading grade level using the end of year benchmark reading assessment.~~

R277-604-3. Private Schools.

- (1) Private school students who are Utah residents, as defined under ~~[53A-2-201]~~53G-6-302, may participate in U-PASS.
- (2) Private school students who are not Utah residents may participate in U-PASS only by payment in advance of the full cost of individual assessments as determined by local school board policy.
 - (3)(a) Private schools that are interested in participating in U-PASS may, at the public school district's discretion, do so only in the public school district in which the private school is located.
 - (b) School districts shall determine at which public schools within the district private school students may take achievement tests.
 - (c) A private school may request the following from the school district in which the private school is located:
 - (i) an annual schedule of U-PASS dates;
 - (ii) the locations at which private schools may be tested;
 - and
 - (iii) written policies for private school student participation.
 - (4) A school district shall develop a policy regarding private school student participation in U-PASS, which shall include:
 - (a) reasonable costs for the participation of Utah private school students in U-PASS to be paid in advance by either the student or the student's private school;
 - (b) an explanation of reasonable costs including costs for administration materials, scoring, and reporting of assessment results;

(c) notice to private school administrators of any required private school administrator participation in monitoring or proctoring of tests; and

(d) reasonable time lines for private school requests for participation and school district or school response.

R277-604-4. Home School Students.

(1) A home school student who is a Utah resident, as defined under Section ~~[53A-2-201]~~53G-6-302, may participate in U-PASS as provided in this rule.

(2) A home school student may participate in U-PASS only if the student has satisfied the home schooling requirements of Section ~~[53A-11-102]~~53G-6-204.

(3) A home school student who desires to participate in U-PASS may participate in:

(a) the public school district in which the home school student's parent or legal guardian resides; or

(b) a charter school.

(4) A home school student or parent may request the following from the school district in which the home school student or parent resides or a charter school:

(a) an annual schedule of U-PASS dates;

(b) the locations at which home school students may be tested; and

(c) written policies for home school student participation.

(5) A school district or charter school shall develop a policy regarding home school student participation in U-PASS, which:

(a) may not require a home school student to pay a fee that is not charged to traditional students;

(b) shall include notice to home school students or parents of any required parent or adult participation in monitoring or proctoring of tests; and

(c) shall include reasonable time lines for home school requests for participation and school district or school response.

R277-604-5. Bureau of Indian ~~[Affairs]~~Education (BI~~[A]~~E) Students.

(1) BIA schools may participate in all U-PASS requirements for all Utah students.

(2) Materials and training shall be provided to BI~~[A]~~E schools from the public school district in which the school is located on the schedule that applies to Utah school districts.

R277-604-6. LEA Responsibilities.

An LEA shall comply with the following when administering U-PASS to a private, home school, or Bureau of Indian ~~[Affairs]~~Education's student:

(1) Board Rule R277-404; and

(2) the Standard Test Administration and Testing Ethics Policy described in R277-404-3.

KEY: home school, private school, participation, achievement tests

Date of Enactment or Last Substantive Amendment: ~~[December 8, 2016]~~2019

Notice of Continuation: October 14, 2016

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; ~~[53A-1-401]~~53E-3-401; ~~[53A-1-603]~~53E-4-302(1)(a)

Education, Administration
R277-622
School-based Mental Health Qualified Grant Program

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43729

FILED: 05/21/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah State Board of Education (Board) is enacting new Rule R277-622 due to the passage of H.B. 373 from the 2019 General Session.

SUMMARY OF THE RULE OR CHANGE: Board Rule R277-622 establishes the procedures for a local education agency (LEA) to receive a School-based Mental Health Qualified Grant including: plan submission process, format, and requirements; funding distribution methods; and additional requirements including reporting and accountability.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X Section 3 and Section 53F-2-415 and Subsection 53E-3-401(4)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** This proposed new rule is not expected to have any fiscal impact on state government revenues or expenditures. This rule is being enacted due to the passage of H.B. 373 (2019). The grant program is funded through a state appropriation, and thus this rule will not have an independent fiscal impact.

♦ **LOCAL GOVERNMENTS:** This proposed new rule is not expected to have any fiscal impact on local governments' revenues or expenditures. This rule is being enacted due to the passage of H.B. 373 (2019). The grant program is funded through a state appropriation, and thus this rule will not have an independent fiscal impact.

♦ **SMALL BUSINESSES:** This proposed new rule is not expected to have any material fiscal impact on small businesses' revenues or expenditures. This rule applies to a grant program for school-based mental health funded through a state appropriation, and thus does not directly apply to small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This proposed new rule is not expected to have any material fiscal impacts on persons other than small businesses', businesses', or local government entities' revenues or expenditures. This rule applies to a grant program for school-based mental health funded through a state appropriation, and thus does not directly apply to other individuals.

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

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no non-small businesses with a NAICS code 611110). This proposed new rule has no fiscal impact on local education agencies and will not have a fiscal impact on non-small or small businesses. The Program Analyst at the Utah State Board of Education, Jill Curry, 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 07/15/2019

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2019

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

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). Thus, this new rule is not expected to have any fiscal impact on non-small businesses' revenue or expenditures because there are no applicable non-small businesses and it does not require any expenditures of or generate revenues for non-small businesses.

The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
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

R277. Education, Administration.
R277-622. School-based Mental Health Qualified Grant Program.
R277-622-1. Authority and Purpose.
 (1) This rule is authorized by:
(a) Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board;
(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
(c) Section 53F-2-415 which requires the Board to make rules that establish:
(i) procedures for submitting a plan for the School-based Mental Health Qualified Grant Program;
(ii) a distribution formula the Board will use to distribute funds to an LEA; and
(iii) annual reporting requirements for an LEA that receives funds pursuant to the School-based Mental Health Qualified Grant Program.

(2) The purpose of this rule is to establish the procedures for an LEA to receive a School-based Mental Health Qualified Grant including:

- (i) plan submission process, format, and requirements;
- (ii) funding distribution methods; and
- (iii) additional requirements including reporting and accountability.

R277-622-2. Definitions.

(1) "Plan" means a School-based Mental Health Qualified Grant plan described in Section R277-622-3.

(2) "Qualified Personnel" means the same as the term is defined in Subsection 53F-2-415(1).

(3) "Related Services" means mental-health or school nursing services provided by the local mental health authority or a private provider through a contract.

R277-622-3. School-based Mental Health Plan.

(1) To qualify for a School-based Mental Health Qualified Grant, an LEA shall submit a plan to the Superintendent.

(2) The plan shall include:

(a) a three-year projection for the LEA's goals, metrics, and outcomes;

(b) requirements outlined in Subsection 53F-2-415(3);

(c) plan for improving access to students who are underserved or at risk;

(d) how qualified personnel will increase access to mental health services;

(e) a process for utilization of qualified personnel in participating with an LEA's care team as outlined in R277-400;

(f) the source of the LEA's matching funds; and

(g) a timeline and process for stakeholder training in trauma-informed practices.

(3) Except as provided in Subsection (4), an LEA shall submit the LEA's plan no later than May 31 for a funding distribution to be made for the upcoming school year.

(4) An LEA shall submit a plan no later than June 7 for a funding distribution to be made in Fiscal Year 20.

(5) An LEA's approved plan is valid for three years and may be required to be reapproved after three years of implementation.

R277-622-4. Board Approval or Denial of LEA Plan.

(1) The Board shall approve or deny each LEA plan submitted by the Superintendent.

(2) If the Board denies an LEA's plan, the LEA may amend and resubmit the LEA's plan to the Superintendent until the Board approves the LEA plan.

R277-622-5. School-Based Mental Health Grant Distribution.

(1) An LEA with an approved plan pursuant to subsection R277-622-4 shall receive a School-based Mental Health Grant distribution.

(2) The funding amount distributed to an approved LEA shall be the sum of:

(a) \$25,000; and

(b) a per student allocation based on the number of students in an LEA divided by the total available grant appropriation less the aggregate amount of appropriation allocated as described in Subsection (2)(a).

(3) The number of students used in Subsection (2)(b) shall be:

(i) based on the October 1 headcount in the prior year; or

(ii) for a new LEA, based on the new LEA's projected October 1 headcount.

(4) An LEA may only receive an initial distribution totaling 25% of the allocation upon plan approval.

(5) An LEA may receive a second distribution totaling 75% of the allocation upon demonstration to the Superintendent of:

(a) contracting of services for qualified personnel; or

(b) hiring qualified personnel.

(6) After the distribution described in subsections (2)(a) and (b), and by October 1 of each year, the Superintendent shall distribute any undistributed funds as an additional allocation to an LEA.

(7) An LEA may qualify for the additional allocation described in Subsection (6) if the LEA demonstrates an intent to collaborate with the Local Mental Health Authority of the county the LEA is located.

(8) The additional allocation described in subsection (6) shall be:

(a) the aggregate total of undistributed funds;

(b) subject to all matching fund requirements described in section R277-622-3;

(c) distributed to an eligible LEA in an amount equal to the LEA's portion of the student headcount of all eligible and participating LEAs; and

(d) used for collaboration with the Local Mental Health Authority of the County the LEA is located.

R277-622-6. Matching Funds.

(1) To qualify for a School-based Mental Health Qualified Grant, an LEA shall provide matching funds as required by Subsection 53F-2-415(4)(b).

(2) To qualify as matching funds the LEA's funds may come from any of the following sources or procedures:

(a) prioritizing of existing unrestricted state or local funds including:

(i) an unrestricted donation; or

(ii) new funds available in the next fiscal year;

(b) funds generated from property tax;

(c) charter school local replacement funds;

(d) unrestricted MSP Basic program funds; or

(e) another source of unrestricted state funds or local funds as approved by the Superintendent.

(3) Funds may not qualify as a match if:

(a) the funds are from restricted state funds including:

(i) funds granted to an LEA for a specific program created in statute or rule;

(ii) funds that have already been used as a match in a different state grant program; or

(iii) funds from a federal source; or

(b) the funds are described in Subsection 53F-2-415(5).

(4) An LEA shall demonstrate that all matching funds fit within the scope of work for school-based mental health and general health services as outlined in an LEA's plan.

(5) An LEA shall report revenues and expenditures of program funds by location code according to the Board approved chart of accounts.

R277-622-7. Allowable Uses of Funds.

(1) An LEA that receives a distribution pursuant to Section R277-622-6 may use the funds only for the following:

(a) salary and benefits for the hiring of qualified personnel;
or

(b) procuring a contract for related services;

(2) If an LEA fails to hire qualified personnel by January 31 the allocated funds shall be returned to the Board.

(3) All unexpended funds distributed to an LEA shall be returned to the Board at the end of the LEA's school year and redistributed in the following year's distribution.

(4) An LEA shall use the LEA's matching funds and allocation within the fiscal year the funds are distributed.

(5) An LEA that has remaining balances at year end shall report the remaining balances in the LEA's annual program report described in R277-484.

(6) An LEA with remaining balances shall receive a reduction totaling the remaining balances in the LEA's award for the following fiscal year.

R277-622-8. Annual Reporting and Accountability.

(1) An LEA with an approved plan and funding amount shall provide the Superintendent with an annual report no later than October 1 of each year.

(2) The annual report shall include:

(a) a total baseline count of qualified personnel in an LEA before receiving the initial funding allocation;

(b) the number of qualified personnel hired above the baseline count using the funding allocation;

(c) the progress made toward achieving goals and outcomes outlined in the LEA's plan; and

(d) other information requested by the Superintendent.

KEY: mental health, programs, reporting

Date of Enactment or Last Substantive Amendment: 2019

Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53E-3-401; 53E-4-302(1)(a)

Education, Administration
R277-716
Alternative Language Services for Utah
Students

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43731

FILED: 05/21/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is: 1) to address the requirements of Title III and implement regulations and case law; 2) to clearly define the respective responsibilities of the Superintendent and local education agencies (LEAs) in: i) identifying English Language Learner/Limited English

Proficient (ELL/LEP) students who are currently enrolled in Utah schools; and ii) in providing consistent and appropriate services to identified students; and 3) in order to: i) meet Title III requirements; ii) meet funding eligibility requirements; and iii) appropriately distribute ELL/LEP funds to LEAs with adequate policies.

SUMMARY OF THE RULE OR CHANGE: The Utah State Board of Education (Board) amended language throughout this rule updating references to outdated assessments and eliminated provisions that are no longer needed since the passage of the Every Student Succeeds Act (ESSA), 20 U.S.C. Sec. 1001, et seq.

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. This rule is revised to update references to outdated assessments and to eliminate provisions that are no longer needed since the passage of the ESSA. These rule changes will not have a fiscal impact.

◆ **LOCAL GOVERNMENTS:** These rule changes are not expected to have any fiscal impact on local governments' revenues or expenditures. This rule is revised to update references to outdated assessments and to eliminate provisions that are no longer needed since the passage of the ESSA. These rule changes will not have a fiscal impact.

◆ **SMALL BUSINESSES:** These rule changes are not expected to have any fiscal impact on small businesses' revenues or expenditures. This rule is revised to update references to outdated assessments and to eliminate provisions that are no longer needed since the passage of the ESSA. These rule changes will not have a fiscal impact.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These rule changes are not expected to have any material fiscal impacts on persons other than small businesses', businesses', or local government entities' revenues or expenditures. This rule is revised to update references to outdated assessments and to eliminate provisions that are no longer needed since the passage of the ESSA. These rule changes will not have a fiscal impact.

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

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are 1,241 entities with a NAICS code 611110 (Elementary and Secondary Schools) operating in Utah according to a "Firm Find Data" search through Utah's Department of Workforce Services. Most of the entities in the list are schools including public schools, charter schools, and private schools. Of the 1,241 entities, there are 15 private businesses, all of which are small businesses (there are no

non-small businesses with a NAICS code 611110). These rule changes have no fiscal impact on local education agencies and will not have a fiscal impact on non-small or small businesses. The Program Analyst at the Utah State Board of Education, Jill Curry, 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 07/15/2019

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2019

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
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). Thus, these rule changes are not expected to have any fiscal impact on non-small businesses' revenue or expenditures because there are no applicable non-small businesses and it does not require any expenditures or generate revenues for non-small businesses.

The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

R277. Education, Administration.

R277-716. Alternative Language Services for Utah Students.

R277-716-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;
 - (b) Title III; and
 - (c) Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities.
- (2) The purpose of this rule is:
 - (a) to address the requirements of Title III and implementing regulations and case law;
 - (b) to clearly define the respective responsibilities of the Superintendent and LEAs:
 - (i) in identifying ~~[ELL/LEP]~~students learning English who are currently enrolled in Utah schools; and
 - (ii) in providing ~~[consistent and appropriate services]~~evidence-based language instruction educational programs to identified students; and
 - (c) in order to:
 - (i) meet Title III requirements;
 - (ii) meet funding eligibility requirements; and
 - (iii) appropriately distribute ~~[ELL/LEP]~~Title III funds ~~[to]~~for students learning English to LEAs with ~~[adequate policies]~~approved plans in the Utah Grants Management System.

R277-716-2. Definitions.

- (1) "Alternative language services program" or "ALS program" means an ~~[research]~~evidence-based language ~~[acquisition instructional service model]~~instruction educational program used to

achieve English proficiency and academic progress of identified students.

(2) "Alternative language services" or "ALS" means language services designed to meet the education needs of all ~~[language minority]~~ students learning English so that students are able to participate effectively in the regular instruction program.

~~[(3) "Annual measurable achievement objectives" or "AMAOs" means English Language Proficiency Performance Targets established by the Superintendent consistent with Title III requirements for public school students who are receiving language acquisition services in the state of Utah as required by 20 U.S.C. 6842.~~

~~(4) "Approved language acquisition instructional services model" means methods of ALS instruction that are evidence-based and recommended by the U.S. Department of Education and the Superintendent.]~~

~~[(5) "Consolidated [Utah Student Achievement] State Plan" means the application for federal funds authorized under the Elementary and Secondary Education Act, or ESEA, 20 U.S.C. Sec. 1001, et seq., as amended, and other federal sources submitted annually to the Superintendent.~~

~~[(6) "English Language Learner/Limited English Proficient" or "ELL/LEP" means an individual:~~

~~(a) who has sufficient difficulty speaking, reading, writing, or understanding the English language, and whose difficulties may deny the individual the opportunity to:~~

~~(i) learn successfully in classrooms where the language of instruction is English; or~~

~~(ii) participate fully in society;~~

~~(b) who was not born in the United States or whose native language is a language other than English and who comes from an environment where a language other than English is dominant; or~~

~~(c) who is an American Indian or Alaskan native or who is a native resident of the outlying areas and comes from an environment where a language other than English has had a significant impact on such individual's level of English language proficiency.]~~

~~(4) "Evidence-based language instruction education program" means evidence-based methods, recommended by the Superintendent, that meet the "Non-Regulatory Guidance: Using Evidence to Strengthen Education Investments" developed by the U.S. Department of Education.~~

~~[(7) "Immigrant children and youth" for purposes of this rule means individuals who:~~

~~(a) are ages 3 through 21;~~

~~(b) were born outside of the United States; and~~

~~(c) have not been attending one or more schools in any one or more states of the United States for more than three full academic years.~~

~~[(8) "Instructional Materials Commission" means a Commission appointed by the Board to evaluate instructional materials for recommendation by the Board consistent with Title 53E, Chapter 4, State Instructional Materials Commission.~~

~~[(9) "Language [acquisition] instruction[~~at~~] educational program" means an instructional course; ~~[an instructional program for students for the purpose of developing and attaining English proficiency, while meeting state academic content and achievement standards.]~~~~

(a) in which a student learning English is placed for the purpose of developing and attaining English proficiency, while meeting challenging state academic standards;

(b) that may make instructional use of both English and a child's native language to enable the child to attain and develop English proficiency; and

(c) that may include the participation of English proficient children if the course is designed to enable all participating children to become proficient in English and a second language.

~~[(10) "State Approved Endorsement Program" or "SAEP" means a professional development plan on which a licensed Utah educator is working to obtain an endorsement.~~

~~(9) "Student learning English" means an individual who:~~

~~(a) who has sufficient difficulty speaking, reading, writing, or understanding the English language, and whose difficulties may deny the individual the opportunity to:~~

~~(i) learn successfully in classrooms where the language of instruction is English; or~~

~~(ii) participate fully in society;~~

~~(b) who was not born in the United States or whose native language is a language other than English and who comes from an environment where a language other than English is dominant; or~~

~~(c) who is an American Indian or Alaskan native or who is a native resident of the outlying areas and comes from an environment where a language other than English has had a significant impact on such individual's level of English language proficiency.~~

~~(10) "TESOL" means Teachers of English to Speakers of Other Languages.~~

~~(11) "TESOL Standards" mean the Pre-K-12 English Language Proficiency Standards established by TESOL International.~~

~~(1) "Title III" means federal provisions for providing language instruction to ~~[ELL/LEP]~~ students learning English and immigrant children and youth under 20 U.S.C. 6801, et seq.~~

R277-716-3. Superintendent Responsibilities.

~~(1) The Superintendent shall make available ~~[an]~~in Utah's approved Title III plan identification and placement procedures ~~[model to LEAs to provide language acquisition services for ELL/LEP students]~~to support evidence-based language instruction education programs for students learning English.~~

~~(2) The Superintendent shall develop and require all LEAs to ~~[use the statewide annual assessment based on the AMAOs for English language acquisition]~~administer a Board approved annual English language proficiency assessment to measure ~~[growth]~~fluency level and progress in:~~

~~(a) listening;~~

~~(b) speaking;~~

~~(c) reading; and~~

~~(d) writing; and~~

~~(e) comprehension.~~

~~(3) The Utah Academic Language Proficiency Assessment (UALPA) shall be administered throughout the school year.~~

~~(4) An LEA may determine restricted testing dates within the school year].~~

~~[(5) The Superintendent shall apply a formula and distribute funds to LEAs for identification and services to ~~[ELL/LEP]~~ students learning English and their families.~~

~~(a) The formula shall provide an amount based upon eligible students and available funds, to be distributed to all eligible LEAs and consortia consistent with Title III requirements.~~

~~(b) The formula shall provide for an additional amount to qualifying LEAs based on numbers of immigrant children and youth.~~

~~[(6) The Superintendent shall make models and accountability measures in providing ALS services to students available to LEAs.~~

~~[(7) An LEA shall use Superintendent-identified models or models based upon educational research.]~~

~~[(8)4] An LEA that receives Title III funds under this rule shall provide the following to the Superintendent:~~

~~(a) [a budget as part of the Consolidated Utah Student Achievement Plan data on student achievement;~~

~~(b) the number of students served with Title III funds;~~

~~(c) [assurances and documentation maintained of services or a program used to serve students; and~~

~~(d) [b] assurances and documentation maintained of required parent notification; and~~

~~(e) a biennial report summarizing the LEA's progress in Subsection (10) in addition to the annual Consolidated Utah Student Achievement Plan information].~~

~~[(9)7] The Superintendent shall provide timelines to LEAs for meeting Title III requirements.~~

~~[(10)8] The Superintendent shall assist and provide training to LEAs in development of ALS and Title III services to students [who do not meet prescribed English proficiency AMAOs] learning English who do not meet the state designated annual growth goals in both increased English proficiency and academic standards.~~

~~[(11)9] An LEA shall maintain:~~

~~(a) an ALS budget plan;~~

~~(b) a plan for delivering student instruction as a requirement in the monitoring section of the Utah Grants Management System;~~

~~(c) ALS assessments to date;~~

~~(d) a sample of parent notification required under Subsection R277-716-4(7); and~~

~~(e) documentation or evidence of progress [of required Title III AMAOs] in the state accountability system.~~

~~[(12)0] The Superintendent shall conduct on-site [audits] monitoring of all funded ALS programs at least once every five years.~~

~~[(13)1] The Superintendent shall provide technical assistance during on-site [audits] monitoring and as the Superintendent deems necessary.~~

R277-716-4. LEA Responsibilities.

~~(1) An LEA that receives funds under Title III shall assure [as part of the Consolidated Utah Student Achievement Plan] that the LEA has a written plan that:~~

~~(a) includes an [ELL/LEP student find] identification process for students learning English, including a home language survey and a language proficiency for program placement, that is implemented with student registration;~~

~~(b) uses a valid and reliable assessment of a [n-ELL/LEP] student's English proficiency in:~~

~~(i) listening;~~

~~(ii) speaking;~~

~~(iii) reading; and~~

~~(iv) writing; and~~

~~(v) comprehension];~~

~~(c) provides [language acquisition instructional services] an evidence-based language instruction educational program based on Board-approved Utah English Language Proficiency Standards;~~

~~(d) establishes student exit criteria from ALS programs or services; and~~

~~(e) includes the [ELL/LEP student] count of students learning English, by classification, prior to July 1 of each year.~~

~~(2) Following receipt of Title III funds, an LEA shall:~~

~~(a) determine what type of Title III ALS services are available and appropriate for each student identified in need of ALS services, including:~~

~~(i) dual immersion;~~

~~(ii) ESL content-based; and~~

~~(iii) sheltered instruction;~~

~~(b) implement an approved language [acquisition instructional] instruction educational program designed to achieve English proficiency and academic progress of an identified student;~~

~~(c) ensure that all identified [ELL/LEP] students learning English receive English language instructional services, consistent with Subsection (1)(c);~~

~~(d) provide adequate staff development to assist a [n-ELL/LEP] teacher and staff in [meeting AMAOs] supporting students learning English; and~~

~~(e) provide necessary staff with:~~

~~(i) curricular materials approved by the Instructional Materials Commission consistent with Rule R277-469; and~~

~~(ii) facilities for adequate and effective training.~~

~~[(3) If an LEA does not meet AMAOs, the LEA shall develop and implement improvement plans to satisfy AMAOs.]~~

~~[(4)3] Following evaluation of student achievement and services, an LEA shall:~~

~~(a) analyze results and determine the program's success or failure; and~~

~~(b) modify a program or services that are not effective [in meeting the state AMAOs].~~

~~[(5)4] An LEA shall have a policy to identify and serve students who qualify for services under IDEA, including:~~

~~(a) implementing procedures and training, consistent with federal regulations and state special education rules, that ensure [ELL/LEP] students learning English are not misidentified as students with disabilities due to their inability to speak and understand English;~~

~~(b) reviewing the assessment results of a student's language proficiency in English and other language prior to initiating evaluation activities, including selecting additional assessment tools;~~

~~(c) conducting assessments for IDEA eligibility determination and educational programming in a student's native language when appropriate;~~

~~(d) using nonverbal assessment tools when appropriate;~~

~~(e) ensuring that accurate information regarding a student's language proficiency in English and another language is considered in evaluating assessment results;~~

~~(f) considering results from assessments administered both in English and in a student's native language;~~

~~(g) ensuring that all required written notices and communications with a parent who is not proficient in English [is] are provided in the parent's preferred language [to the extent practicable], including utilizing interpretation services [when appropriate]; and~~

~~(h) coordinating the language [acquisition instructional services] instruction educational program and special education and related services to ensure that the IEP is implemented as written.~~

~~[(6)5] An LEA shall provide information and training to staff that:~~

(a) limited English proficiency is not a disability; and
 (b) if there is evidence that a student with limited English proficiency has a disability, the staff shall refer the student for possible evaluation for eligibility under IDEA.

~~(7)(a)~~ An LEA shall notify a parent who is not proficient in English of the LEA's required activities.

(b) A school shall provide information about required and optional school activities in a parent's preferred language ~~to the extent practicable~~.

(c) An LEA shall provide interpretation and translation services for a parent at:

- (i) registration;
- (ii) an IEP meeting;
- (iii) an SEOP meeting;
- (iv) a parent-teacher conference; and
- (v) a student disciplinary meeting.

(d) An LEA shall provide annual notice to a parent of a student placed in a language ~~acquisition~~ instruction ~~at~~ educational program at the beginning of the school year or no later than 30 days after identification.

(e) If a student has been identified as requiring ALS services after the school year has started, the LEA shall notify the student's parent within 14 days of the student's identification and placement.

~~(8)(Z)~~ A required notice described in Subsection ~~(7)(g)~~ shall include:

- (a) the student's English proficiency level;
- (b) how the student's English proficiency level was assessed;
- (c) the status of the student's academic achievement;
- (d) the methods of instruction proposed to increase language acquisition, including using both the student's native language and English if necessary;

(e) specifics regarding how the methods of instruction will help the child learn English and meet age-appropriate academic achievement standards for grade promotion and graduation; and

(f) the specific exit requirements for the program including:

(i) the student's expected rate of transition from the program into a classroom that is not tailored for a ~~n-LEP~~ student learning English; and

(ii) the student's expected high school graduation date if funds appropriated consistent with this rule are used for a secondary school student.

~~(9)(a) An LEA shall provide notice to a parent of an ELL/LEP student if the LEA fails to meet AMAOs.~~

~~(b) An LEA shall provide a parent the notice described in Subsection (9)(a) within 30 days of the LEA's receipt of the annual State Title III Accountability Report from the Superintendent.~~

R277-716-5. Teacher Qualifications.

(1) A Utah educator who is assigned to provide instruction in a language acquisition instructional program shall comply with ~~the State~~ state ESL ~~[E]~~ endorsement requirements ~~provided in Rule R277-520~~.

(2) A Utah educator whose primary assignment is to provide English language instruction to a ~~n-ELL/LEP~~ student learning English shall have ~~an ESL or ESL or Bilingual endorsement consistent with the educator's assignment.~~

(a) an ESL endorsement, through an approved program based on the TESOL Standards;

(b) an advanced degree or certification in teaching English as a Second Language, including an approved competency program consistent with Board rule; or

(c) a bilingual endorsement consistent with the educator's assignment.

R277-716-6. Miscellaneous Provisions.

(1)(a) An LEA that generates less than \$10,000 from the LEA's ~~ELL/LEP student~~ count of students learning English, may form a consortium with other similar LEAs.

(b) A consortium described in Subsection (1)(a) shall designate a fiscal agent and shall submit all budget and reporting information from all of the member LEAs of the consortium.

(c) Each member of a consortium shall submit plans and materials to the fiscal agent of the consortium for final reporting submission to the Superintendent.

(d) A fiscal agent of a consortium described in Subsection (1)(a) shall assume all responsibility of an LEA under Section R277-716-4.

(2) No LEA or consortium may withhold more than two percent of Title III funding for administrative costs in serving ~~ELL/LEP~~ students learning English.

KEY: alternative language services

Date of Enactment or Last Substantive Amendment: ~~April 7, 2016~~ 2019

Notice of Continuation: February 16, 2016

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

Education, Administration **R277-927** Teacher and Student Success Act (TSSA) Program

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43730

FILED: 05/21/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Utah State Board of Education (Board) is enacting Rule R277-927 due to the passage of S.B. 149 from the 2019 General Session.

SUMMARY OF THE RULE OR CHANGE: Rule R277-927 establishes standards for the Board's distribution of student and teacher success program money to local education agencies (LEAs); sets standards governing an LEA's distribution of student and teacher success program money to each school within the LEA; and establishes certain accountability standards related to the student and teacher success program.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article X Section 3 and Section 53F-2-415 and Section 53G-7-1304 and Section 53G-7-1306 and Subsection 53E-3-401(4)

SALT LAKE CITY, UT 84111-3272
or at the Office of Administrative Rules.

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: This proposed new rule is not expected to have any fiscal impact on state government revenues or expenditures. This rule is being enacted due to the passage of S.B. 149 (2019). This program is funded through an appropriation from the Teacher and Student Success Account, and thus this rule will not have an independent fiscal impact.

◆ LOCAL GOVERNMENTS: This proposed new rule is not expected to have any fiscal impact on local governments' revenues or expenditures. This rule is being enacted due to the passage of S.B. 149 (2019). This program is funded through an appropriation from the Teacher and Student Success Account, and thus this rule will not have an independent fiscal impact.

◆ SMALL BUSINESSES: This proposed new rule is not expected to have any material fiscal impact on small businesses' revenues or expenditures. This rule is being enacted due to the passage of S.B. 149 (2019). This program is a state program, and thus does not apply to small businesses.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This proposed new rule is not expected to have any material fiscal impacts on persons other than small businesses', businesses', or local government entities' revenues or expenditures. This rule is being enacted due to the passage of S.B. 149 (2019). This program is a state program, and thus does not apply to other individuals.

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

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

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 07/15/2019

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2019

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
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). Thus, this new rule is not expected to have any fiscal impact on non-small businesses' revenue or expenditures because there are no applicable non-small businesses and it does not require any expenditures of or generate revenues for non-small businesses.

The Program Analyst at the Utah State Board of Education, Jill Curry, has reviewed and approved this fiscal analysis.

R277-927. Education, Administration.

R277-927. Teacher and Student Success Act (TSSA) Program.

R277-927-1. Authority and Purpose.

(1) This rule is authorized by:

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

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

(c) Section 53F-2-416, which requires the Board to calculate and distribute student and teacher success program money to LEAs;

(d) Section 53G-7-1304, which requires the Board to make rules for an LEA governing board to calculate and distribute a school's allocation of program money for each school within the LEA; and

(e) Section 53G-7-1306, which require the Board to determine:

(i) a threshold of points under the statewide school accountability system that designates a school as succeeding in school performance and student academic achievement; and

(ii) performance standards for certain schools.

(2) The purpose of this rule is to:

(a) set standards for the Board's distribution of student and teacher success program money to LEAs;

(b) set standards governing an LEA's distribution of student and teacher success program money to each school within the LEA; and

(c) to establish certain accountability standards related to the student and teacher success program.

R277-927-2. Definitions.

(1) As used in Subsection 53G-7-1304, "capital expenditures" are funds used to acquire, maintain, or upgrade physical assets like property, building, technology, or equipment and may include:

(a) improvements to a building or school grounds;

(b) a school bus;

(c) rent, lease, or bond payments; and

(d) a portable classroom or costs related to moving a portable classroom.

(2) "Program" means the student and teacher success program created in Section 53G-7-1302.

(3) "Satellite school" means the same as that term is defined in R277-550.

(4) "School personnel who work directly with and support students in an academic role" does not include:

(a) school level administrative or operational staff;

(b) building and maintenance staff, including custodial and grounds staff;

(c) transportation staff;

(d) child nutrition services staff;

(e) operational or facility support staff;

(f) financial staff;

(g) information technology staff;

(h) legal staff;

(i) secretarial staff; or

(j) other district level staff.

R277-927-3. Program Requirements and Board Distribution of Program Money.

(1)(a) For the 2019-20 school year, the Superintendent shall distribute an LEA's annual program allocation, in equal payment amounts, to an LEA once the LEA submits the LEA's student success framework through the Board's grant management system.

(b) If an LEA amends the LEA's student success framework, the LEA shall submit the amended student success framework through the Board's grant management system.

(2) Beginning with the 2020-21 school year, if the LEA previously submitted a student success framework, before the LEA receives the LEA's annual program allocation, the LEA shall submit annual assurances in accordance with the requirements of R277-108.

(3) If an LEA fails to submit the LEA's student success framework as described in Subsection (1) or annual assurances described in Subsection (2) to the Superintendent by November 1 of a fiscal year:

(a) the LEA may not receive a program allocation for that fiscal year; and

(b) the undistributed balance will be included with the new year appropriation and distributed in the following fiscal year according to the formula described in Subsection 53F-2-416(3).

(4) For purposes of calculating the formula described in Subsection 53F-2-416(3), "weighted pupil units" means:

(a) for a school district or charter school:

(i) the weighted pupil units for the current year budget request for the minimum school basic program; minus

(ii) the weighted pupil units allocated to LEAs for foreign exchange students; and

(b) for the Utah Schools for the Deaf and Blind, USDB's prior year October 1 headcount multiplied by two.

(5) For a new LEA or new charter satellite campus in the LEA or charter school satellite's second year of operation, the Superintendent shall increase or decrease the new LEA or charter school satellite's first year distribution of funds in the LEA or charter school satellite's second year to reflect the LEA or charter school satellite's actual first year October 1 counts.

(6) For purposes of determining whether a school district in a county of the first, second, or third class has an approved board local levy for the maximum amount allowed for the purposes described in Subsection 53G-7-1304(2)(c)(i)(A), the school district meets the property tax requirements of Subsection 53G-7-1304(2)(a)(i) if in the applicable fiscal year:

(a) the school district's rate imposed for the board local levy is equal to the maximum amount allowed under Section 53F-8-302; or

(b)(i) meets or exceeds an amount equal to the certified board local levy rate; and

(ii) the school district's board local levy rate equaled the maximum amount allowed under Section 53F-8-302 sometime within the prior five fiscal years.

(7) For purposes of determining whether a school district in a county of the first, second, or third class increased the school district's board local levy by at least .0001 per dollar of taxable value as described in Subsection 53G-7-1304(2)(c)(i)(B), a school district that does not meet the property tax requirements of Subsection (6), the school district meets the requirements of Subsection 53G-7-1304(2)(c)(i)(B) if the school district's board local levy rate for the current fiscal year is at least .0001 per dollar of taxable value more than the school district's board local levy rate imposed in the prior fiscal year.

(8) For fiscal year 2020, "state average teacher salary" means a weighted calculation of the statewide teacher salary expenditures reported on the annual financial report by LEA from fiscal year 2018 divided by the number of full-time equivalent educators or FTEs from the most recent educator cactus submission.

(9) Except as provided in Subsection (10), for fiscal year 2020, "LEA's average teacher salary" means the LEA's teacher salary expenditures reported on the annual financial report from fiscal year 2018 divided by the LEA's number of full-time equivalent educators or FTEs from the most recent educator cactus submission.

(10) For a new LEA in the new LEA's first or second year of operation, the new LEA's average teacher salary is equal to the state average teacher salary.

R277-927-4. LEA Financial Reporting and Prohibited Uses of Program Funds.

(1) An LEA shall report expenditures of program money by location according to the Board approved chart of accounts.

(2) An LEA may not use program money:

(a) for a purpose described in Subsection 53G-7-1304(1);

(b) to support adult education programs; or

(c) to pay for contracted services commonly performed by the following staff:

(i) school level administration staff;

(ii) building and maintenance staff, including custodial staff;

(iii) transportation staff;

(iv) child nutrition services staff;

(v) operational or facility support staff; or

(vi) district level staff.

(3) As used in Subsection 53G-7-1304(2), "district administration costs" does not include salary driven benefits for school personnel charged at the district level.

(4) An LEA may carry over restricted program funds into the next fiscal year to support a purpose identified by the LEA governing board student success framework. Any funds carried over must be reported according to the Board approved chart of accounts.

R277-927-5. LEA Allocations to Schools.

(1) An LEA with two or more schools shall establish a policy that defines how the LEA will calculate and distribute program allocations based on prior year average daily membership as determined by the Superintendent, to all schools within the LEA, including how the LEA will calculate allocations for new schools within the LEA.

(2) For a new school within an LEA, the LEA shall calculate and distribute school's allocation based on the school's projected October 1 headcount for the applicable school year.

R277-927-6. Accountability Performance Standards.

(1) For purposes of determining the threshold of points that designates a school as succeeding in school performance as described in Subsection 53G-7-1306(1)(a), a school is succeeding in school performance if, in the most recently published overall school accountability ratings the school is designated as a commendable or exemplary school as described in Section R277-497-2.

(2) For purposes of determining the performance standards for a school described in Section 53G-7-1306(1)(b), a school meets the performance standards if the school meets the criteria described in Section 53E-5-203(2).

KEY: Student and Teacher Success Act (TSSA), program money, allocation

Date of Enactment or Last Substantive Amendment: 2019

Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53E-3-401(4), 53F-2-416, 53G-7-1304, 53G-7-1306

**Governor, Economic Development
R357-8
Allocation of Private Activity Bond
Volume Cap**

NOTICE OF PROPOSED RULE

(Repeal)

DAR FILE NO.: 43755

FILED: 05/31/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During the 2018 General Session, the Legislature passed H.B. 23, Office of Economic Development Amendments, which moved and renumbered provisions related to private activity bonds from the Governor's Office of Economic Development to the Department of Workforce Services. The revisions make this rule obsolete and the Department of Workforce Services will file the rule under the correct title.

SUMMARY OF THE RULE OR CHANGE: This rule is being repealed because H.B. 23 passed during the 2018 General Session, moved and renumbered provisions related to private activity bonds from the Governor's Office of Economic Development to the Department of Workforce Services. That change makes this rule obsolete. This rule is repealed in its entirety.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 63M-1-3004

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** There is no aggregate anticipated cost or savings to the state budget. The repeal of this rule requires no action or compliance by any persons.
- ◆ **LOCAL GOVERNMENTS:** There is no aggregate anticipated cost or savings to local governments. The repeal of this rule requires no action or compliance by any persons.
- ◆ **SMALL BUSINESSES:** There is no aggregate anticipated cost or savings to small businesses. The repeal of this rule requires no action or compliance by any persons.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no aggregate anticipated cost or savings to persons other than small businesses, businesses, or local government entities. The repeal of this rule requires no action or compliance by any persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons. The repeal of this rule requires no action or compliance by any persons.

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

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 GOVERNOR
 ECONOMIC DEVELOPMENT
 60 E SOUTH TEMPLE 3RD FLR
 SALT LAKE CITY, UT 84111
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Dane Ishihara by phone at 801-538-8865, or by Internet E-mail at dishihara@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2019

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2019

AUTHORIZED BY: Val Hale, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
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 is no regulatory impact creating financial cost to small businesses or non-small businesses or other persons. This rule is being repealed.

The head of the Governor's Office of Economic Development, Val Hale, has reviewed and approved this fiscal analysis.

R357. Governor, Economic Development.

[R357-8. Allocation of Private Activity Bond Volume Cap.

R357-8-1. Purpose.

~~The purpose of this rule is to establish a formula for determining the amount of volume cap to be allocated to an applicant applying for an allocation of private activity bond volume cap.~~

R357-8-2. Authority.

~~UCA 63M-1-3004 requires the Private Activity Bond Review Board to promulgate rules for the allocation of volume cap for private activity bonds.~~

R357-8-3. Definitions.

~~(1) "Applicant" means an issuing authority submitting an application for an allocation of volume cap or a project sponsor submitting an application on behalf of an issuing authority for an allocation of volume cap.~~

~~(2) "Available Volume Cap" means the unencumbered volume cap.~~

~~(3) "Application" means:~~

~~(a) the State of Utah Federal Low Income Housing Credit Consolidated Application Form for multi-family applicants;~~

~~(b) the Private Activity Bond Authority Manufacturing Facility Application for the manufacturing, redevelopment or exempt facility applicants; or~~

~~(c) the Private Activity Bond Authority Application for Single Family or Student Loan applicants.~~

~~(4) "Project" or "Program" means the applicant's plan for which the private activity bonds are being sought.~~

~~(5) All other terms are used as defined by UCA 63M-1-3002.~~

R357-8-4. Formula for Allocating Volume Cap.

~~(1) Allocations of the volume cap will be made during each calendar year based upon available volume cap. Availability shall depend upon the date an applicant submits a completed application.~~

~~(2) The decision to allocate volume cap to an applicant shall be determined by the board of review.~~

~~(a) When deciding to allocate volume cap to an applicant, the board of review shall consider the criteria outlined in UCA 63M-1-3005 and shall consider the following additional criteria:~~

~~(i) Multi-Family Housing applicants:~~

~~(A) Bond amount per unit;~~

~~(B) Percentage of private activity bonds per percentage of total cost;~~

~~(C) Bond amount per number of households served;~~

~~(D) Percentage of public financing;~~

~~(E) Total cost per unit;~~

~~(F) Percentage of developer fee contributed to project;~~

~~(G) Average rent as a percentage of Area Median Income;~~

~~(H) Number of special needs units;~~

~~(I) Cash flow per unit;~~

~~(J) Percentage of taxable bonds;~~

~~(K) Project location - stronger consideration is given to projects located in:~~

~~(I) Underserved areas;~~

~~(II) Communities without projects; and~~

~~(III) Difficult to develop areas as defined by HUD.~~

~~(L) Project characteristics including:~~

~~(I) Day Care;~~

~~(II) Education center;~~

~~(III) Applicant's experience with bonds; and~~

~~(IV) Size of project developed.~~

~~(M) Other considerations deemed appropriate by the board of review.~~

~~(ii) Manufacturing Facility, Redevelopment and Exempt Facilities applicants:~~

~~(A) New job creation;~~

~~(B) Retention of jobs;~~

~~(C) Training and education of employees;~~

~~(D) Bond amount to jobs ratio;~~

~~(E) Jobs created and/or retained that provide above average wages when compared to the community average wage;~~

~~(F) Demonstrated need for tax-exempt financing;~~

~~(I) Show of realistic cash flow for the first three years of operation; and~~

~~(H) Explanation for selecting variable or fixed rates.~~

~~(G) Community Support;~~

~~(I) Financial support;~~

~~(II) Zoning approval;~~

~~(III) Tax increment financing; and~~

~~(IV) Deferral of fees.~~

~~(H) Competitive costs for construction and equipment related expenses;~~

~~(I) Ready-to-go Status;~~

~~(I) Manufacturing Facility zoned for use;~~

~~(II) Proximity of infrastructure to site;~~

~~(III) Need for special infrastructure;~~

~~(IV) Environmental study, if required by lender;~~

~~(V) Current title report and site plan of project; and~~

~~(VI) Building description;~~

~~(J) Status of project's financing at time of application;~~

~~(K) Selection of bond counsel;~~

~~(L) Letter from bond counsel opining the project qualifies for private activity bonds;~~

~~(M) Selection of investment banker or, if private placement, buyer of the bonds;~~

~~(N) Detailed commitment letters from financial entities involved;~~

~~(O) Ability to cause bonds to be issued within the calendar year of allocation; and~~

~~(P) Other considerations deemed appropriate by the board of review.~~

~~(iii) Student Loan and Single Family Housing applicants:~~

~~(A) Completed application; and~~

~~(B) Payment of all mandatory fees.~~

~~(iv) All applicants:~~

~~(A) Overall community need and impact of the project or program;~~

~~(B) Applicant's past and current experience and utilization of private activity bonds; and~~

~~(C) Other considerations deemed appropriate by the board of review.~~

~~(b) When considering multiple applications at a meeting, the board of review may choose to award each applicant an equal share, pro rata share, or other division of available volume cap determined by the Board, provided that each applicant shall have submitted its application prior to the deadline posted on the website of the board of review.~~

~~(c) The staff of the board of review will work with each applicant prior to each board of review meeting to ensure that all materials necessary to be considered by the board of review are completed and available at such meeting. Forms of applications and~~

~~other materials shall be made available on the website of the board of review. Applications will not be considered unless and until all materials are provided and complete.~~

~~KEY: allocation, private activity bond, volume cap
Date of Enactment or Last Substantive Amendment: July 8, 2015
Authorizing, and Implemented or Interpreted Law: 63M-1-3004~~

**Health, Disease Control and
Prevention, Health Promotion
R384-201
School-Based Vision Screening for
Students in Public Schools**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43757

FILED: 05/31/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Section 53G-9-404 was revised in the 2019 General Session with S.B. 143. Changes in legislation require this rule be updated.

SUMMARY OF THE RULE OR CHANGE: In the 2019 General Session, the statute on vision screening was revised. The Utah Department of Health (Department) will now oversee the school vision screening program. The school vision screening program is now required in all Utah public schools. These revisions to statute required changes to this rule. Because the revisions are extensive, it is necessary to repeal the old rule and reenact new language. Changes include moving the oversight of the vision screening program from the Division of Services to the Blind and Visually Impaired to the Department, requiring vision screening be done in specific grades, vision screening being comprised of tier 1 and tier 2 screening, the creation of training modules by the Department for vision screening, eliminating the state database for students who fail the vision screening, the creation of a symptoms questionnaire, and adding annual reporting requirements for local education agencies.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 53G-9-404(6)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The Department (EPICC Program) will monitor the vision screening requirement in Utah public schools. It is estimated that this rule will cost the EPICC program \$32,000 annually, starting with FY 2020, to monitor. The EPICC program is expected to experience an ongoing direct fiscal cost of \$32,000.

◆ **LOCAL GOVERNMENTS:** Across the state of Utah 1,253 public schools (elementary and secondary schools NAICS 611110) will be required to provide vision screening to students. It is estimated that the cost to each school will be a one-time cost for equipment of \$102, and an ongoing cost of \$905 for school nurse salary and benefits. Local governments are expected to experience direct fiscal costs of \$1,261,771 (one-time FY 2020), and \$1,133,965 ongoing.

◆ **SMALL BUSINESSES:** There are six types of healthcare providers who are currently allowed by statute to provide the vision screening required to enter Utah schools: optometrist (NAICS 621320), MD physician (NAICS 621111), DO physician (NAICS 621111), advance practice registered nurse (NAICS 621399), physician assistant (NAICS 621399), and vision therapist (NAICS 621399). Only two of these six types of providers are classified as eye care professionals (optometrist and ophthalmologist) who may provide a comprehensive eye exam for referrals when a student is not able to pass the vision screening. It is not possible to determine the number of referrals to an eye care professional. It is also not possible to determine the number of optometry and ophthalmology offices, and to further determine if those offices are small businesses or non-small businesses. The precise fiscal benefit to small healthcare provider business cannot be estimated due to the unavailability of data and high cost of conducting research to determine the estimates.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are 658,952 students in Utah public schools that could experience an inestimable indirect non-fiscal benefit by receiving vision screening at no cost to their family. These screenings can detect many vision difficulties that may have gone undetected and untreated. It is difficult to estimate the monetary value of good vision health. An exact estimate of the non-fiscal benefit to these students is not possible because the data necessary to determine the benefit is not available.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The cost for FY 2020 is \$1,293,771. The cost for FY 2021 and ongoing will be \$1,165,965.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses may see a fiscal benefit if the school uses an outside healthcare provider who is qualified to provide vision screening.

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

HEALTH
DISEASE CONTROL AND PREVENTION,
HEALTH PROMOTION
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:

◆ BettySue Hinkson by phone at 801-538-6814, or by Internet E-mail at bhinkson@utah.gov or mail at PO Box 142107, Salt Lake City, UT 84114-2107

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2019

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2019

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$32,000	\$32,000	\$32,000
Local Government	\$1,261,771	\$1,133,965	\$1,133,965
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$1,293,771	\$1,165,965	\$1,165,965
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:	-\$1,293,771	-\$1,165,965	-\$1,165,965

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

Appendix 2: Regulatory Impact to Non-Small Businesses

The regulatory and fiscal impact to non-small businesses is inestimable. It is unknown how many students may require referral to an eye care professional (optometrist or ophthalmologist) for a more comprehensive eye exam.

Additionally, a doctor of ophthalmology is included in the physician category under both NAICS and the Utah Division of Occupational and Professional Licensing. It is unknown how many licensed physicians specialize in ophthalmology. According to Department of Workforce Services Firm Find Data, no optometrists are listed as a non-small business.

R384. Health, Disease Control and Prevention, Health Promotion.

R384-201. School-Based Vision Screening for Students in Public Schools.

[R384-201-1. Authority.

- ~~_____ (1) This rule is authorized by section 53A-11-203.~~
- ~~_____ (2) The Department of Health is authorized under the rule to set standards and procedures for vision screening required by this chapter, which shall include a process for notifying the parent or guardian of a child who fails a vision screening or is identified as needing follow-up care; and provide the Division with copies of rules, standards, instructions; and recommendation for test charts necessary for conducting vision screening.~~

R384-201-2. Definitions.

- ~~_____ (1) Division -- Division of Services for the Blind and Visually Impaired, State Office of Education.~~
- ~~_____ (2) Eye care professional -- Ophthalmologist or optometrist~~
- ~~_____ (3) LEA -- Local education agency~~
- ~~_____ (4) Photoscreening -- Automated screening technique that facilitates vision screening in children, especially those that are difficult to screen (infants, toddlers, and children with developmental delays). It screens for a range of eye problems including most refractive errors, alignment errors, opacities (such as cataracts), and other visible eye abnormalities.~~
- ~~_____ (5) Screening certificate -- Written documentation of vision screening or comprehensive eye examination by a licensed physician, or eye care professional that have been given within one year of entering a public school are acceptable.~~
- ~~_____ (6) Sure Sight -- A vision screening auto-refractor that identifies nearsightedness, farsightedness, astigmatism and the difference between eyes.~~
- ~~_____ (7) Significant visual impairment -- A visual impairment severe enough to interfere with learning. The term is the designation required for a child to receive services from district vision or Utah Schools for the Deaf and Blind (USDB).~~
- ~~_____ (8) Screener -- Pediatricians, family practitioners, nurses, or trained medical staff can perform vision screening at regular well child office visits. In addition, school volunteers and groups are trained to support vision screening programs for children. A licensed health professional providing vision care to private patients may participate as a screener in a school vision screening program for a child nine years of age or older.~~
- ~~_____ (9) USDB -- Utah Schools for the Deaf and Blind~~
- ~~_____ (10) UDOH -- Utah Department of Health~~
- ~~_____ (11) Vision Screening School Vision Screening programs are an efficient and cost-effective method to identify children with significant visual impairment so that a referral can be made to an appropriate eye care professional for further evaluation and treatment. School Vision Screenings must use devices and procedures approved by the Division and UDOH. The procedures for conducting screening may include, age or grade levels to be screened, tests to be used, criteria for referral and documentation of findings.~~

R384-201-3. Purpose.

~~_____ The purpose of school based vision screening is to set standards and procedures for vision screening for students in public~~

schools. This is necessary to detect vision difficulties in school age children in public schools so that follow-up for potential concerns may be done by the child's parent or guardian. Vision screening is not a substitute for a complete eye exam and vision evaluation by an eye care professional.

R384-201-4. Students Eligible for Free Screening.

The following students in an LEA may receive free vision screenings to include: distance visual acuity and other age appropriate tests that may detect visual problems upon request.

(1) Students entering pre-kindergarten, kindergarten and any student age eight and under entering school for the first time in Utah;

(2) Vision screening may be conducted for all school age children in grades pre-kindergarten through 12. The UDOH and the Division recommend screening students every other year after pre-kindergarten and kindergarten screenings, to include grades 1, 3, 5, 7, and 9 or 10 and annually for students with hearing impairment and any student referred by school personnel, parent or self to rule out vision as a reason for learning problems;

(3) Tenth grade students may be screened as part of their driver's education class; and

(4) Students who are currently receiving services from the Utah Schools for the Deaf and Blind (USDB) or LEA vision staff who have a diagnosed significant visual impairment will be exempt from screening.

R384-201-5. Required Screening.

Required screening for students identified with disabilities in an LEA are as follows:

(1) Vision issues have to be ruled out as reasons for learning problems before Specific Learning Disability can be used as eligibility criteria and

(2) Every three years, a student must be reevaluated for eligibility for special education in all areas of suspected disability, including vision.

R384-201-6. Proof of Screening.

Certificate or health form from a licensed physician, nurse practitioner, eye care professional documenting a visual screening or examination given within one year of entering a public school are acceptable for school entry. All children age eight and under entering a public school for the first time without proof of screening mentioned above, may be screened during that school year by a trained vision screener.

R384-201-7. Training of Screeners.

(1) A training session shall be provided by the LEA to all volunteer vision screeners prior to the start of annual vision screenings.

(2) Trainings in compliance with Division materials should be provided by the LEA.

(3) The Department of Health in collaboration with the Division shall provide train the trainer vision screening training materials.

(4) Training vision screening materials will be shared with groups that provide free vision screening services in Utah schools.

R384-201-8. Screening.

(1) Screenings are to be performed following criteria developed by the UDOH in collaboration with the Division.

(2) It is recommended that vision screenings are done early in the school session to provide time in that school year for adequate referral and follow-up to be done.

(3) Parents/legal guardian of a child have the right not to participate in vision screening due to personal beliefs. All parents must be notified of scheduled vision screenings by the public school to provide an opportunity to opt out of screening for their child utilizing the vision screening exemption form, available at the public school, to document a personally held belief.

(4) A public school staff member should be present at all times during vision screenings performed by any volunteer(s) including those done by an eye care professional. If the school nurse is not present, the school nurse should be available for consultation and re-screening.

(5) Screenings are to be done using material and procedures approved by the UDOH in collaboration with the Division. Standards and procedures are based on guidance of American Academy of Pediatrics and the American Academy of Ophthalmology and National School Nurse Association.

(6) An eye care professional providing vision care to private patients may participate as a screener in a free vision screening program for students nine years of age or older.

(a) An eye care professional screener may not market, advertise or promote their business in conjunction with the free screening at public school.

(b) The eye care professional will provide results of vision screening to public school in a format (paper or electronic) as required by the Division.

(7) Any group that provides free vision screening services in the LEA will provide results of vision screening to the public school on forms required by the Division.

R384-201-9. Documentation and Follow-up.

All vision screening findings are to be documented in the student's permanent school record. Screening failures and follow-up results for students age eight and under, who are entering school for the first time in this state, are to also be reported to the Division by the LEA.

Reported information to the Division shall include:

(1) The LEA shall report to the division students who fail vision screening and referral follow-up results for children age eight and under, who are entering school for the first time in this state.

(2) Follow up information from an eye examination referral if available may be included with written permission obtained by the public school from the parent or guardian permission;

(3) Follow-up results and screening findings are to be documented in a format approved by the UDOH in collaboration with the Division;

(4) Screening results and follow-up information shall be sent to the Division on or before June 15 for all screenings performed during that school year;

(5) The Division is responsible to maintain a state database/registry only accessible by authorized Division staff of students who fail vision screening and who are referred for follow-up.

(6) In the interest of family privacy, the Division shall not contact a parent or guardian for information related to follow-up referral for professional eye examination unless assistance is requested in writing by the LEA.

R384-201-10. Requirements for Referral.

~~(1) Children who fail initial age appropriate school vision screening may be re-screened by a school nurse to confirm results before notification to student's parent or guardian of any impairment disclosed by the vision screening recommending further evaluation by an eye care professional. If the screening of a child 9 or older was administered in the public school by an eye care professional, the school nurse does not have to rescreen.~~

~~(2) The public school shall notify, in writing within 30 days from vision screening, a student's parent or guardian of any impairment disclosed by the vision screening recommending further evaluation by an eye care professional.~~

~~(3) An LEA may provide information to a parent or guardian of availability of follow up vision services for students.~~

~~(4) A student diagnosed by an eye care professional with a significant visual impairment shall be referred to the LEA vision consultant or teacher of the visually impaired prior to referral to the USDB.~~

R384-201-11. Photoscreening.

~~Preschool, kindergarten children, and special education students who are not candidates for regular vision screening may be screened by a school nurse using a sure sight scanner, another device approved by the Division or by Division staff with a photo screening type device. The Division is available for assistance and consultation for photo screening. Prior to photo screening by the Division or other outside agencies approved by the Division, the public school shall obtain written permission from the parent or guardian.~~

~~References:~~

~~National Association of School Nurses (2006) Vision Screening, schools.~~

~~S. Proctor (2005) To See or not to See screening the Vision of Children in School. National Association of School Nurses.~~

~~Pediatrics Vol. 111 No.4 April 2003, pp. 902-907 at 2003 American Academy of Pediatrics ICP-2 Category F:Eye.]~~

R384-201-1. Authority.

~~(1) This rule is authorized by section 53G 9-404 and 26-1-30 (33).~~

~~(2) The Department of Health is authorized under the rule to set standards and procedures for vision screening required by this chapter, which shall include a process for notifying the parent or guardian of a student who fails a vision screening or is identified as needing follow-up care.~~

R384-201-2. Definitions.

~~(1) "Eye care professional" means an ophthalmologist or optometrist.~~

~~(2) IEP means an Individualized Education Plan.~~

~~(3) "Instrument based screening" means an automated screening technique that facilitates vision screening in students who are difficult to screen such as children with developmental delays.~~

~~(4) LEA means local education agency.~~

~~(5) "Screening certificate" means written documentation of vision screening or comprehensive eye examination by a health care professional as defined in 53G-9-404 (1)(a) done within one year of entering a public school.~~

~~(6) "Significant visual impairment" means a visual impairment severe enough to interfere with learning. The term is the~~

designation required for a child to be eligible for services from a teacher of students with visual impairments in an LEA or USDB.

(7) "Screener" means those trained to support vision screening programs for students.

(8) USDB means Utah Schools for the Deaf and Blind.

(9) UDOH means Utah Department of Health.

(10) "Vision Screening" means a way to identify students with visual impairment.

R384-201-3. Purpose.

The purpose of school-based vision screening is to set standards and procedures for vision screening for students in public schools. This is necessary to detect vision difficulties in students so that follow-up for potential concerns may be done by the student's parent or guardian. Vision screening is not a substitute for a complete eye exam and vision evaluation by an eye care professional.

R384-201-4. Free Screening.

The following students in an LEA shall receive free vision screenings to include tier 1 screening.

(1) Vision screening shall be conducted for all students in grades pre-kindergarten, kindergarten, 1, 3, 5, 7 or 8, and 9 or 10 and any student referred by school personnel, parent or guardian or self to rule out vision as an obstacle to learning;

(2) Tenth grade students may be screened as part of their driver education class; and

(3) Students who are currently receiving services from USDB or LEA vision specialist who have a diagnosed significant visual impairment will be exempt from screening.

(4) Students may be referred for mandatory or optional tier 2 vision screening under the following circumstances in (a) and (b).

(a) Mandatory tier 2 screening may be done for students requiring education intervention such as special education referral or failing benchmark reading assessment as defined by R277-404.

(b) Optional tier 2 vision screening may be done based on parent or teacher concern.

(c) Students failing a tier 1 screening who have been referred to an eye care professional are not required to complete a tier 2 screening.

(d) Instead of performing a tier 2 vision screening, the LEA may automatically refer the student being referred to a tier 2 vision screening to an eye care professional.

(e) If the LEA does not have a school nurse or other approved tier 2 screener, the student being referred for a tier 2 vision screening should be automatically referred to an eye care professional.

R384-201-5. Required Screening for Students with an Individualized Education Plan.

Required screening for students identified with an IEP in an LEA are as follows:

(1) Vision issues have to be ruled out as an obstacle to learning before Specific Learning Disability can be used as eligibility criteria and

(2) Every three years, a student must be reevaluated for eligibility for special education in all areas of suspected disability, including vision.

R384-201-6. Proof of Screening.

Certificate or health form documenting a vision screening or examination given within one year of entering a public school are acceptable for school entry. All students less than age 9 entering a public school in Utah for the first time without proof of screening mentioned above, shall be screened during that school year.

R384-201-7. Training of Screeners.

(1) The LEA shall provide training annually to all vision screeners prior to the start of vision screenings.

(a) The school nurse shall provide training shall be provided to the vision screeners; or

(b) Vision screeners shall view the online module developed by UDOH referred to in 53G-9-404 (4)(b).

(2) The LEA will provide trainings in compliance with UDOH materials.

(3) The LEA will share vision screening training materials with qualified outside entities that provide free vision screening services in Utah schools.

(4) UDOH will create online training modules on:

(a) Tier 1 vision screening; and

(b) Training for tier 1 vision screeners; and

(c) Tier 2 vision screening for school nurses or other approved tier 2 screeners.

R384-201-8. Screening.

(1) Screenings are to be performed following criteria developed by UDOH.

(2) Screeners should do vision screenings early in the school session to provide time in that school year for adequate referral and follow-up to be done.

(3) A Parent or guardian of a student has the right not to have their student participate in vision screening. All parents or guardians must be notified of scheduled vision screenings by the public school to provide an opportunity to opt out of screening for their student. Parent or guardian choosing to opt out of vision screening for their student must do so annually and in writing.

(4) A public school staff member should be present at all times during vision screenings including those done by qualified outside entities.

(5) Screenings are to be done using material and procedures approved by UDOH. Standards and procedures are based on recommendations of American Academy of Pediatrics, the American Academy of Ophthalmology, the American Optometric Association, the National Center for Children's Vision & Eye Health, and National School Nurse Association.

(6) School vision screening is comprised of tier 1 and tier 2 screening.

(a) Tier 1 vision screening is a lower-level vision screening such as basic distance vision screening.

(b) Tier 2 vision screening is a higher-level evaluation that should include screening of distance and near vision. It may also include eye focusing or tracking problems, color screening, and screening for convergence insufficiency.

(i) The approved tier 2 screener may automatically refer the student to an eye care professional in lieu of performing the tier 2 screening.

(ii) If the LEA does not have an approved tier 2 screener the LEA should automatically refer the student to an eye care professional.

(7) Approved vision screeners include the following:

(a) Approved tier 1 vision screeners can be school nurses, qualified outside entities, trained volunteers, or health care professionals as defined in 53G-9-404 (1)(a) who have completed UDOH training for tier 1 vision screening.

(b) Approved tier 2 vision screeners can only be school nurses or health care professionals as defined in 53G-9-404 (1)(a) who have completed UDOH training for tier 2 vision screening.

(c) Persons assisting with vision screening:

(i) May not profit financially from school vision screening; and

(ii) May not market, advertise, or promote a business in connection with assisting with vision screening.

(8) Any qualified outside entity that provides free vision screening services in the LEA will provide results of vision screening to the public school.

(9) Students who are not candidates for regular vision screening may be screened using an approved instrument-based screening device. Only devices approved by UDOH should be used for screening, and then only when screening with a chart is not an option. Devices are not a substitute for clinical judgement and a visual acuity test.

(10) The LEA shall document all vision screening results including referrals and follow-up results in the student's permanent school record.

R384-201-9. Requirements for Referral.

(1) A school nurse may rescreen students who fail initial age appropriate school vision screening to confirm results before notification to student's parent or guardian of any impairment disclosed by the vision screening recommending further evaluation by an eye care professional.

(2) The LEA shall notify, in writing within 30 days from vision screening, a student's parent or guardian of any impairment disclosed by the vision screening recommending further evaluation by an eye care professional.

R384-201-10. Symptoms Questionnaire.

(1) The UDOH will provide schools a vision symptoms questionnaire that includes questions for classroom teachers to potentially identify eye focusing or tracking problems as well as convergence insufficiency. The UDOH will update the questionnaire as needed.

(2) For students who fail to achieve benchmark status on the benchmark reading assessment in grades 1-3:

(a) The LEA shall notify the student's teacher within 30 calendar days of student performance on the benchmark reading assessment.

(b) Teachers must complete the vision symptoms questionnaire within 45 calendar days of the administration of the assessment and submit to the school nurse.

(c) Teachers need only complete the vision symptoms questionnaire once per school year.

(d) School nurses or other approved tier 2 vision screeners shall use the vision symptoms questionnaire to perform a secondary assessment and/or refer to an eye care professional.

(3) For students who are being referred to special education for a suspected disability affected by vision difficulties:

(a) Teachers must complete the vision symptoms questionnaire and submit to the school nurse.

(b) School nurses or other approved tier 2 vision screeners shall use the vision symptoms questionnaire to perform a secondary assessment and/or refer to an eye care professional.

(4) For students who are being referred by parent or guardian for vision concern:

(a) Parent or guardian should complete the vision symptoms questionnaire and submit to the school nurse.

(b) School nurses or other approved tier 2 vision screeners shall use the vision symptoms questionnaire to perform a secondary assessment and/or refer to an eye care professional.

R384-201-11. Aggregate Reporting Requirements.

(1) All LEAs shall report aggregate numbers annually to UDOH to include:

(a) Total number of students receiving tier 1 vision screening; and

(b) Total number of students referred to an eye care professional following a tier 1 vision screening; and

(c) Total number of students referred to school nurse for tier 2 screening; and

(d) Total number of students referred to an eye care professional following a tier 2 vision screening; and

(e) Other information as requested by UDOH.

(2) This report may be submitted on the annual vision screening report, or as part of the annual school health workload census, and shall be due on or before June 30 of each year.

(3) No personally identifiable information will be collected.

KEY: eye exams, school vision, vision evaluations

Date of Enactment or Last Substantive Amendment: ~~[July 1, 2013]~~2019

Notice of Continuation: June 7, 2018

Authorizing, and Implemented or Interpreted Law: ~~[53A-H-203]~~53G-9-404

Natural Resources, Parks and Recreation

R651-411

OHV Use in State Parks

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43759

FILED: 05/31/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: While researching information related to this rule change for Off-Highway Vehicle (OHV) use in state parks, it was found that the Utah Code (Code) had been changed at some point, moving the definition of an OHV to another location. The definitions are listed alphabetically, and when a new definition was added to the Code, it moved the OHV definition down the list from 13 to 14. These rule changes update that reference and allow for park visitors to ride their OHVs within state parks in designated areas, which could provide an added experience for them.

SUMMARY OF THE RULE OR CHANGE: The Code had been changed moving the definition of an OHV to another location in the Code. The definitions are listed alphabetically, and when a new definition was added to the Code, it moved the OHV definition down the list from 13 to 14. These rule amendments update that reference and allow for park visitors to ride their OHVs within state parks in designated areas, which could provide an added experience for them. It also replaces the word "user" under Subsection R651-411-2(2) and replaces it with the word "operator" and adds the Code reference for that.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 41-22-10 and Section 79-4-501

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There is no cost or savings to the state budget as this rule amendment changes the rule to be in line with the Code which was changed at some point moving the definition of OHV down the list from 13 to 14. The amendment also adds clarification for park visitors to be able to ride their OHVs within state parks in designated areas.

♦ **LOCAL GOVERNMENTS:** There is no cost or savings to local governments as these rule changes bring this rule in line with the Code and to add clarification for park visitors to add an additional experience if they choose to ride OHVs within state parks in designated areas. It does not affect local governments.

♦ **SMALL BUSINESSES:** There is no cost or savings to small businesses as this amendment fixes the list of definitions that include OHVs that was changed at some point in the Code. The amendment also adds clarification for park visitors to be able to ride OHVs within state parks in designated areas and have an additional experience. It does not affect small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no additional cost or savings to persons other than small businesses, businesses, or local government entities because these amendments bring this rule in line with the Code regarding the definition of OHVs that was found to be changed at some point. The amendment also adds clarification for park visitors to be able to ride OHVs within state parks in designated areas. This could add another experience for park visitors if they so choose.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for persons affected by these amendments because there are no costs to move the definition to the proper place to be in line with the Code, and there are no costs to park visitors if they choose to add an additional experience while visiting a state park by riding their OHV within state parks in designated areas.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These rule changes should have very little effect on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 NATURAL RESOURCES
 PARKS AND RECREATION
 ROOM 116
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2019

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2019

AUTHORIZED BY: Jeff Rasmussen, Acting Director

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 are not expected to have any fiscal impacts on non-small businesses' revenues or expenditures. This is a rule numbering change to be in line with Utah Code that was changed at some point. There is also a rewording change to be more clear and to be in line with the ATV Street Legal rule, R651-615. The wording change is to make it clearer that OHVs are now allowed to operate within state parks in designated areas, which gives the potential for parks visitors to have an added experience.

The head of department of Natural Resources, Michael Styler, has reviewed and approved this fiscal analysis.

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
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

R651. Natural Resources, Parks and Recreation.

R651-411. OHV Use in State Parks.

R651-411-1. Definitions.

(1) "OHV" for this section has the same meaning as defined in Subsection 41-22-2([13]14).

R651-411-2. OHV Use[-Restrictions].

(1) ~~[OHVs are to be used only in designated areas.]~~ Registered OHVs are permitted to operate on designated routes in State Parks:

- (a) To access OHV riding areas or roads designated open, or
- (b) To access public ice fishing areas via boat ramps located within state parks.

~~[(2) Designated ice areas for OHV use are only those ice areas that are accessed via the boat ramps to public ice fishing areas. These areas are at Bear Lake, East Canyon, Escalante, Hyrum, Jordanelle, Millsite, Otter Creek, Palisade, Piute, Red Fleet, Rockport, Seofield, Starvation, Steinaker and Yuba state parks.]~~

([3]2) Responsibility for any accidents or problems while using OHVs in state parks rests with the [user]operator as required under UCA 41-22-37.

KEY: off-highway vehicles

Date of Enactment or Last Substantive Amendment: [February 16, 2017]2019

Notice of Continuation: December 19, 2018
Authorizing, and Implemented or Interpreted Law: 41-22-10; 79-4-501

**Natural Resources, Parks and
 Recreation
 R651-615
 Motor Vehicle Use**

**NOTICE OF PROPOSED RULE
 (Amendment)**
 DAR FILE NO.: 43756
 FILED: 05/31/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Off-Highway Vehicle (OHV) use within Utah state parks has tended to be very restrictive. This has limited recreational opportunities. The Division of Parks and Recreation (Division) would like to allow opportunities for park visitors to ride OHVs in designated areas within state parks.

SUMMARY OF THE RULE OR CHANGE: The portion of this rule being removed has restricted OHV riding within Utah state parks. The Division would like to remove the portion of this rule that restricts OHV riding within Utah state parks to allow for more recreational opportunities for park visitors.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 41-22-10 and Section 79-4-203 and Section 79-4-501

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** A portion of this rule is being removed and another rule amended to clarify that park visitors can ride OHVs in designated areas within state parks. There is no cost or savings to the state budget anticipated with this removal. (EDITOR'S NOTE: The proposed amendment to Rule R651-411 is under Filing No. 43759 in this issue, June 15, 2019, of the Bulletin.)
- ◆ **LOCAL GOVERNMENTS:** The portion of this rule restricting OHV riding within Utah state parks is being removed to allow for park visitors to ride within state parks. There is no cost or savings to local governments.
- ◆ **SMALL BUSINESSES:** This rule amendment does not affect small businesses. It is removing a portion of this rule that restricts OHV use for visitors within state parks, which could allow the visitor to have an additional experience within a park.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amendment would do away with the restriction for riding OHVs within Utah state parks. There is no cost or savings involved to remove the restriction to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs to affected persons. The portion of this rule being removed will allow for less restrictive use of OHVs within state parks.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule change should have a positive impact on business as OHV use is promoted.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 NATURAL RESOURCES
 PARKS AND RECREATION
 ROOM 116
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2019

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2019

AUTHORIZED BY: Jeff Rasmussen, Acting Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
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 amendment is not expected to have any fiscal impacts on non-small businesses' revenues or expenditures. There are no required costs for park visitors because of this amendment.

The head of department of Natural Resources, Michael Styler, has reviewed and approved this fiscal analysis.

R651. Natural Resources, Parks and Recreation.

R651-615. Motor Vehicle Use.

R651-615-1. Traffic Rules and Regulations.

The use and operation of motor vehicles in general shall be in accordance with the Utah Traffic requirements as found in Title 41, Chapter 6 Utah Code.

R651-615-2. Blocking and Restricting Normal Use.

Blocking, restricting or otherwise interfering with the normal use of any park facility with a vehicle or towed device is prohibited.

R651-615-3. Roadway and Parking Areas.

Operating or parking a motor vehicle or trailer except on roadways and parking areas developed for that use is prohibited.

R651-615-4. Entering and Leaving Park Site.

Operating a motor vehicle in a developed park area for any purpose other than entering or leaving the site is prohibited.

R651-615-5. Off Road Use.

The operation of vehicles off road is prohibited within the boundaries of all park areas except those with designated off-highway vehicle riding areas.

~~**R651-615-6. Off-Highway Vehicles.**~~

~~Operation of off-highway vehicles is prohibited on all park area roads unless authorized in accordance with the provisions of the Utah Off-Highway Vehicle Act.]~~

R651-615-7. Motorized Transportation Devices.

Motorized Transportation Devices (MTD) that are powered by electric motors may be used for transportation to and from facilities and structures within the state parks.

KEY: parks, off-highway vehicles

Date of Enactment or Last Substantive Amendment: ~~[July 19, 2004]~~2019

Notice of Continuation: June 7, 2018

Authorizing, and Implemented or Interpreted Law: 79-4-203; 41-22-10; 79-4-501

Natural Resources, Water Rights
R655-13
 Stream Alteration

NOTICE OF PROPOSED RULE

(Repeal and Reenact)
 DAR FILE NO.: 43743
 FILED: 05/29/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Subsection 73-2-1(4)(d) establishes and clarifies the procedures necessary to obtain approval by the state engineer for any project that proposes to alter a natural stream within the state of Utah. Approval does not grant access, authorize trespass, or supersede property rights. Additional procedures may be required to comply with other governing state statute, federal law, federal regulation, or local ordinance. The old rule has a different method of describing the affected areas of streams where the jurisdiction lies. The new rule just simplified the process to a single method.

SUMMARY OF THE RULE OR CHANGE: Subsection 73-2-1(4)(d) establishes and clarifies the procedures necessary to obtain approval by the state engineer for any project that proposes to alter a natural stream within the state of Utah. The old rule has a different method of describing the affected areas of streams where the jurisdiction lies. The new rule just simplified the process to a single method.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 73-2-1

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: No cost involved; clarification of processing does not require a dollar figure.
- ◆ LOCAL GOVERNMENTS: No cost involved; clarification of processing does not require a dollar figure.
- ◆ SMALL BUSINESSES: No cost involved; clarification of processing does not require a dollar figure.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: No cost involved; clarification of processing does not require a dollar figure.

COMPLIANCE COSTS FOR AFFECTED PERSONS: No cost involved; clarification of processing does not require a dollar figure.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: No fiscal impact; clarification of processing does not require a dollar figure.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 NATURAL RESOURCES
 WATER RIGHTS
 ROOM 220
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Marianne Burbidge by phone at 801-538-7370, by FAX at 801-538-7467, or by Internet E-mail at marianneburbidge@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2019

THIS RULE MAY BECOME EFFECTIVE ON: 07/25/2019

AUTHORIZED BY: Kent Jones, State Engineer/Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			

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

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

Appendix 2: Regulatory Impact to Small and Non-Small Businesses
 Brian C. Steed, Executive Director, has reviewed and approved this fiscal analysis.

R655. Natural Resources, Water Rights.

R655-13. Stream Alteration.

[R655-13-1. Authority:

(1) The following rule is established under the authority of Section 73-3-29. Additional procedures may be required to comply with other governing state statute, federal law, federal regulation, or local ordinance.

R655-13-2. Purpose.

(1) The purpose of this rule is to clarify the procedures necessary to obtain approval by the state engineer for any project that proposes to alter a natural stream within the state of Utah. Approval does not grant access, authorize trespass, or supercede property rights.

R655-13-3. Applicability:

(1) These rules apply to all stream alteration projects within the state of Utah.

R655-13-4. Definitions.

(1) ~~Alteration:~~ To obstruct, diminish, enhance, destroy, alter, modify, relocate, realign, change, or potentially affect the existing condition or shape of a channel, or to change the path or characteristics of water flow within a natural channel. It includes processes and results of removal or placement of material or structures within the jurisdiction delineated in this rule.

(2) ~~Bankfull discharge:~~ The flow corresponding to the elevation of the water surface, in a natural stream, where overflowing onto the floodplain normally begins.

(3) ~~Bank(s):~~ The confining sides of a natural stream channel, including the adjacent complex that provides stability, erosion resistance, aquatic habitat, or flood capacity.

- _____ (4) ~~Bed~~: The bottom of a natural stream channel.
- _____ (5) ~~Canopy~~: Mature riparian woody vegetation, usually referring to limb and leaf overhang.
- _____ (6) ~~Channel~~: The bed and banks of a natural stream.
- _____ (7) ~~Clearance~~: The vertical distance between a given water surface and the lowest point on any structure crossing a natural channel.
- _____ (8) ~~Ecology~~: A branch of science concerned with the interrelationship of organisms and their environment.
- _____ (9) ~~Ecosystem~~: The assemblage of organisms and their environment functioning as an ecological unit in nature.
- _____ (10) ~~Floodplain~~: The maximum area that will accommodate water when flow exceeds bankfull discharge.
- _____ (11) ~~Flowline~~: The lowest part of a streambed when viewed in cross-section.
- _____ (12) ~~Fluvial~~: 1: Of, relating to, or living in a stream or river. 2: Produced by stream action.
- _____ (13) ~~Gradient~~: Elevation change per unit length.
- _____ (14) ~~Natural stream~~: Any waterway, along with its fluvial system, that receives sufficient water to sustain an ecosystem that distinguishes it from the surrounding upland environment.
- _____ (15) ~~Reference reach~~: A portion or segment of a natural stream channel that shows little or no indication of alteration.
- _____ (16) ~~Revegetation~~: The planting of salvaged plants, containerized plants, cuttings, seeds, or other methods to produce a desired plant community.
- _____ (17) ~~Riparian corridor~~: The vegetation zone associated with a natural stream environment.
- _____ (18) ~~Riprap~~: Preferably hard, well-graded, angular rock, sufficient in size and density to remain stationary during high flows.
- _____ (19) ~~State Engineer~~: Director of the Division of Water Rights.
- _____ (20) ~~Waterway~~: A topographic low that collects and conveys water.

R655-13-5. Jurisdiction:

- _____ (1) For the purposes of determining the need to obtain an approved stream alteration application, it is necessary to review the criteria outlined in Section 73-3-29(4)(a). The items, and thus the adopted jurisdictional limits, must be investigated by the state engineer before making a determination on a proposed stream alteration. The state engineer shall conduct investigations that may be reasonably necessary to determine whether the proposed alteration will:
- _____ (a) ~~impair vested water rights~~. In order to determine if vested water rights could be impaired, it is necessary to determine if: stream flows are being modified; the geometry of the bankfull channel will change; or the proposal will have any effect on the diversion, collection, or distribution appurtenances associated with the water right within the jurisdictional limits presented in sections R655-13-5(1)(b) below. In evaluating a proposed stream alteration, the state engineer must consider the proposal's impact on any diversion, collection or distribution structure associated with the water right. By necessity, the jurisdictional limit must be evaluated on a case-by-case basis and must assess those appurtenances to the actual diversion structure which could be affected even though they are located outside of the channel.
- _____ (b) ~~unreasonably or unnecessarily affect any recreational use or the natural stream environment~~. The natural stream environment consists of the stream, the conveyed water, the adjoining vegetative complex, and the habitat provided by the abutting riparian

zone. Evaluation of impacts to recreational use must factor in the hydrology of the stream, manmade structures detrimental to recreational use and the riparian zone's ability to keep the system erosion resistant. The jurisdictional limit to be used to evaluate the impacts on recreational use and the natural stream environment will be the greater of the two as follows:

- _____ (i) The observed riparian zone or canopy drip line of a undisturbed reference reach; or
- _____ (ii) Two times the bankfull width from the bankfull edge of water in a direction perpendicular to the flow and away from the channel up to a maximum of 30 feet.
- _____ (c) ~~unreasonably or unnecessarily endanger aquatic wildlife~~. Any changes made to a natural stream that affect the geometry, water quality, flows, temperature, and vegetative cover may endanger aquatic wildlife. The jurisdictional limit, when considering the impacts to aquatic wildlife, is taken to be contained within the limit established under R655-13-5(1)(b).
- _____ (d) ~~unreasonably or unnecessarily diminish the natural channel's ability to conduct high flows~~. Changes in cross-sectional geometry, grade, surface roughness, sediment load, in-stream structures, levees, and floodplain development, can have an influence on a channel's ability to conduct high flows. The objective in evaluating a stream's ability to conduct high flows is not to attempt to provide a certain level of protection (i.e. 100 year event), but rather to make sure that the losses in the natural stream's carrying capacity are minimized. It is important to recognize that the hydraulic capability of a natural stream, at a section on the stream, is a three dimensional issue and alterations at a point can change the carrying capacity of the stream both upstream and downstream of the actual stream alteration. The jurisdictional area, when considering the channel's hydraulic capacity, must include the bankfull stream channel and in many cases portions of the floodplain which have been observed conducting or storing water during high flow events or show physical evidence of conducting or storing water during high flows.
- _____ (2) Any work proposed in any of the preceding identified jurisdictional limits will require an approved stream alteration application.

R655-13-6. Application Requirements:

- _____ (1) Blank application forms are available through the Division of Water Rights or on the Division of Water Rights website. In addition to the information requested on the application, the following information shall be submitted with the application, if applicable:
- _____ (a) A rehabilitation plan for areas disturbed during construction activities;
- _____ (b) Hydraulic calculations on which the design of the proposed alteration is based;
- _____ (c) A description of the construction methods to be employed; and
- _____ (d) Any other information the state engineer determines is necessary to evaluate the proposal.
- _____ (2) Incomplete applications will be returned to the applicant.

R655-13-7. Specific Stream Alteration Activities:

- _____ (1) The following subsections address specific types of stream alteration activities and the nature of special information that shall be provided to the state engineer. These subsections are not

intended to be comprehensive and other requirements may be imposed at the discretion of the state engineer.

(a) Applications that propose to install a utility (sewer, water, fiber optic cable, etc.) beneath a natural stream will be subject to the following conditions and requirements:

(i) Applicants will be required to explore the utilization of directional drilling or jacking methods where year-round flows exist. Where directional drilling or jacking is not feasible, the applicant will be required to submit detailed plans showing how flow will be diverted away from the area during construction (use of coffer dams, temporary culverts, etc.) and how the channel will be rehabilitated to its pre-alteration state following installation of the utility.

(ii) Bedding and backfill material placed over and around the utility shall not be more free-draining than the adjacent bed, bank, and riparian area materials and shall be compacted to in-place densities at least as great as those of similar adjacent materials. In some circumstances, cutoff collars may be required.

(iii) Utility crossings under natural streams shall be placed with the top of the utility a minimum of three (3) feet below the existing natural elevation of the streambed. In some instances, a greater depth may be required if there is significant evidence of on-going erosion.

(iv) Where utility crossings occur on river bends or areas of significant on-going bank erosion, the utility shall be kept at an elevation below that of the bed of the stream, laterally away from the stream, to a distance where erosion will not expose the utility at a later date.

(b) Applications that propose to span natural streams by way of bridges or other structures will be subject to the following conditions and requirements:

(i) Submission of consideration for the use of existing stream crossings as an alternative to construction of a new bridge or span.

(ii) Construction of the bridge abutments shall not encroach on the bankfull stage of a natural stream.

(iii) Clearance of the lowest part of the span shall be a minimum of three (3) feet above bankfull stage unless specifically exempted by the state engineer.

(c) Applications that propose installation of a culvert or other similar structure will be subject to the following conditions and requirements:

(i) The applicant shall submit evidence to justify the infeasibility of constructing a bridge crossing.

(ii) The grade and elevation of the bottom (or floor) of the culvert shall not change the profile from that of the original undisturbed streambed, unless the culvert is intended to be used as a fish barrier.

(iii) The bottom of the culvert should contain natural streambed material if the natural stream contains a fishery. This may require installing the culvert flowline below the bed of the channel or installation of an open-bottom culvert.

(iv) The culvert shall be sized to allow passage of flood flows and in some cases wildlife migration.

(v) The culvert design should include energy dissipation structures or devices when necessary.

(d) Applications that propose to remove or thin-out living or dead riparian vegetation will be considered if:

(i) the existing riparian vegetation consists exclusively or predominantly of non-native plant and tree species, provided that

removal or thinning will not jeopardize the stability of the stream or impact wildlife habitat; or

(ii) the existing vegetation represents a flood threat to existing buildings or other permanent structures, residential areas, transportation routes, or established utilities.

(c) Dead vegetation within the channel may be removed without written authorization by the state engineer provided that removal can be accomplished by way of manual methods.

(f) Applications that propose to discharge storm water or waste water into a natural stream channel shall include plans for treating the water prior to discharge (debris box, skimmer, or other appropriate method for removing debris or any other pollutant or constituent which will impair the ecosystem health of the receiving channel) when water originates from areas containing potential waste or contaminants. Debris boxes shall be cleaned or otherwise serviced regularly. Outfall structure design shall include methods for reducing water velocities and preventing erosion (keyed-in riprap, flared end-section, baffles, etc).

(g) Applications that propose to relocate a natural stream channel will be considered if:

(i) the existing channel is degraded or impaired and relocating the channel will enhance the natural stream environment; or

(ii) the existing channel location represents a significant hazard to existing permanent structures, residential areas, transportation routes, or established utilities; and other bank stabilization methods can be shown to be inappropriate or infeasible for reducing or eliminating the hazard.

(h) Applicants that propose to relocate a natural stream will be required to submit detailed drawings of the new channel (plan, cross-section(s), and profile views) and vegetation plans for the channel and surrounding area. Monitoring of planted vegetation must be conducted and results reported to the Division of Water Rights.

(i) Applications that propose to remove beaver dams will be considered if:

(i) the dam(s) interferes with the operation or maintenance or threaten the integrity of a bridge, culvert, an authorized man-made dam, or authorized water diversion works; or

(ii) the presence of the dam(s) causes or may reasonably be expected to cause flooding of pre-existing developed areas, buildings, transportation routes, or established utilities; or

(iii) the dam(s) exists in areas of highly erosive soil or recently authorized stream restoration activities; or

(iv) the presence of the dam(s) represents a detriment to fish management.

(j) Removal of established beaver dams for the sole purpose of obtaining impounded water to supplement other water sources will be reviewed critically.]

R655-13-1. Authority.

(1) The following rule is established under the authority of Section 73-2-1(4)(d). Additional procedures may be required to comply with other governing state statute, federal law, federal regulation, or local ordinance.

R655-13-2. Purpose.

(1) The purpose of this rule is to clarify the procedures necessary to obtain approval of an application by the state engineer for any project that proposes to alter a natural stream within the state of Utah. Approval does not grant access, authorize trespass, supercede property rights, or address safety considerations of the proposal.

R655-13-3. Applicability.

(1) These rules apply to all stream alteration projects within the state of Utah.

R655-13-4. Definitions.

(1) Alteration: To obstruct, diminish, enhance, destroy, alter, modify, relocate, realign, change, or potentially affect the existing condition or shape of a channel, or to change the path or characteristics of water flow within a natural channel. It includes processes and results of removal or placement of material or structures within the jurisdiction delineated in this rule.

(2) Bankfull discharge: The flow corresponding to the elevation of the water surface, in a natural stream, where overflowing onto the floodplain normally begins. Bankfull discharge is considered analogous to ordinary high water or average seasonal high flow. In urbanized streams this is often lower than the top of bank.

(3) Bank(s): The confining sides of a natural stream channel, including the adjacent complex that provides stability, erosion resistance, aquatic habitat, or flood capacity.

(4) Bed: The bottom of a natural stream channel.

(5) Channel: The bed and banks of a natural stream.

(6) Clearance: The vertical distance between a given water surface and the lowest point on any structure crossing a natural channel.

(7) Ecosystem: The assemblage of organisms and their environment functioning as an ecological unit in nature.

(8) Floodplain: The maximum area that will accommodate water when flow exceeds bankfull discharge.

(9) Flowline: The lowest part of a bed when viewed in cross-section.

(10) Fluvial: 1: Of, relating to, or living in a stream or river. 2: Produced by stream action.

(11) Natural stream: Any waterway, along with its fluvial system, that receives sufficient water to sustain an ecosystem that distinguishes it from the surrounding upland environment.

(12) State Engineer: Director of the Division of Water Rights.

(13) Waterway: A topographic low that collects and conveys water.

R655-13-5. Jurisdiction.

(1) The jurisdictional limit along a natural stream is two times the bankfull width from the bankfull edge of water in a direction perpendicular and horizontal to the flow and away from the channel up to a maximum of 30 feet on both sides of the channel.

R655-13-6. Application Requirements.

(1) Blank application forms are available through the Division of Water Rights or on the Division of Water Rights website. In addition to the information requested on the application, any other information the state engineer determines is necessary to evaluate the proposal shall be submitted.

R655-13-7. Specific Stream Alteration Activities.

(1) The following subsections address specific types of stream alteration activities and the nature of special information that shall be provided to the state engineer. These subsections are not intended to be comprehensive and other requirements may be imposed

at the discretion of the state engineer. All requirements may be waived at the discretion of the state engineer.

(a) Applications that propose to install a utility (sewer, water, fiber-optic cable, etc.) beneath a natural stream will be subject to the following conditions and requirements:

(i) The top of the utility shall be a minimum of three (3) feet below the existing natural elevation of the bed. In some instances, a greater depth may be required if there is significant evidence of on-going erosion.

(ii) Where utility crossings occur on river bends or areas of significant on-going bank erosion, the utility shall be kept at an elevation below that of the bed of the stream, laterally away from the stream, to a distance where erosion will not expose the utility at a later date.

(b) Applications that propose to span natural streams by way of bridges or other structures will be subject to the following conditions and requirements:

(i) Clearance of the lowest part of the span shall be a minimum of three (3) feet above bankfull stage unless specifically exempted by the state engineer.

(c) Applications that propose installation of a culvert or other similar structure will be subject to the following conditions and requirements:

(i) The bottom of the culvert should contain natural bed material. This may require installing the culvert flowline below the bed of the channel or installation of an open bottom culvert.

(ii) Bedding and backfill placed around the culvert shall not be more free-draining than the adjacent bed and bank materials and shall be compacted to in-place densities at least as great as those of similar adjacent materials.

(iii) The culvert design should include energy dissipation structures or devices when necessary.

(d) Woody debris within the jurisdictional limits established in R655-13-5 may be removed without written authorization by the state engineer provided that removal can be accomplished by way of manual methods or through use of equipment located outside the channel.

(e) Applications that propose to relocate a natural stream channel will be considered if:

(i) the existing channel is degraded or impaired and relocating the channel will enhance the natural stream environment; or

(ii) the existing channel location represents a significant hazard to existing permanent structures, residential areas, transportation routes, or established utilities; and other bank stabilization methods can be shown to be inappropriate or infeasible for reducing or eliminating the hazard.

(iii) Detailed drawings of the new channel (plan, cross-section(s), and profile views) and vegetation plans for the channel and surrounding area accompany the application.

(iv) Monitoring and reporting plan for planted vegetation is submitted.

(f) Applications that propose to remove beaver dams will be considered if:

(i) the dam(s) interferes with the operation or maintenance or threaten the integrity of a bridge, culvert, an authorized man-made dam, or authorized water diversion works; or

(ii) the presence of the dam(s) causes or may reasonably be expected to cause flooding of pre-existing developed areas, buildings, transportation routes, or established utilities; or

(iii) the dam(s) exists in areas of highly erosive soil or recently authorized stream restoration activities; or

(iv) the presence of the dam(s) represents a detriment to fish management.

(v) Removal of established beaver dams for the sole purpose of obtaining impounded water to supplement other water sources may not be approved on that basis alone.

KEY: stream alterations

Date of Enactment or Last Substantive Amendment: [~~May 4, 2004~~]**2019**

Notice of Continuation: December 7, 2018

Authorizing, and Implemented or Interpreted Law: 73-3-29

Natural Resources, Wildlife Resources **R657-5** Taking Big Game

NOTICE OF PROPOSED RULE (Amendment) DAR FILE NO.: 43741 FILED: 05/28/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted for taking public input and reviewing the big game rule.

SUMMARY OF THE RULE OR CHANGE: The proposed revisions to this rule: 1) establish Handgun-Archery-Muzzleloader-Shotgun-Only hunts; 2) add a definition for "Immediate Family Member"; 3) allow a person to obtain both a desert bighorn sheep and Rocky Mountain bighorn sheep permit in the same year; 4) set the requirements to remove bighorn sheep from domestic sheep operations; and 5) make technical corrections as needed.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-14-18 and Section 23-14-19

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** These proposed rule amendments either clarify current regulations or set protocol for new hunts, all of these changes can be initiated within the current workload and resources of the Division of Wildlife Resources (DWR). Therefore, DWR has determined that these amendments do not create a cost or savings impact to the state budget or DWR's budget, since the changes will not increase workload and can be carried out with existing budget.
- ◆ **LOCAL GOVERNMENTS:** Since these proposed amendments make adjustments to current regulations and add protocol for establishing new hunts, this filing does not create any direct cost or savings impact to local governments. Nor are local governments indirectly impacted because this

rule does not create a situation requiring services from local governments.

◆ **SMALL BUSINESSES:** These proposed rule amendments will not directly impact small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These amendments do not have the potential to create a cost impact to those individuals wishing to participate in hunting opportunities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR has determined that these amendments will not create additional costs for those participating in big game hunting in Utah.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
◆ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2019

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2019

AUTHORIZED BY: Mike Fowlks, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0

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

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

Appendix 2: Regulatory Impact to Non-Small Businesses

These proposed rule change are not expected to have any fiscal impacts on non-small businesses' revenues or expenditures, because these rule amendments do not require a service from non-small businesses.

The head of department of Natural Resources, Michael Styler, has reviewed and approved this fiscal analysis.

R657. Natural Resources, Wildlife Resources.

R657-5. Taking Big Game.

R657-5-1. Purpose and Authority.

(1) Under authority of Sections 23-14-18 and 23-14-19, the Wildlife Board has established this rule for taking deer, elk, pronghorn, moose, bison, bighorn sheep, and Rocky Mountain goat.

(2) Specific dates, areas, methods of take, requirements, and other administrative details which may change annually are published in the guidebook of the Wildlife Board for taking big game.

R657-5-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Antlerless deer" means a deer without antlers or with antlers five inches or shorter.

(b) "Antlerless elk" means an elk without antlers or with antlers five inches or shorter.

(c) "Antlerless moose" means a moose with antlers shorter than its ears.

(d) "Arrow quiver" means a portable arrow case that completely encases all edges of the broadheads.

(e) "Buck deer" means a deer with antlers longer than five inches.

(f) "Buck pronghorn" means a pronghorn with horns longer than five inches.

(g) "Bull elk" means an elk with antlers longer than five inches.

(h) "Bull moose" means a moose with antlers longer than its ears.

(i) "Cow bison" means a female bison.

(j) "Doe pronghorn" means a pronghorn without horns or with horns five inches or shorter.

(k) "Draw-lock" means a mechanical device used to hold and support the draw weight of a conventional or compound bow at any increment of draw until released by the archer using a trigger mechanism and safety attached to the device.

(l) "Drone" means an autonomously controlled, aerial vehicle of any size or configuration that is capable of controlled flight without a human pilot aboard.

(m) "Ewe" means a female bighorn sheep or any bighorn sheep younger than one year of age.

(n) "Hunter's choice" means either sex may be taken.

(o) "Immediate family member" means the landowner's or lessee's spouse, child, son-in-law, daughter-in-law, father, mother, father-in-law, mother-in-law, brother, sister, brother-in-law, sister-in-law, stepchild, grandchild, grandfather, and grandmother.

(p) "Limited entry hunt" means any hunt published in the hunt tables of the guidebook of the Wildlife Board for taking big game, which is identified as limited entry and does not include general or once-in-a-lifetime hunts.

(q) "Limited entry permit" means any permit obtained for a limited entry hunt by any means, including conservation permits, wildlife expo permits, sportsman permits, cooperative wildlife management unit permits and limited entry landowner permits.

(r) "Once-in-a-lifetime hunt" means any hunt published in the hunt tables of the guidebook of the Wildlife Board for taking big game, which is identified as once-in-a-lifetime, and does not include general or limited entry hunts.

(s) "Once-in-a-lifetime permit" means any permit obtained for a once-in-a-lifetime hunt by any means, including conservation permits, wildlife expo permits, sportsman permits, cooperative wildlife management unit permits and limited entry landowner permits.

(t) "Ram" means a male desert bighorn sheep or Rocky Mountain bighorn sheep older than one year of age.

(u) "Spike bull" means a bull elk which has at least one antler beam with no branching above the ears. Branched means a projection on an antler longer than one inch, measured from its base to its tip.

R657-5-35. Doe Pronghorn Hunts.

(1)(a) To hunt doe pronghorn, a hunter must obtain a doe pronghorn permit.

(b) A person may obtain only one doe pronghorn permit or a two-doe pronghorn permit through the division's antlerless big game drawing.

(2)(a) A doe pronghorn permit allows a person to take one doe pronghorn using the weapon type, within the area, and during the season specified on the permit and in the Antlerless guidebook of the Wildlife Board for taking big game.

(b) A two-doe pronghorn permit allows a person to take two doe pronghorn using the weapon type, within the area, and

during the season dates specified on the permit and in the Antlerless guidebook of the Wildlife Board for taking big game.

(c) A person may not hunt doe pronghorn on any pronghorn cooperative wildlife management unit unless that person obtains an antlerless pronghorn permit for that specific cooperative wildlife management unit.

(3) ~~[A]~~ Except for mitigation permits issued pursuant to R657-44-8, a person who has obtained a doe pronghorn permit may not hunt pronghorn during any other pronghorn hunt or obtain any other pronghorn permit.

R657-5-39. Desert Bighorn and Rocky Mountain Bighorn Sheep Hunts.

(1) To hunt a ram desert bighorn sheep or a ram Rocky Mountain bighorn sheep, a hunter must obtain the respective permit.

(2)(a) A person who has obtained a ram desert bighorn sheep ~~[-or a ram Rocky Mountain bighorn sheep permit]~~ may not obtain any other desert bighorn sheep ~~[-or Rocky Mountain bighorn sheep permit]~~ or hunt during any other desert bighorn sheep ~~[-or]~~.

(b) ~~A person who has obtained a ram Rocky Mountain bighorn sheep permit may not obtain any other Rocky Mountain bighorn sheep permit or hunt any other Rocky Mountain bighorn sheep [-hunt].~~

(3) Ram desert bighorn sheep and ram Rocky Mountain bighorn sheep permits are considered separate once-in-a-lifetime hunting opportunities.

(4)(a) A ram desert bighorn sheep permit allows a person to take one desert bighorn ram within the area, during the seasons, and using the weapon type prescribed by the Wildlife Board.

(b) A ram Rocky Mountain sheep permit allows a person to take one Rocky Mountain bighorn ram within the area, during the seasons, and using the weapon type prescribed by the Wildlife Board.

(5) Successful hunters must deliver the horns of the bighorn sheep to a division office within 72 hours of leaving the hunting area. A numbered seal will be permanently affixed to the horn indicating legal harvest.

(6)(a) A person who has obtained a desert bighorn sheep or Rocky Mountain bighorn sheep permit must report hunt information within 30 calendar days after the end of the hunting season, whether the permit holder was successful or unsuccessful in harvesting a desert bighorn sheep or Rocky Mountain bighorn sheep.

(b) Desert bighorn sheep or Rocky Mountain bighorn sheep permit holders must report hunt information by telephone, or through the division's Internet address.

(c) A person who fails to comply with the requirement in Subsection (a) shall be ineligible to apply for any once-in-a-lifetime, premium limited entry, limited entry, or cooperative wildlife management unit permit or bonus point in the following year.

(d) Late questionnaires may be accepted pursuant to Rule R657-42-9(2).

R657-5-48. Handgun-Archery-Muzzleloader-Shotgun-Only Hunt.

(1) The division may establish Handgun-Archery-Muzzleloader-Shotgun-Only hunts for any big gamespecies.

~~(2) An individual may only use the following weapons on a handgun-archery-muzzleloader-shotgun-only hunt:~~

~~(a) a legal handgun for the species being hunted, consistent with R657-5-9 and Subsection (5), with no attached scope;~~

~~(b) legal archery equipment consistent with R657-5-11;~~

~~(c) a legal muzzleloader consistent with R657-5-10, with no attached scope; or~~

~~(d) a legal shotgun consistent with R657-5-8, with no attached scope.~~

~~(3) A person who has obtained a Handgun-Archery-Muzzleloader-Shotgun-Only permit may take one animal of the big game species identified on the permit.~~

~~(4) A person who has obtained a Handgun-Archery-Muzzleloader-Shotgun-Only permit may only hunt under that permit during the season dates and within the boundaries identified on the permit and in the guidebooks of the Wildlife Board for taking big game.~~

~~(5) In addition to the requirements in R657-5-9, a handgun used to take a big game animal in a Handgun-Archery-Muzzleloader-Shotgun-Only hunt must:~~

~~(a) have no more than a single barrel 15 inches or less in length, including the chamber;~~

~~(b) have a single rear handgrip without any form of a:~~

~~(i) fixed, detachable, or collapsible buttstock;~~

~~(ii) apparatus or extension behind the rear grip capable of being used to steady the handgun against the body while firing; or~~

~~(iii) vertical foregrip; and~~

~~(c) be no more than 24 inches in overall length.~~

~~(6) A Handgun-Archery-Muzzleloader-Shotgun-Only hunt is not a centerfire rifle hunt for purposes of Section 23-20-31 or R657-5-49.~~

R657-5-49. Hunter Orange Exceptions.

(1) A person shall wear a minimum of 400 inches of hunter orange material on the head, chest, and back while hunting any species of big game, with the following exceptions:

(a) Hunters participating in a once-in-a-lifetime, statewide conservation, or statewide sportsmen hunt;

(b) Hunters participating in an archery or muzzleloader hunt outside of an area where an any weapon general season bull elk or any weapon general season buck deer hunt is occurring;

~~(c) Hunters participating in a Handgun-Archery-Muzzleloader-Shotgun-Only hunt outside of an area where an any weapon general season bull elk or any weapon general season buck deer hunt is occurring;~~

~~(d) Hunters hunting on a cooperative wildlife management unit unless otherwise required by the operator of the cooperative wildlife management units; and~~

~~([d]e) Hunters participating in a nuisance wildlife removal hunt authorized under a certificate of registration by the division.~~

R657-5-50. Authorization to Remove Bighorn Sheep from Domestic Sheep Operations.

(1) The division may issue a certificate of registration to the owner of a domestic sheep operation allowing for the removal of Rocky Mountain bighorn sheep or desert bighorn sheep found to have physical contact with domestic sheep.

(2) If a domestic sheep grazing operation wishes to acquire a certificate of registration, it must submit an application to the division.

(3) In evaluating the application, the division may consider:

(a) the size and location of the domestic sheep operation;
(b) past efforts to maintain spatial separation between wild and domestic sheep;

(c) the ability of state officials to respond to potential commingling events in a timely manner;

(d) future plans to improve spatial separation between wild and domestic sheep;

(e) historical disease status of the wild sheep population;
and

(f) management priorities for the wild sheep population.

(4) The division may deny an application for a certificate of registration if, in the opinion of the division, there are other means available to respond to a commingling event.

(5) The division shall require any certificate of registration holder to comply with the following provisions:

(a) the grazing operation shall immediately notify the division if a wild bighorn sheep is found within 1 mile of any domestic sheep;

(b) the grazing operation shall utilize all reasonable means to notify the division of the threatened commingling event prior to undertaking any lethal removal action;

(c) a wild bighorn sheep may only be lethally removed if it is within 1 mile of a domestic sheep;

(d) the grazing operation will inform the division within 24 hours of a lethal removal effort, or as soon as practical thereafter, considering access and logistical limitations;

(e) all lethally removed wild bighorn sheep will be field-dressed and preserved in a manner so as to allow donation for human consumption;

(f) the entire carcass of each lethally removed bighorn sheep shall be relinquished to division personnel, including intact head, horns and cape; and

(g) only legal weapons identified in R657-5 may be used in lethal removal activities.

(6)(a) Owners, employees, and immediate family members may be named as authorized individuals to act under the authority of a certificate of registration.

(b) Any individual acting under the authority of a certificate of registration must be specifically named on the certificate of registration.

(7)(a) The division may establish a term for the validity of a certificate of registration.

(b) The division may revoke a certificate of registration where the certificate of registration holder, an individual named on the certificate, or someone acting under their direct authority violated any provision of this rule, the Wildlife Resources Code, or the certificate of registration.

(8) The procedures and rules governing any adverse action taken by the division or the Wildlife Board against a certificate of registration or an application for certificate of registration are set forth in Rule R657-2.

KEY: wildlife, game laws, big game seasons

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

Notice of Continuation: October 5, 2015

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19; 23-16-5; 23-16-6

Natural Resources, Wildlife Resources **R657-37** Cooperative Wildlife Management Units for Big Game or Turkey

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 43724

FILED: 05/20/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Wildlife Board meetings conducted for taking public input and reviewing the Cooperative Wildlife Management Unit (CWMU) program for big game.

SUMMARY OF THE RULE OR CHANGE: The proposed amendments to this rule will: 1) expand the Landowner Association member definition to include CWMU employees, agents, and volunteers who are acting under the direction of an operator; 2) eliminate different hunt boundaries for multiple species on a single CWMU; 3) require a landowner or lessee with agricultural interests inside the CWMU to sign a waiver releasing all claims for depredation assistance on the property; 4) require CWMU's to notify the Division of Wildlife Resources (DWR) of land-ownership changes within the CWMU; 5) require an operator to disclose any areas excluded from hunting in the CWMU management plan; 6) prohibit the CWMU from harassing wildlife in an effort to retain animals on the property, unless authorized by DWR to limit agricultural damage to neighboring lands; 7) allow a management buck hunt on the CWMU if there is a current management buck hunt on the unit that the CWMU lies within; 8) simplify muzzleloader elk season dates to match the standard 61-day elk season; 9) set August 1 deadline for the donation of vouchers through reciprocal agreements; 10) designate an individual who will administer and coordinate reciprocal agreements; 11) require the CWMU to provide an annual report; and 12) make technical corrections.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-23-3

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The amendments to this rule are for the purpose of clarifying for both the CWMU operators and DWR, the implementation and running of the CWMU program. DWR has determined that these amendments do not create a cost or savings impact to the state budget or DWR's budget.

◆ **LOCAL GOVERNMENTS:** None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by this rule. Nor are local governments indirectly impacted because this rule does not create a situation requiring services from local governments.

◆ **SMALL BUSINESSES:** The amendments to this rule are for the purpose of clarifying for both the CWMU operators and DWR, the implementation and running of the CWMU program. DWR has determined that these amendments do not create a cost or savings impact to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The amendments to this rule are for the purpose of clarifying for both the CWMU operators and DWR, the implementation and running of the CWMU program. DWR has determined that these amendments do not create a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendments to this rule are for the purpose of clarifying for both the CWMU operators and DWR, the implementation and running of the CWMU program. DWR has determined that there are no additional compliance costs associated with these amendments.

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

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

NATURAL RESOURCES
 WILDLIFE RESOURCES
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2019

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2019

AUTHORIZED BY: Mike Fowlks, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

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

Appendix 2: Regulatory Impact to Non-Small Businesses

These rule changes are not expected to have any fiscal impacts on non-small businesses' revenues or expenditures, because it simply clarifies a working process all ready in place with CWMU operators. It will not require an additional service or cost to continue to participate in the program.

The head of department of Natural Resources, Michael Styler, has reviewed and approved this fiscal analysis.

**R657. Natural Resources, Wildlife Resources.
 R657-37. Cooperative Wildlife Management Units for Big Game or Turkey.
 R657-37-1. Purpose and Authority.**

(1) Under authority of Section 23-23-3, this rule provides the standards and procedures applicable to Cooperative Wildlife Management Units organized for the hunting of big game or turkey.

(2) Cooperative Wildlife Management Units are established to:

- (a) increase wildlife resources;
- (b) provide income to landowners;
- (c) provide the general public access to private and public lands for hunting big game or turkey within a Cooperative Wildlife Management Unit;
- (d) create satisfying hunting opportunities;
- (e) provide adequate protection to landowners who open their lands for hunting; and
- (f) provide landowners an incentive to manage lands to protect and sustain wildlife habitat and benefit wildlife.

R657-37-2. Definitions.

(1) Terms used in this rule are defined in Sections 23-13-2 and 23-23-2.

(2) In addition:

(a) "CWMU" means Cooperative Wildlife Management Unit.

(b) "CWMU agent" means a person appointed by a landowner association member to protect private property within the CWMU.

(c) "General public" means all persons except landowner association members and their spouse or dependent children.

(d) "Landowner association" means a landowner or group of landowners of private land organized as a single entity for the purpose of applying for, becoming and operating a CWMU.

(e) "Landowner association member" means:

(i) an individual landowner or the managing members of a legal entity holding a fee interest in private property enrolled in a CWMU;

(ii) a landowner association president; ~~and~~

(iii) a landowner association operator; ~~and~~

~~(iv) employees, agents, and volunteers operating under the authority of or at the direction of a landowner association president or operator.~~

(f) "Landowner association operator" means a person designated by the landowner association to operate the CWMU and handle day-to-day interactions of the landowner association with the public.

(g) "Landowner association president" means a representative of the landowner association who is responsible for all internal operations of the landowner association and is ultimately responsible for the CWMU.

(h) "Voucher" means a document issued by the division to a landowner association member, allowing a landowner association member to designate who may purchase a CWMU big game or turkey hunting permit from a division office.

R657-37-3. Requirements for the Establishment of a Cooperative Wildlife Management Unit.

(1) ~~(a) The minimum allowable acreage for a CWMU is 10,000 contiguous acres, except as provided in Subsection (3).] A CWMU may be established for the purposes of hunting one or more of the following:~~

~~(b) Land parcels that adjoin corner-to-corner shall not be considered contiguous for the purpose of meeting minimum acreage requirements for CWMUs except as specifically authorized by the~~

~~Wildlife Board pursuant to Subsection (3)(b) and R657-37-6.] (a) mule deer;~~

~~(b) elk;~~

~~(c) [The land comprising Domesticated Elk Facilities and Domesticated Elk Hunting Parks, as defined in Section 4-39-102(2) and Rules R58-18 and R58-20, shall not be included as part of any big game or turkey CWMU.] moose;~~

~~(d) [No land parcel shall be included in more than one CWMU.] pronghorn; and~~

~~(e) [Separate hunt boundaries by species on a CWMU are not permitted.] turkey.~~

~~[(f) For] (2) The Wildlife Board may approve the [purpose] issuance of [issuing] a certificate of registration [under R657-37-5, public lands cannot be used to attain minimum acreages.~~

~~(g) All lands included within a CWMU shall provide quality hunting opportunity in order to qualify towards minimum acreage requirements.~~

~~(2) The Wildlife Board may approve a new CWMU having at least 10,000 contiguous acres] for a CWMU, provided:~~

~~(a) the property is capable of independently maintaining the presence of the respective species and harboring them during the [period of] established hunting season;~~

~~(b) the property is capable of accommodating the anticipated number of hunters and providing a reasonable hunting opportunity;~~

~~(c) the property exhibits enforceable boundaries clearly identifiable to both the public and private hunters; ~~and~~~~

~~(d) the CWMU contributes to meeting division wildlife management objectives;~~

~~(e) as needed, the CWMU provides reasonable assistance to the division in minimizing and addressing damage to agricultural interests within and adjacent to the CWMU caused by wildlife; and~~

~~(f) the CWMU meets the technical specifications provided in this rule.~~

~~(3) [(a) The Wildlife Board may approve a new CWMU for deer, pronghorn or turkey that is at least 5,000 contiguous acres provided that it otherwise satisfies the requirements of Subsections (1) and (2):~~

~~_____] A CWMU shall satisfy the following criteria:~~

~~(a) a CWMU for elk or moose must contain at least 10,000 contiguous acres;~~

~~(b) [The Wildlife Board may approve a new] a CWMU for deer, pronghorn, [elk or moose that fails to meet the acreage or parcel configuration requirements in Subsection (1), provided:] or turkey must contain at least 5,000 contiguous acres;~~

~~_____ (i) the applicant submits a written request for special considerations to the CWMU Advisory Committee by February 1st prior to the annual August 1st application deadline;~~

~~_____ (ii) upon receipt of a request for special considerations, the CWMU Advisory Committee will immediately forward the request to the division for review and recommendations;~~

~~_____ (iii) the division will review the request for special considerations and make recommendations to the CWMU Advisory Committee within 60 days of receipt; and~~

~~_____ (iv) the CWMU Advisory Committee will consider the request for special considerations and the division's recommendations, and make recommendations to the Wildlife Board on the advisability of granting the CWMU application.~~

~~]~~ ~~[(4)(a) Cooperative Wildlife Management Units organized for hunting big game or turkey]~~ ~~(b) the CWMU shall consist of private land to the extent practicable[-];~~

~~(c) only private lands may be included in calculating minimum acreage requirements;~~

~~(d) land parcels adjoining corner-to-corner may not be included for the purposes of meeting minimum contiguous acreage requirements;~~

~~(e) all lands counting towards the minimum acreage requirements shall provide quality hunting opportunity and form a quality hunting unit; or~~

~~(f) the CWMU must receive approval for a variance as described in R657-37-5(4).~~

~~(b) The Wildlife Board may approve a~~ ~~(4) A CWMU [containing] may include public land only if:~~

~~(i)a) the public land is[-completely] surrounded by private land or is otherwise publicly inaccessible[-to the general public];~~

~~(i)b) the public land is necessary to establish an enforceable [boundary clearly] and identifiable [to both the general public and private permit holders] hunt boundary; or~~

~~(i)c) inclusion of the public land is necessary to achieve statewide and unit management objectives.~~

~~(e) If any public land is included within a CWMU, the landowner association must meet applicable federal and state land use requirements on the public land.](5) A CWMU may not include:~~

~~(a) any lands comprising Domesticated Elk Facilities and Domesticated Elk Hunting Parks, as defined in Section 4-39-102(2) and Rules R58-18 and R58-20;~~

~~(d) The Wildlife Board shall increase the number of permits or hunting opportunities made available to the general public to reflect the proportion of public lands to private lands within the CWMU pursuant to Subsection R657-37-4(3)(a)(iv).](b) any lands already included in another active CWMU; or~~

~~(c) differing hunt boundaries for multiple species approved on a single CWMU.~~

~~(5) The intent is to establish CWMUs consisting of blocks of land that function well as hunting units.](6) The Wildlife Board may deny a CWMU that meets technical requirements of this rule but does not [constitute a good hunting unit] otherwise fulfill the purposes of the CWMU program.~~

R657-37-4. Cooperative Wildlife Management Unit Management Plan.

~~(1)(a) The landowner association [must] shall manage the CWMU in compliance with a CWMU Management Plan approved by the division.~~

~~(b) The CWMU management plan shall be consistent with statewide and unit management objectives for the respective [big game or turkey management unit and approved by the Wildlife Board.] species hunted on the CWMU.~~

~~(2)(a) The CWMU Management Plan [may be approved by the Wildlife Board for a period of three years and] shall be completed as part of the certificate of registration application and renewal processes.~~

~~(b) If approved by the Wildlife Board, the CWMU management plan is incorporated into the CWMU's certificate of registration.~~

~~(b)c) Amendments to the CWMU Management Plan may be requested by the Wildlife Board, the division, or the CWMU landowner association[-member or] operator or president, and may result in an amendment to the certificate of registration, consistent with R657-37-5.5.~~

~~(3)(a) The CWMU Management Plan must include:~~

~~(i) species management objectives for the CWMU that are consistent with statewide and unit management objectives for the respective big game or turkey management unit;~~

~~(ii) antlerless harvest objectives;~~

~~(iii)(A) dates that the general public with buck or bull CWMU permits will be allowed to hunt[-in accordance with R657-37-7(3)(a); and];~~

~~(B)iv) a detailed explanation of how comparable hunting opportunities will be provided to both the private and public permit holders on the CWMU as required in Section 23-23-7.5;~~

~~(iv)v) [a-clear] an explanation of the purpose for including public land within the CWMU boundaries, if public land is included;~~

~~(v)vi) an explanation of how the public is compensated by the CWMU when public land is included;~~

~~(vi)vii) rules and guidelines used to regulate a permit holder's conduct as a guest on the CWMU;~~

~~(vii)viii) County Recorder Plat Maps or equivalent maps[-, dated by receipt of purchase within 30 days of the initial or renewal application deadline for a certificate of registration,] depicting boundaries and ownership for all property within the CWMU;~~

~~(viii)ix) two original 1:100,000 USGS maps[-, which must be filed in the appropriate regional division office and the Salt Lake office,] depicting all interior and exterior boundaries of the proposed CWMU;~~

~~(ix)x) strategies and methods that avoid, mitigate, and if necessary compensate for adverse impacts to adjacent landowners and lessees resulting from the operation of the CWMU[-, including the provisions provided in Section R657-37-7(6); and];~~

~~(x)xi) strategies and methods that avoid, mitigate, and if necessary compensate for adverse impacts to agricultural lessees within and adjacent to the CWMU;~~

~~(xii) identification of areas within the CWMU that are closed to hunting by both public and private hunters;~~

~~(xiii) any request for reciprocal agreements.~~

~~(b) The division shall[-] review all CWMU Management Plans and make recommendations to the Wildlife Board.~~

~~(4)(a) CWMU operators are required to complete a CWMU training session provided by the division on an annual basis.~~

~~(b) Failure to complete the CWMU training session may result in the CWMU operator being referred to the CWMU Advisory Committee described in R657-37-15 or may result in administrative action taken against a certificate of registration as described in R657-37-14.~~

R657-37-5. Application for Certificate of Registration; Variance Process.

~~(1)[(a)] An application for a CWMU certificate of registration [that doesn't include special considerations identified] satisfying the acreage and parcel configuration requirements in R657-37-3[(3)(b)] must be completed and returned~~

to the regional division office where the proposed CWMU is located no later than August[+.

~~(b) An application including special considerations described in R657-37-3(3)(b) must be submitted to the CWMU Advisory Committee by February] 1.~~

(2) The application must be accompanied by:

(a) the CWMU Management Plan[~~as described in R657-37-4(3)~~], including all maps and a GIS shapefile in NAD 83 depicting the CWMU boundary;

(b)(i) a petition containing the signature and acreage of each participating landowner agreeing to establish and operate the CWMU as provided in this rule and Title 23, Chapter 23 of the Wildlife Resources Code; or

(ii) a copy of a legal contract or agreement identifying:

(A) the private land;

(B) the duration of the contract or agreement;[~~and~~

(C) the names and signatures of landowners conveying the hunting rights to the CWMU landowner association;

(c) a signed waiver from each landowner or lessee holding agricultural interests within the boundaries of the proposed CWMU releasing all claims for any assistance pertaining to those lands that may otherwise be available from the division under R657-44 during the term of the certificate of registration;

(d) the name of the landowner association operator;

([d]e) the name of the landowner association president;

and

([e]f) the nonrefundable handling fee.

(3)(a) The division may reject any application that is incomplete or completed incorrectly.

(b) Applicants must update the division regarding any changes to the substance of their application while it is under consideration or it may be considered incomplete or incorrect.

(4)(a) An application for a new CWMU that fails to meet the acreage or parcel configuration requirements in R657-37-3 must submit a written variance request to the division by February 1st prior to the annual August 1st application deadline.

(b) Upon receipt of a completed variance request, the division will forward the variance request to the CWMU Advisory Committee for review and recommendations.

(c) The division will review the variance request and make recommendations to the CWMU Advisory Committee.

(d) The CWMU Advisory Committee will consider the variance request and the division's recommendations and make recommendations to the Wildlife Board on the advisability of granting the CWMU application.

~~[(4) The division shall forward the complete and correct]~~

(5) In analyzing an application for a CWMU, the Wildlife Board shall consider:

(a) the application[~~, required documentation, and materials;~~

(b) the division's recommendation;

(c) any recommendation [provided by]from the CWMU Advisory Committee [to the Regional Advisory Councils and Wildlife Board for consideration];regarding a variance request; and

(d) any violation of the provisions of Title 23, Wildlife Resources Code by the CWMU operator, president, or landowner association member that bears a reasonable relationship on whether the applicant should be approved to participate in the program.

~~[(5]6) Upon receiving the application and recommendation from the division, the Wildlife Board may:~~

~~(a) authorize the issuance of a certificate of registration[~~for three years;~~] allowing the landowner association [member-]to operate a CWMU; or~~

~~(b) deny the application and provide the landowner association with reasons for the decision.~~

~~[(6) The Wildlife Board shall consider any violation of the provisions of Title 23, Wildlife Resources Code and any information provided by the division, landowners, and the public in determining whether to authorize the issuance of a certificate of registration for a CWMU.~~

~~] (7) A certificate of registration is issued on a three _year basis and shall expire on January 31.~~

~~(8) The CWMU application and the management plan agreement are binding upon the landowner association members and all successors in interest to the CWMU property or the hunting rights thereon as it pertains to allowing public permit holders reasonable access to all CWMU property during the applicable hunting seasons for purposes of filling the permit.~~

R657-37-5[a].5. Amendment to a Certificate of Registration; Termination of Certificate of Registration.

(1)(a) A CWMU must notify the division in writing regarding any requested change in:

(i) permit numbers or allocation;

(ii) season dates;

(iii) landowner association membership;

(iv) acreage of the CWMU;

(v) operator;

(vi) the CWMU Management Plan; or

(vii) any other matter related to the management and operation of the CWMU not originally included in the certificate of registration.

(b) Written notification of a requested change must be submitted to the appropriate regional division office where the CWMU is located.

(c) The division must be notified of all changes in landowner association membership, acreage, and operator within 30 days of such changes occurring.

(d) The CWMU must provide the division the written release identified in R657-37-5(2)(c) from new agricultural lessees within the boundaries of the proposed CWMU that are not participating members of the landowner association within 30 days of any changes occurring.

~~[(d]e) Changes in the CWMU described in R657-37-5.5(1)(a) require an amendment to the certificate of registration.~~

(2) Requests to amend buck and bull permit numbers, permit allocation, or season dates:

(a) may be initiated by the CWMU or the division;

(b) are due on August 1 of the year prior to when hunting is to occur[~~and~~], unless requested changes are in response to an ecological event or condition occurring after the August 1 deadline and beyond the control of the CWMU;

(c) shall be forwarded to the Regional Advisory Councils and Wildlife Board for consideration; and

(d) upon approval by the Wildlife Board, an amendment to the original certificate of registration shall be issued in writing.

(3) Requests to amend antlerless permit numbers or season dates:

- (a) may be initiated by the CWMU or the division;
- (b) must be submitted to the division by the last day of February;
- (c) shall be forwarded to the Regional Advisory Councils and Wildlife Board for consideration; and

(d) upon approval by the Wildlife Board, an amendment to the original certificate of registration may be issued in writing.

(4)(a) If acreage totals in the CWMU decrease by more than 33% ~~[or landowner membership within a landowner association changes by more than 33%]~~ over the term of the certificate of registration, the certificate of registration shall:

- (i) remain effective for the hunting season beginning in that calendar year; and
- (ii) following completion of that hunting season, the certificate of registration shall terminate.

(b) A CWMU whose certificate of registration is terminated under this section may reapply consistent with R657-37-5.

~~(c)(i)~~ If a reduction in acreage occurs on a CWMU that does not trigger the 33% threshold identified in subsection 4(a) and the resulting acreage total is below the standard totals generally required by R657-37-~~[3;]3~~:

(i) the certificate of registration will remain effective for the current hunt year;

(ii) the CWMU will be reported to the CWMU Advisory Committee for [review and recommendation to the Wildlife Board for action;] a variance request using the process described in R657-37-5(4); and

~~[(ii) Review by the CWMU Advisory Committee and subsequent action by]~~ (iii) the Wildlife Board shall [be taken consistent with R657-37-15-] make a determination regarding variance approval and amendment of the certificate of registration.

(5)(a) All other requests for amendments shall be reviewed by the division.

(b) If the division recommends approval of the amendment, the division will submit that recommendation to the director.

(c) Upon approval by the director, an amendment to the original certificate of registration shall be issued in writing.

R657-37-6. Renewal of a Certificate of Registration.

(1)(a) At the end of a certificate of registration term, the certificate of registration may be renewed, consistent with this section.

(b) A certificate of registration terminated pursuant to R657-37-5.5 or R657-37-14 is not eligible for renewal~~[-]~~, but may reapply consistent with R657-37-5.

~~(2)(a)~~ An application for renewal of a certificate of registration~~[that does not require special considerations identified in R657-37-3(b)]~~ must be completed and returned to the regional division office where the CWMU is established no later than August 1 of the year ~~[preceeding the expiration of the certificate of registration term]~~.

~~(b) An application for renewal of a certificate of registration requiring an exception to the minimum acreage requirements or parcel configurations identified in R657-37-3(b)~~

~~must be submitted to the CWMU Advisory Committee by February 1 of the year preceeding]~~ preceeding the expiration of the certificate of registration term.

(3)(a) The renewal application must identify all changes from the previous certificate of registration and CWMU Management Plan.

(b) A CWMU renewal application that, due to its acreage totals or parcel configuration would otherwise require variance approval, may proceed without completing the variance process, provided:

(i) the CWMU legally possessed a CWMU certificate of registration during the previous year that allowed for corner-to-corner land parcels or noncontiguous land parcels;

(ii) the CWMU's renewal application does not add additional corner-to-corner or noncontiguous parcels from the previously approved CWMU certificate of registration; and

(iii) the CWMU renewal application at a minimum maintains the equivalent acreage totals and configuration from its previously approved certificate of registration.

(c) A CWMU renewal application that includes a request for modified season dates is not required to obtain an additional variance upon renewal if those dates are identical to what was previously approved in their current certificate of registration.

(4) The renewal application must be accompanied by:

(a) the CWMU Management Plan as described in Section R657-37-4(3); and

(b) all maps as described in Section R657-37-4(3) if the CWMU boundaries have changed; and

(c)(i) a petition containing the signature and acreage of each participating landowner agreeing to establish and operate the CWMU as provided in this rule and Title 23, Chapter 23 of the Wildlife Resources Code; or

(ii) a copy of a legal contract or agreement identifying:

(A) the private land;

(B) the duration of the contract or agreement; and

(C) the names and signatures of landowners conveying the hunting rights to the CWMU agent or landowner association operator;

(d) a signed waiver from each landowner or lessee holding agricultural interests within the boundaries of the proposed CWMU releasing all claims for any assistance pertaining to those lands that may otherwise be available from the division under R657-44 during the term of the certificate of registration;

(e) the name of the designated landowner association operator; and

([e]f) the nonrefundable handling fee.

(6) The division may reject any application that is incomplete or completed incorrectly.

(7) The division shall consider:

(a) the contents of the renewal application;

(b) the [previous performance of the CWMU, including the actions of all landowner association members; and] past performance by a CWMU in fulfilling management responsibilities identified in the CWMU Management Plan;

(c) hunter satisfaction ratings; and

(d) any violation by [a]CWMU operator, CWMU president, or any landowner association member of Title 23, Wildlife Resources Code, this rule, stipulations contained in the certificate of registration and all other relevant information provided

from any source related to participation in the [applicant's fitness to operate a]CWMU program.

(8) After evaluating a complete renewal application, the division shall:

(a) recommend approving renewal of the certificate of registration and forward the permit recommendations to the Regional Advisory Councils and Wildlife Board; or

(b) recommend denying the renewal certificate of registration and state the reasons for denial in writing to the applicant; and

(i)c forward the application, reason for denial and recommendation to the Regional Advisory Councils and Wildlife Board; ~~and~~

~~(ii) provide the applicant with information for seeking Wildlife Board review of the denial].~~

(9)~~(a)~~ Upon receiving the division's recommendation as provided in ~~[Subsection (6)]Subsections (7) and (8)~~, the Wildlife Board may consider:

(i)a the contents of the renewal application;

~~(ii) the previous performance of the CWMU, including the actions of the landowner association member or landowner association operator when reviewing renewal of the certificate of registration;]b the past performance by a CWMU in fulfilling management responsibilities identified in the CWMU Management Plan;~~

~~(iii)c hunter satisfaction ratings;~~

~~(d) any violation by CWMU operator, CWMU president, or any landowner association member of Title 23, Wildlife Resources Code, this rule, stipulations contained in the certificate of registration and all other relevant information provided from any source related to the applicant's [fitness to operate a]participation in the CWMU program;~~

~~(iv)e any probationary status or recommendation provided by the CWMU Advisory Committee if the landowner association has been referred to the CWMU Advisory Committee during the [renewal process]term of the certificate of registration; and~~

~~(v)f the [recommendation by]recommendations of the division and Regional Advisory Councils.~~

~~(b) The Wildlife Board may renew a certificate of registration for a CWMU that does not meet minimum acreage requirements and includes land parcels that adjoin corner-to-corner or containing noncontiguous parcels, provided:~~

~~(i) the CWMU legally possessed a CWMU certificate of registration during the previous year that allowed for corner-to-corner land parcels or noncontiguous land parcels; and~~

~~(ii) the CWMU's renewal application does not add additional corner-to-corner or noncontiguous parcels from the previously approved CWMU certificate of registration.~~

(10) A certificate of registration approved for renewal is authorized for three years and shall expire on January 31, providing the certificate of registration is not revoked, suspended, or terminated prior to the expiration date.

R657-37-7. Operation by Landowner Association.

(1)(a) A CWMU must be operated by a landowner association who is represented by a president or a landowner association operator.

(b) A landowner association president or landowner association operator may appoint CWMU agents to protect private property within the CWMU; however, the landowner association president, or landowner association operator must assume ultimate responsibility for the operation of the CWMU.

(2)(a) A landowner association ~~member]president~~ or landowner association operator may enter into reciprocal agreements with other landowner association ~~[members]presidents~~ or landowner association operators to allow hunters who have obtained a CWMU permit to hunt within each other's CWMUs as provided in Subsections R657-37-4(3)~~[-](a)~~~~(*)xii~~.

(b) Reciprocal hunting agreements may be approved only to:

(i) raise funds to address joint habitat improvement projects;

(ii) address emergency situations limiting hunting opportunity on a CWMU;

(iii) raise funds to aid in essential management practices for the benefit of CWMU species, including obtaining age or species population data as recommended by regional division personnel and approved by the division's wildlife section chief; or

~~(iv)[-or]~~ be used with unused vouchers as provided in R657-37-9(12)(a).

(c) If a person is authorized to hunt in one or more CWMUs as provided in Subsection (a), written permission from the landowner association member or landowner association operator and written authorization from the division must be in the person's possession while hunting.

(d) The division may identify an individual to administer and coordinate reciprocal agreements and all expenditure of funds generated therefrom.

(e) The division must provide written approval prior to any expenditure of funds generated from reciprocal agreement permits.

(f) The administrator of the reciprocal agreement program must provide an annual accounting of proceeds generated from reciprocal agreement permits and how those funds were spent or administered.

(3)(a) A landowner association member or landowner association operator must provide general public CWMU permittees a minimum of:

(i) five days to hunt with buck, bull or turkey permits; and

(ii) three days to hunt with antlerless permits.

(b) Sunday hunt days may not be included in minimum hunt days except by mutual agreement of the permittee and the operator.

(b)c General public CWMU [permittees]permittees shall be allowed to hunt the entire CWMU [except]during their established season dates, unless areas [that are excluded from hunting to all permittees]are deemed closed to both public and private hunters and described in the CWMU Management Plan as closed.

~~(i) a landowner association may identify in the management plan areas within the CWMU boundary that are open to specific species only. These areas must be open to all permit holders for that species.~~

~~(e)~~(d) A person who has obtained a CWMU permit may hunt only in the CWMU for which the permit is issued, except as provided under Subsection (2).

(4)(a) Each landowner association member or landowner association operator must:

(i) clearly post all boundaries of the CWMU at all corners, fishing streams crossing property lines, road, gates, and rights-of-way entering the land with signs that are a minimum of 8 1/2 by 11 inches on a bright yellow background with black lettering, and that contain the language provided in Subsection (b); and

(ii) if a CWMU uses public land for the purpose of making a definable boundary for the CWMU then that boundary shall be posted every three hundred yards.

~~(b) [A CWMU is created under an agreement between private landowners and the division, and approved by the Wildlife Board.]~~ Only persons with a valid CWMU permit for the CWMU may hunt moose, deer, elk, pronghorn or turkey within the boundaries of the CWMU.

(c) The general public may use accessible public land portions of the CWMU for all legal purposes, other than hunting big game or turkey for which the CWMU is authorized.

(5) A landowner association member or landowner association operator must provide a written copy of its guidelines used to regulate a permit holder's conduct as a guest on the CWMU to each permit holder.

(6)(a) A CWMU and the division shall cooperatively address the needs of landowners who are negatively impacted by big game animals or turkeys associated with the CWMU.

(b) The CWMU and the division shall cooperatively seek methods to prevent or mitigate agricultural depredation caused by big game animals or turkeys associated with the CWMU.

(7) A landowner association member may not harass or haze wildlife in an effort to retain animals on the CWMU or herd animals onto the CWMU unless:

(a) the division determines that such actions are necessary to mitigate agricultural damage on neighboring lands;

(b) the CWMU is fulfilling their obligations described in their CWMU Management Plan regarding agricultural damage to neighboring landowners; and

(c) the division provides prior written authorization approving the actions of the CWMU.

R657-37-9. Permit Allocation.

(1) The division shall issue CWMU permits for hunting big game or turkey to permittees:

(a) qualifying through a drawing conducted for the general public as defined in Subsection R657-37-2(2)(c); or

(b) named by the landowner association member or landowner association operator.

(2) CWMU landowner association members and their spouses and dependent children cannot apply for CWMU permits specific to their CWMU that are offered in the public drawing.

(3) A landowner association member or landowner association operator shall be issued vouchers that may be used to purchase hunting permits from division offices.

(4)(a) The division and the landowner association ~~member~~operator must, in accordance with Subsection (4), determine:

(~~a~~)i the total number of permits to be issued for the CWMU; and

(~~b~~)ii the number of permits that may be offered by the landowner association ~~member~~ to the general public as defined in Subsection R657-37-2(2)(c).

(5)b In determining the total number of permits allocated under Subsection (4)(a), the division will consider:

(i) acreage and habitat conditions on the CWMU;

(ii) management objectives of the CWMU and surrounding wildlife management units;

(iii) classification and survey data;

(iv) depredation and nuisance conflicts; and

(v) other factors that may influence hunt quality and the division's ability to meet wildlife management objectives.

(c) A CWMU may only offer a management buck permit for a public hunter if that CWMU lies entirely within a wildlife management unit that also offers management buck hunts.

(5) The Wildlife Board shall increase the number of permits or hunting opportunities made available to the general public to reflect the proportion of public lands to private lands within the CWMU.

(6)(a) Big game permits may be allocated using an option from:

(i) table one for moose and pronghorn; or

(ii) table two for elk and deer.

(b)(i) Over the term of the certificate of registration, and at all times during the its term, at least 40% of the total permits for bull moose and at least 60% of the antlerless moose permits will be allocated to the public and distributed via the public drawing.

(ii) Notwithstanding subsection (b)(i) above and Tables 1 and 2, if the proportion of permits allocated to the public over consecutive certificate of registration terms substantially deviates from that identified in subsection (b)(i), the Wildlife Board may approve a modified permit distribution scheme that fairly allocates public and private permits.

(c) At least one buck or bull permit or at least 10% of the bucks or bulls permits, whichever is greater, must be made available to the general public through the big game drawing process.

(d) Permits shall not be issued for spike bull elk.

(e) Turkey permits shall be allocated in a ratio of fifty percent to the CWMU and fifty percent to the general public, with the public receiving the extra permit when there is an odd number of total permits.

TABLE 1

MOOSE AND PRONGHORN		
Cooperative Wildlife Management Option	Bucks/Bulls	Unit's Share Does/Antlerless
1	60%	40%
Public's Share		
Option	Bucks/Bulls	Does/Antlerless
1	40%	60%

TABLE 2

ELK AND DEER		
Cooperative Wildlife Management Unit's Share		
Option	Bucks/Bulls	Antlerless
1	90%	0%
2	85%	25%
3	80%	40%
4	75%	50%

Public's Share		
Option	Bucks/Bulls	Antlerless
1	10%	100%
2	15%	75%
3	20%	60%
4	25%	50%

([6]7)(a) The landowner association member or landowner association operator must meet antlerless harvest objectives established in the CWMU management plan under subsection R657-37-4(3)(a)(ii).

(b) Failure to meet antlerless harvest objectives based on a three[-]year average may result in discipline under section R657-37-14.

([7]8) A landowner association member or landowner association operator must provide access free of charge to any person who has received a CWMU permit through the general public big game or turkey drawings, except as provided in Section 23-23-11.

([8]9) If the division and the landowner association member disagree on the number of permits to be issued, the number of permits allocated, or the method of take, the Wildlife Board shall make the determination based on the biological needs of the big game or turkey populations, including available forage, depredation, and other mitigating factors.

([9]10) A CWMU permit entitles the holder to hunt the species and sex of big game or turkey specified on the permit and only in accordance with the certificate of registration and the rules and proclamations of the Wildlife Board.

([10]11) Vouchers for antlerless permits may be designated by a landowner association member to any eligible person as provided in Rule R657-5 and the proclamation of the Wildlife Board for taking big game, and Rule R657-42.

([11]12)(a) If a landowner association has a CWMU voucher that is not redeemed during the previous year, a landowner association may donate that voucher to a 501(c)(3) tax exempt organization, provided the following conditions are satisfied:

(i) The voucher donation is approved by the director prior to transfer;

(ii) No more than one voucher is donated per year by a landowner association;

(iii) The voucher is donated for a charitable cause, and the landowner association does not receive compensation or consideration of any kind other than tax benefit; and

(iv) The recipient of the voucher is identified prior to obtaining the director's approval for the donation.

(b) A CWMU voucher approved for donation under this section may be extended no more than one year.

(c) The division must be notified in writing and the donation completed before ~~May~~ August 1st the year the CWMU voucher is to be redeemed.

(d) vouchers may be used in reciprocal hunting agreements described in accordance with R657-7-(2)(b).

([12]13)(a) A complete list of the current CWMUs, and number of big game or turkey permits available for public drawing shall be published in the respective proclamations of the Wildlife Board for taking big game or turkey.

(b) The division reserves the exclusive right to list approved CWMUs in the proclamations of the Wildlife Board for taking big game or turkey. The division may unilaterally decline to list a CWMU in the proclamation where the unit is under investigation for wildlife violations, a portion of the property comprising the CWMU is transferred to a new owner, or any other condition or circumstance that calls into question the CWMUs ability or willingness to allow a meaningful hunting opportunity to all the public permit holders that would otherwise draw out on the public permits.

R657-37-12. Season Lengths.

(1) A landowner association member or landowner association operator may arrange for permittees to hunt on the CWMU during the following dates:

(a) an archery buck deer season may be established beginning with the opening of the general archery deer season through August 31 and during the sixty-one consecutive day buck deer season;

(b) an archery bull elk season may be established beginning with the opening of the general archery elk season through October 31 and during a bull elk season variance;

(c) an archery buck pronghorn season may be established beginning with the opening of the statewide limited entry archery buck pronghorn season through October 31;

(d) general season bull elk, buck pronghorn, and moose seasons may be established September 1 through October 31, ~~or the closing date of the general season for the respective species, whichever is later~~ unless a season variance is approved;

(e)(i) general buck deer seasons may be established for no longer than sixty-one consecutive days from September 1 through November 10;

(ii) a landowner association member or landowner association operator electing to establish buck deer hunting in November must:

(A) meet the CWMU management plan objectives;

(B) not exceed average hunter density exhibited on the surrounding deer wildlife management units;

(C) provide positive hunter satisfaction; and

(D) maintain a harvest success rate at least equal to the surrounding deer wildlife management units;

(E) designate the CWMU's sixty-one consecutive day season in the application, or if the sixty-one day consecutive season is not designated the season shall begin September 1;

(F) allow all public hunters the option to hunt in November;

(f) muzzleloader bull elk seasons may be established September 1 through ~~the end of the general muzzleloader elk season~~ October 31 annually, and during a bull elk season variance;

(g) antlerless elk seasons may be established August 1 through January 31;

(h) antlerless deer seasons may be established August 1 through December 31;

(i) doe pronghorn seasons may be established August 1 through October [31, unless August 1 falls on a Sunday, in which case the season shall start on the following Monday]31; and

(j) turkey seasons may be established the second Saturday in April through May 31.

(2)(a) The Wildlife Board may authorize bull elk hunting season variances only if the CWMU landowner association member or landowner association operator clearly demonstrates that November hunting is necessary on the CWMU.

(b) If a bull elk hunting season variance is authorized, the public hunters must be provided comparable hunting opportunity as private hunters.

(3) Notwithstanding the season length provisions in this section, any season described in Subsection (1) that begins on a Sunday will default to and commence the Saturday before.

R657-37-15. Cooperative Wildlife Management Unit Advisory Committee.

(1) A CWMU Advisory Committee shall be created consisting of eight members nominated by the director and approved by the Wildlife Board.

(2) The committee shall include:

- (a) two sportsmen representatives;
- (b) two CWMU representatives;
- (c) one agricultural representative;
- (d) one at-large public representative;
- (e) one elected official; and
- (f) one Regional Advisory Council chairperson or

Regional Advisory Council member .

(3) The committee shall be chaired by the Wildlife Section Chief, who shall be a non-voting member.

(4) The committee shall:

- (a) hear complaints dealing with fair and equitable treatment of hunters on CWMUs;
- (b) review the operation of the CWMU program;
- (c) review failure to meet antlerless objectives;
- (d) hear complaints from adjacent landowners;
- (e) review changes in acreage totals for CWMUs that are under standard minimum acreage or parcel configuration requirements and evaluate the appropriateness of their continued participation in the program; and

(f) make advisory recommendations to the director and Wildlife Board on the matters in Subsections (a), (b), (c), (d), and (e).

(5)(a) The committee may, after hearing evidence of complaints or violations, place a CWMU on probation.

(b) A CWMU placed upon probationary status must provide the CWMU Advisory Committee a plan of corrective action to address concerns regarding operation of the CWMU, and report annually to the Advisory Committee during the probationary period regarding their progress in addressing such concerns.

(c) The CWMU Advisory Committee shall report to the Wildlife Board any CWMU that remains on probation during a certificate of registration renewal process.

(6) The Wildlife Section Chief shall determine the agenda, and time and location of the meetings.

([6]7) The director shall set staggered terms of appointment of members [in order to assure]such that there is rotating representation and that all committee members' terms shall

expire after four years[, and at least three members shall expire after the initial two years].

KEY: wildlife, cooperative wildlife management unit

Date of Enactment or Last Substantive Amendment: [February 8, 2016]2019

Notice of Continuation: April 12, 2018

Authorizing, and implemented or Interpreted Law: 23-23-3

Natural Resources, Wildlife Resources **R657-41** Conservation and Sportsman Permits

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43736

FILED: 05/23/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) rule pursuant to conservation and sportsman permits.

SUMMARY OF THE RULE OR CHANGE: The proposed revisions to this rule: 1) set requirements for conservation organizations, that left the program in good standing, re-entering the conservation permit program; 2) change deadlines associated with applications, dates permits must be sold, and funds reported and transferred to the DWR from September 1 to August 15; 3) clarify how conservation permit vouchers may be allocated, obtained, and distributed; 4) align the voucher redemption process with the electronic application; 5) clarify that a person can obtain a conservation permit for both a Desert and Rocky Mountain bighorn ram in a single year; 6) strengthen administrative enforcement language; 7) allow conservation organization officers, volunteers, and members to bid on conservation permits in a public auction; and 8) make technical corrections as needed.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-14-18 and Section 23-14-19

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** These rule amendments clarify ambiguity in the current rule but does not change the overall process or purpose of the rule. DWR has determined that these amendments do not create a cost or savings impact to the state budget or DWR's budget, since the changes will not increase workload and can be carried out with existing budget.

◆ **LOCAL GOVERNMENTS:** Since these amendments only add clarity and consistency to a program that is already established, this filing does not create any direct cost or

savings impact to local governments because they are not directly affected by the rule. Nor are local governments indirectly impacted because this rule does not create a situation requiring services from local governments.

♦ **SMALL BUSINESSES:** These amendments simply create more consistency and clarity to an already established program, therefore, these amendments do not have the potential to generate a cost or savings impact to small businesses.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These amendments simply create more consistency and clarity to an already established program, therefore, these amendments do not have the potential to generate a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR has determined that these amendments will not create additional costs for conservation organizations wishing to participate in the conservation permit program in Utah.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2019

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2019

AUTHORIZED BY: Mike Fowlks, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

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

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

Appendix 2: Regulatory Impact to Non-Small Businesses

These proposed rule changes are not expected to have any fiscal impacts on non-small businesses' revenues or expenditures, because they do not require any services from businesses or groups not participating in the conservation permit program. All amendments to this rule that impact groups currently participating in the program do not create a cost or savings impact.

The head of department of Natural Resources, Michael Styler, has reviewed and approved this fiscal analysis.

R657. Natural Resources, Wildlife Resources.

R657-41. Conservation and Sportsman Permits.

R657-41-1. Purpose and Authority.

(1) Under the authority of Section 23-14-18 and 23-14-19, this rule provides the standards and procedures for issuing:

(a) conservation permits to conservation organizations for auction to the highest bidder at fund-raising events ;

(b) sportsman permits;

(c) Special Antelope Island State Park Conservation Permits to a conservation organization for auction to the highest bidder at the annual wildlife exposition held pursuant to R657-55; and

(d) Special Antelope Island State Park Limited Entry Permits to successful applicants through a general drawing conducted by the division.

(2) The division and conservation organizations shall use all revenue derived from conservation permits under Subsections R657-41-9(4) and (5)(b) for the benefit of species for which

conservation permits are issued, unless the division and conservation organization mutually agree in writing that there is a higher priority use for other species of protected wildlife.

R657-41-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2. (2) In addition:

(a) "Area Conservation Permit" means a permit issued for a specific unit or hunt area for a conservation permit species, and may include an extended season, or legal weapon choice, or both, beyond the season, except area turkey permits are valid during any season option and are valid in any open area during general season hunt.

(i) Area conservation permits issued for limited entry units are not valid on cooperative wildlife management units authorized for the same species of wildlife as the area conservation permit.

(ii) Notwithstanding Subsection (a), area conservation permits issued for turkey are not valid during the youth general season hunt unless the holder qualifies as a youth.

(b) "Conservation Organization" means a nonprofit chartered institution, foundation, or association founded and operated for the purpose of promoting the protection~~—and~~ preservation, and recreational hunting of one or more conservation permit species and has established tax exempt status under 26 U.S.C. Section 501(c)(3), as amended.

(c) "Conservation Permit" means any harvest permit authorized by the Wildlife

Board and issued by the division for purposes identified in Section R657-41-1.

(d) "Conservation Permit Species" means the species for which conservation permits may be issued and includes deer, elk, pronghorn, moose, bison, mountain goat, Rocky Mountain bighorn sheep, desert bighorn sheep, wild turkey, cougar, and black bear.

(e) "Multi-Year Conservation Permit" means a conservation permit awarded to an eligible conservation organization pursuant to R657-41-7 for three consecutive years for auction to the highest bidder at fund-raising events .

(f) "Retained Revenue" means 60% of the revenue raised by a conservation organization from auctioning conservation permits that the organization retains for eligible projects, including interest earned thereon less standard banking fees assessed on the account.

(g) "Special Antelope Island State Park Conservation Permit" means a permit authorized by the Wildlife Board to hunt bighorn sheep or mule deer on Antelope Island State Park which is issued pursuant to R657-41-12.

(h) "Special Antelope Island State Park Limited Entry Permit" means a permit authorized by the Wildlife Board to hunt bighorn sheep or mule deer on Antelope Island State Park which is issued by the division in a general drawing, requiring all applicants to pay an application fee and the successful applicant the cost of the permit.

(i) "Sportsman Permit" means a permit which allows a permittee to hunt during the applicable season dates specified in Subsection (k), and which is authorized by the Wildlife Board and issued by the division in a general drawing, requiring all applicants to pay an application fee and the successful applicant the cost of the permit.

(j) "Single Year Conservation Permit" means a conservation permit awarded to an eligible conservation organization pursuant to R657-41-6 for one year for auction to the highest bidder at fund-raising events .

(k) "Statewide Conservation Permit" means a permit issued for a conservation permit species that allows a permittee to hunt:

(i) big game species on any open unit with archery equipment during the general archery season published in the big game guidebooks for the unit beginning before September 1, and with any weapon from September 1 through December 31, except pronghorn and moose from September 1 through November 15 and deer, elk from September 1 through January 15, and bison from August 1 through January 31;

(ii) two turkeys on any open unit from April 1 through May 31;

(iii) bear on any open unit during the season authorized by the Wildlife Board for that unit;

(iv) cougar on any open unit during the season authorized by the Wildlife Board for that unit and during the season dates authorized by the Wildlife Board on any harvest objective unit that has been closed by meeting its objective;

(v) Antelope Island is not an open unit for hunting any species of wildlife authorized by a conservation or sportsman permit, except for the Special Antelope Island State Park Conservation Permits and the Special Antelope Island State Park Limited Entry Permits; and

(vi) Rocky Mountain bighorn sheep on any open unit, excluding the Box Elder, Pilot Mountain sheep unit, which is closed to both the Sportsman permit holder and the Statewide conservation permit holder every year.

(l) "Permit voucher" or "voucher" means an authorization issued by the division that entitles the designated holder to purchase the hunting permit specified in the authorization.

R657-41-3. Determining the Number of Conservation and Sportsman Permits.

(1) The number of conservation permits authorized by the Wildlife Board shall be based on:

(a) the species population trend, size, distribution, and long-term health;

(b) the hunting and viewing opportunity for the general public, both short and long term; and

(c) the potential revenue that will support protection and enhancement of the species.

(2) One statewide conservation permit may be authorized for each conservation permit species.

(3) A limited number of area conservation permits may be authorized as follows:

(a) the potential number of multi-year and single year conservation permits available for Rocky Mountain bighorn sheep and desert bighorn sheep, assigned to a hunt area or combination of hunt areas, will be calculated based on the number permits issued the year prior to the permits being awarded using the following rule:

(i) 5-14 public permits = 1 conservation permit, 15-24 public permits = 2 conservation permits, 25-34 public permits = 3 conservation permits, 35-44 permits = 4 conservation permits, 45-54 public permits = 5 conservation permits, 55-64 = 6 conservation

permits, 65-74 public permits = 7 conservation permits and >75 public permits = 8 conservation permits.

(b) the potential number of multi-year and single year permits available for the remaining conservation permit species, for any unit or hunt area, will be calculated based on the number permits issued the year prior to the permits being awarded using the following rule:

(i) 11-30 public permits = 1 conservation permit, 31-50 public permits = 2 conservation permits, 51-70 public permits = 3 conservation permits, 71-90 permits = 4 conservation permits, 91-110 public permits = 5 conservation permits, 111-130 = 6 conservation permits, 131-150 public permits = 7 conservation permits and >150 public permits = 8 conservation permits.

(4) The number of conservation permits may be reduced if the number of public permits declines during the time period for which multi-year permits were awarded.

(5) The actual number of conservation and sportsman permits available for use will be determined by the Wildlife Board.

(6) Area conservation permits shall be ~~[deducted from]~~ approved by the Wildlife Board in a separate process from approving the number of public drawing permits.

(7) One sportsman permit shall be authorized for each statewide conservation permit authorized.

(8) All area conservation permits are eligible as multi-year permits, except the division may designate some area conservation permits as single year permits based on the applications received for single year permits.

(9) All statewide permits will be multi-year permits .

R657-41-4. Eligibility for Conservation Permits.

(1) Statewide and area conservation permits may be awarded to eligible conservation organizations for auction to the highest bidder at fund-raising events and through other authorized means of sale.

(2) To be eligible for multi-year conservation permits, a conservation organization must have generated in conservation permit sales during the previous three-year period at least one percent of the total revenue generated by all conservation organizations in conservation permit sales during the same period. Conservation organizations eligible for multi-year permits may not apply for single year permits, and conservation organizations ineligible for multi-year permits may only apply for single year permits.

(3) Conservation organizations applying for single year permits may not:

(a) bid for or obtain conservation permits if any employee, officer, or board of directors member of the conservation organization is an employee, officer, or board of directors member of any other conservation organization that is submitting a bid for single year conservation permits; or

(b) enter into any pre-bidding discussions, understandings or agreements with any other conservation organization submitting a bid for conservation permits regarding:

(i) which permits will be sought by a bidder;

(ii) what amounts will be bid for any permits; or

(iii) trading, exchanging, or transferring any permits after permits are awarded.

R657-41-5. Applying for Conservation Permits.

(1)(a) Applications to participate in the multi-year conservation permit program will be accepted on a three-year application cycle uniformly applicable to all conservation organizations.

(b) A conservation organization wishing to apply for multi-year conservation permits must submit a complete application to the division by August 15 of third year of the application cycle.

(c) Conservation organizations [may]wishing to apply for one year conservation permits [by sending an application to the division]must do so by August 15 annually.

([b]d) Only one application per conservation organization may be submitted.

(e) Multiple chapters of the same conservation organization may not apply individually.

([e]f) Conservation organizations may apply for single year conservation permits or multi-year conservation permits. They may not apply for both types of conservation permits.

(2) ~~[The application must be submitted to the division by September 1, unless otherwise specified on the division's website, to be considered for the following year's conservation permits.]~~ Each application must include:

(a) the name, address and telephone number of the conservation organization;

(b) a copy of the conservation organization's mission statement;

(c) verification of the conservation organization's tax exempt status under 26 U.S.C. Section 501(c)(3), as amended; and

(d) the name of the president or other individual responsible for the administrative operations of the conservation organization;

(3) If applying for single year conservation permits, a conservation organization must also include in its application:

(a) the proposed bid amount for each permit requested. The proposed bid amount is the revenue the organization anticipates will be raised from auctioning a permit;

(b) certification that there are no conflicts of interest or collusion in submitting bids, as prohibited in R657-41-4(3);

(c) acknowledgement that the conservation organization recognizes that falsely certifying the absence of collusion may result in cancellation of permits, administrative action under R657-41-13, disqualification from bidding for five years or more, [and]or the filing of criminal charges; and

(d) evidence that the application and bid has been ~~[reviewed and]~~ approved by the board of directors [of]or other necessary authority from the bidding conservation organization; and

(e) ~~[the type of permit, and the species for which the permit is requested; and]~~ a certification from the applicant that they have not consulted with any other participating conservation organization regarding the conservation permits they intend to acquire.

~~[any requested variances for an extended season or legal weapon choice for area conservation permits.]~~

(4) An application that is incomplete or completed incorrectly may be rejected.

(5) The application of a conservation organization for conservation permits may be denied by the division for:

(a) failing to fully and accurately report on the preceding year's conservation permits;

(b) violating any provision of this rule, Title 23 of the Utah Code, Title R657 of the Utah Administrative Code, a division guidebook, or an order of the Wildlife Board; or

(c) violating any other law that bears a reasonable relationship to the applicant's ability to responsibly and lawfully handle conservation permits pursuant to this rule.

(6) Application denials may be appealed to the division director prior to the permit selection process described in R657-41-7.

R657-41-7. Awarding Multi-Year Conservation Permits.

(1)(a) Distribution of multi-year conservation permits will be based on a sequential selection process where each eligible conservation organization is assigned a position or positions in the selection order among the other participating organizations and awarded credits with which to purchase multi-year permits at an assigned value. ~~[-The selection process and other associated details are as follows:-]~~

(b) Conservation organizations may not consult or coordinate with other conservation organizations regarding which conservation permits they intend to acquire prior to the permit selection process.

(2) Multi-year permits will be awarded to eligible conservation organizations for no more than three years.

(3) The division will determine the number of permits available as multi-year permits after subtracting the proposed number of single year permits.

(a) Season types for multi-year area conservation permits for elk on any given hunt unit will be designated and assigned in the following order:

- (i) first permit -- multi-season;
- (ii) second permit -- any-weapon;
- (iii) third permit -- any-weapon;
- (iv) fourth permit -- archery;
- (v) fifth permit -- muzzleloader;
- (vi) sixth permit -- multi-season;
- (vii) seventh permit -- any-weapon; and
- (viii) eighth permit -- any-weapon.

(b) Season types for multi-year area conservation permits for deer on any given hunt unit will be designated and assigned in the following order:

- (i) first permit -- hunter's choice of season;
- (ii) second permit -- hunter's choice of season;
- (iii) third permit -- muzzleloader;
- (iv) fourth permit -- archery;
- (v) fifth permit -- any-weapon;
- (vi) sixth permit -- any-weapon;
- (vii) seventh permit -- muzzleloader; and
- (viii) eighth permit -- archery.

(c) Notwithstanding the availability of multiple seasons, an any-weapon permit opportunity offered in Subsections (3)(a) and (b) is restricted to a single season, which the recipient of the permit must designate prior to receiving the permit.

(4) The division will assign a ~~[monetary value to]~~credit amount for each multi-year permit based on the average return for the permit during the previous three-year period. If a history is not available, the value will be estimated.

(5) The division will ~~[determine]~~calculate the market total [annual value of all multi-year]for the permit draft by summing all credit amounts from available conservation permits.

(6)(a) The division will calculate a market share for each eligible conservation organization applying for multi-year permits.

(b) Market share will be calculated and determined based on:

(i) the conservation organization's previous three years performance;

(ii) all conservation permits (single and multi-year) issued to a conservation organization[-];

(iii) the percent of conservation permit revenue raised by a conservation organization during the three-year period relative to all conservation permit revenue raised during the same period by all conservation organizations applying for multi-year permits.

(7) The division will determine the credits available to spend by each group in the selection process based on their market share multiplied by the total annual value of all multi-year permits.

(8) The division will establish a selection order for the participating conservation organizations based on the relative value of each groups market share as follows:

(a) groups will be ordered based on their percent of market share;

(b) each selection position will cost a group 10% of the total market share except the last selection by a group will cost whatever percent a group has remaining;

(c) no group can have more than three positions in the selection order; and

(d) the selection order will be established as follows:

(i) the group with the highest market share will be assigned the first position and ~~[ten percent]~~10% will be subtracted from their total market share;

(ii) the group with the highest remaining market share will be assigned the second position and ~~[ten percent]~~10% will be subtracted from their market share; and

(iii) this procedure will continue until all groups have three positions or their market share is exhausted.

(9) At least one week prior to the multi-year permit selection meeting, the division will provide each conservation organization applying for multi-year permits the following items:

(a) a list of multi-year permits available with assigned value;

(b) documentation of the calculation of market share;

(c) credits available to each conservation group to use in the selection process;

(d) the selection order; and

(e) date, time and location of the selection meeting.

(10) Between establishing the selection order and the selection meeting, groups may trade or assign selection positions, but once the selection meeting begins selection order cannot be changed.

(11) At the selection meeting, conservation organizations will select permits from the available pool according to their respective positions in the selection order. For each permit selected, the value of that permit will be deducted from the conservation organization's available credits. The selection order will repeat itself until all available credits are used or all available permits are selected.

(12) Conservation organizations may continue to select a single permit each time their turn comes up in the selection order until all available credits are used or all available permits are selected.

(13) A conservation organization may not exceed its available credits, except a group may select their last permit for up to 10% of the permit ~~[value]~~credit amount above their remaining credits.

(14) Upon completion of the selection process, but prior to the Wildlife Board meeting where the final assignment of permits ~~[are]~~is made, conservation organizations may trade or assign permits to other conservation organizations eligible to receive multi-year permits. The group receiving a permit retains the permit for the purposes of marketing and determination of market share for the entire multi-year period.

(15) Variances for an extended season or legal weapon choice may be obtained only on area conservation permits and must be presented to the Wildlife Board prior to the final assignment of the permit to the conservation organization.

(16) Conservation organizations may not trade or transfer multi-year permits to other organizations once assigned by the Wildlife Board.

(17) Conservation organizations failing to comply with the reporting requirements in any given year during the multi-year period may lose the multi-year conservation permits for the balance of the multi-year award period.

(18) If a conservation organization is unable to complete the terms of auctioning or otherwise selling assigned permits, the permits will be returned to the regular public drawing process for the duration of the multi-year allocation period.

R657-41-8. Distributing Conservation Permits.

(1) The division and conservation organization receiving permits shall enter into a contract.

(2)(a) Conservation organizations receiving the opportunity to distribute permits must ~~[insure]~~ensure the permit opportunities are marketed, auctioned, and distributed by lawful means.

(b) Conservation permit vouchers may not be purchased or redeemed by officers, agents, directors or employees of a conservation permit organization unless:

(i) the voucher was sold at an in-person banquet or fundraiser hosted by the conservation organization;

(ii) the sale was administered by an auctioneer; and

(iii) the sales process was administered in a manner so as to secure fair market value for the voucher.

(3)(a) The conservation organization must:

~~(i) obtain [at the event where the conservation permit opportunity is auctioned] the information and data requested by the division, including the:~~(i) the following information at the time of sale:

(A) full name of the successful bidder;

(B) date~~[of the event where]~~ the permit opportunity is auctioned; and

(C) winning bid amount for that permit opportunity;

(ii) submit the information required in Subsection (3)(a)

(i) to the division within 10 days of the event where the permit opportunity is auctioned to the highest bidder; and

~~(iii) [complete the return receipt on a]~~identify the individual who is authorized to redeem the conservation permit voucher and submit it to the division [within 10 days of issuing the voucher to the person designated by the successful bidder] prior to the individual attempting to redeeming the voucher.

(b) The division will not issue a conservation permit unless~~[-~~

~~(i) a fully completed] required information about the winning bidder and authorized recipient of the voucher [for that permit is submitted; and] is first received by the division.~~

~~(ii) it has previously received from] (c)(i) an absentee bidder may only use an agent or representative to bid on a conservation permit opportunity on their behalf if authorized by the conservation organization [the voucher's return receipt with all required information included].~~

(ii) A winning bid offered by an agent or representative on behalf of an absentee bidder legally obligates the absentee bidder to satisfy the bid obligation submitted by the representative.

(iii) For the purposes of this rule, an absentee bidder is considered the successful bidder when the winning bid is offered by their agent or representative.

(4) If the successful bidder or a person designated by the successful bidder to receive a conservation permit voucher fails to pay the conservation organization the winning bid amount that secured the permit opportunity, the conservation organization may remarket the permit opportunity using any legal means and designate another person to receive the permit opportunity.

(5)(a) If, for any reason, the successful bidder elects not to personally use a conservation permit opportunity, they may assign that opportunity to another person, provided:

(i) the conservation organization is notified of the assignment;

(ii) the original winning bid amount for the permit opportunity is received in full by the conservation organization and not decreased;

(iii) the conservation organization handles and otherwise uses the entire winning bid amount consistent with the requirements in Section R657-41-9; and

(iv) the successful bidder executes an affidavit verifying they are not profiting from the assignment.

(A) For purposes of Subsection (iv), "profiting" does not include a reasonable fee for guiding services provided in conjunction with the assigned permit opportunity.

(b) If a person assigned a permit opportunity by the successful bidder or a person possessing a permit voucher is unable to use the permit opportunity for any reason, including obtaining another Utah permit for the same species, the conservation organization may remarket the permit opportunity using any legal means and designate another person to receive the opportunity, provided:

(i) the conservation organization selects the new recipient of the permit opportunity;

(ii) the amount of money received by the division for the permit opportunity is not decreased;

(iii) the conservation organization relinquishes to the division and otherwise uses all proceeds generated from the redesignated permit opportunity consistent with the requirements in Section R657-41-9;

(iv) the conservation organization and the holder of the permit opportunity execute an affidavit verifying neither is profiting from transferring the right to the permit; and

(v) the permit has not been issued by the division to the first designated person.

(6)(a) Except as otherwise provided under Subsections (4) and (5), neither the conservation organization, successful bidder, successful bidder's assignee, nor the holder of a conservation permit voucher may offer for sale, sell, or transfer the rights to that designation to any other person.

(7) A person cannot obtain more than one conservation permit for a single conservation permit species per year, except :

(a) two elk permits may be obtained, provided one or both are antlerless permits; and

(b) turkey.

(c) A person may obtain both a desert bighorn ram permit and rocky mountain bighorn ram conservation permit in a single year.

(8) The person designated on a conservation permit voucher must possess or obtain a current Utah hunting or combination license to redeem the voucher for the corresponding conservation permit.

R657-41-9. Conservation Permit Funds and Reporting.

(1) All permits must be auctioned or distributed by ~~[September 1,]~~August 15, annually.

(2) Within 30 days of the last event, but no later than ~~[September 1]~~August 15 annually, the conservation organization must submit to the division:

(a) a final report on the distribution of permits;

(b) the total funds raised on each permit; and

(c) the funds due to the division.

(3)(a) Conservation permits shall not be issued to a person possessing a conservation permit voucher unless the person redeeming the voucher:

(i) possesses a valid Utah hunting or combination license;

(ii) remits to the division the applicable permit fee ; and

(iii) is otherwise legally eligible to possess the particular hunting permit.

(b) If the conservation organization is paying the permit fees for the permit recipient, the fees must be paid from the 10% retained by the conservation organization as provided in Subsection (5)(a).

(4)(a) Conservation organizations shall remit to the division by ~~[September 1]~~August 15 of each year 30% of the total revenue generated by conservation permit sales in that year.

(b) The permit revenue payable to the division under Subsection (4)(a), is the property of the division and may not be used by conservation organizations for projects or any other purpose.

(c) The permit revenue must be placed in a federally insured account promptly upon receipt and remain in the account until remitted to the division on or before ~~[September 1]~~August 15 of each year.

(d) The permit revenue payable to the division under this subsection shall not be used by the conservation organization as collateral or commingled in the same account with the organization's operation and administration funds, so that the separate identity of the permit revenue is not lost.

(e) Failure to remit 30% of the total permit revenue to the division by the ~~[September 1]~~August 15 deadline may result in criminal prosecution under Title 76, Chapter 6, Part 4 of the Utah Code, and may further disqualify the conservation organization from obtaining any future conservation permits.

(5) A conservation organization may retain 70% of the permit revenue generated from auctioning conservation permits, as follows:

(a) 10% of the permit revenue may be withheld and used by the conservation organization for administrative expenses.

(b) 60% of the permit revenue and accrued interest, excluding standard banking fees assessed on the account where the permit revenue is deposited, may be retained and used by the conservation organization only for eligible projects, as provided in Subsections (i) through (ix).

(i) eligible projects include habitat improvement, habitat acquisition, transplants, targeted education efforts and other projects providing a substantial benefit to species of wildlife for which conservation permits are issued, unless the division and conservation organization mutually agree in writing that there is a higher priority use for other species of protected wildlife.

(ii) retained revenue shall not be committed to or expended on any eligible project without first obtaining the division director's written concurrence.

(iii) retained revenue shall not be used on any project that does not provide a substantial and direct benefit to conservation permit species or other protected wildlife located in Utah.

(iv) cash donations to the Wildlife Habitat Account created under Section 23-19-43, Division Species Enhancement Funds, or the Conservation Permit Fund shall be considered an eligible project and do not require the division director's approval, provided the donation is made with instructions that it be used for species of wildlife for which conservation permits are issued.

(v) funds committed to approved, division projects will be transferred to the division within 60 days of being invoiced by the division.

(A) if the division-approved project to which funds are committed is completed under projected budget or is canceled, funds committed to the project that are not used will be kept by the division and credited back to the conservation organization ~~[and]~~but will be made available for the group to use on other approved projects during the current or subsequent year.

(vi) retained revenue shall not be used on any project that is inconsistent with division policy, including feeding programs, depredation management, or predator control.

(vii) retained revenue under this subsection must be placed in a federally insured account. All interest revenue earned thereon must be accounted for and used consistent with the requirements of this subsection .

(viii) retained revenue shall not be used by the conservation organization as collateral or commingled in the same account with the organization's operation and administration funds, so that the separate identity of the retained revenue is not lost.

(ix) retained revenue must be completely expended on approved eligible projects or transferred to the division by ~~[September 1,]~~August 15, two years following the year in which the relevant conservation permits are awarded to the conservation organization by the Wildlife Board. Failure to expend or transfer to

the division retained revenue by the ~~[September 1]~~ August 15 deadline will disqualify the conservation organization from obtaining any future conservation permits until the unspent retained revenue is expended on an approved eligible project or transferred to the division.

(x) all records and receipts for projects under this subsection must be retained by the conservation organization for a period not less than five years, and shall be produced to the division for inspection upon request.

(6)(a) Conservation organizations accepting permits shall be subject to annual audits on project expenditures and conservation permit accounts.

(b) The division shall perform annual audits on project expenditures and conservation permit accounts.

R657-41-12. Special Antelope Island State Park Hunting Permits.

(1)(a) The Wildlife Board may authorize a hunt for bighorn sheep and buck mule deer on Antelope Island State Park, with one or more permits made available for each species and designated as Special Antelope Island State Park Conservation Permits and an equal number of permits for each species made available as Special Antelope Island State Park Limited Entry Permits.

(b) The division and the Division of Parks and Recreation, through their respective policy boards, will enter into a cooperative agreement for purposes of establishing:

(i) the number of permits issued annually for bighorn sheep and buck mule deer hunts on Antelope Island;

(ii) season dates for each hunt;

(iii) procedures and regulations applicable to hunting on Antelope Island;

(iv) protocols for issuing permits and conducting hunts for antlerless deer on Antelope Island when populations require management; and

(v) procedures and conditions for transferring Special Antelope Island State Park Conservation Permit revenue to the Division of Parks and Recreation.

(c) The cooperative agreement governing bighorn sheep and mule deer hunting on Antelope Island and any subsequent amendment thereto shall be presented to the Wildlife Board and the Parks Board for approval prior to holding a drawing or issuing hunting permits.

(2)(a) Special Antelope Island State Park Limited Entry Permits will be issued by the division through its annual bucks, bulls, and once-in-a-lifetime drawing.

(i) The mule deer Special Antelope Island State Park Limited Entry Permit is a premium limited entry buck deer permit and subject to the regulations governing such permits, as provided in this rule, R657-5, and R657-62.

(ii) The bighorn sheep Special Antelope Island State Park Limited Entry Permit is a once-in-a-lifetime Rocky Mountain bighorn sheep permit and subject to the regulations governing such permits, as provided in this rule, R657-5, and R657-62.

(b) To apply for a Special Antelope Island State Park Limited Entry Permit, the applicant must:

(i) pay the prescribed application handling fee;

(ii) possess a current Utah hunting license or combination license;

(iii) not be subject to a waiting period under R657-62 for the species of wildlife applied for; and

(iv) otherwise be eligible to hunt the species of wildlife designated on the application;

(c) A person that obtains a Special Antelope Island State Park Limited Entry Permit:

(i) must pay the applicable permit fee;

(ii) may take only one animal of the species and gender designated on the permit;

(iii) may hunt only with the weapon and during the season prescribed on the permit;

(iv) may hunt the specified species within the areas of Antelope Island designated open by the Wildlife Board and the rules and regulations of the Division of Parks and Recreation; and

(v) is subject to the:

(A) provisions of Title 23, Wildlife Resources Code, and the rules and guidebooks of the Wildlife Board for taking and pursuing wildlife; and

(B) statutes, rules, and regulations of the Division of Parks and Recreation for hunting on Antelope Island.

(d) Bonus points are awarded and utilized in applying for and obtaining a Special Antelope Island State Park Limited Entry Permit.

(e) A person who has obtained a Special Antelope Island State Park Limited Entry Permit is subject to all waiting periods applicable to the particular species, as provided in R657-62.

(f) A person cannot obtain a Special Antelope Island State Park Limited Entry Permit for a bighorn sheep or mule deer and any other permit for a male animal of the same species in the same year.

(3) Special Antelope Island State Park Conservation Permits will be provided to the conservation group awarded the wildlife expo permit series, as provided in R657-55, for auction to the highest bidder at the wildlife exposition.

(a) The division and conservation organization receiving authority to auction Special Antelope Island State Park Conservation Permits shall enter into a contract.

(b) The conservation organization receiving authority to auction the opportunity for Special Antelope Island State Park Conservation Permits must insure the permits are marketed and distributed by lawful means.

~~(4)(a) [The conservation organization must:~~

~~(i) obtain at the event where]When auctioning the Special Antelope Island State Park Conservation [Permit is auctioned the information and data requested by the division, including the:]Permits, the conservation organization must:~~

~~(i) obtain the following information:~~

~~(A) full name of the successful bidder;~~

~~(B) date of the event where the permit opportunity is auctioned; and~~

~~(C) winning bid amount for that permit opportunity[-]; and~~

~~(ii) submit the information required in Subsection (4)(a) (i) to the division within 10 days of the event where the permit opportunity is auctioned to the highest bidder; and~~

~~(iii) [complete the return receipt on a]identify the individual who is authorized to redeem the conservation permit voucher and submit it to the division [within 10 days of issuing the~~

~~voucher to the person designated by the successful bidder] prior to the individual attempting to redeeming the voucher.~~

(b) The division will not issue a Special Antelope Island State Park Conservation Permit unless:

~~(i) a fully completed] information on the winning bidder and authorized recipient of the voucher [for that permit is submitted; and] is first received by the division.~~

~~[(ii) it has previously received from] c)(i) an absentee bidder may only use an agent or representative to bid on a conservation permit opportunity on their behalf if authorized by the conservation organization, [the voucher's return receipt with all required information included.]~~

~~(ii) A winning bid offered by an agent or representative on behalf of an absentee bidder legally obligates the absentee bidder to satisfy the bid obligation submitted by the representative.~~

~~(iii) For the purposes of this rule, an absentee bidder is considered the successful bidder when the winning bid is offered by their agent or representative.~~

(5) If the successful bidder or the person designated by a successful bidder to receive a Special Antelope Island State Park Conservation Permit fails to pay the conservation organization the winning bid amount, the conservation organization may remarket the permit opportunity using any legal means and designate another person to receive the permit opportunity.

(6)(a) If, for any reason, the successful bidder elects not to personally use a Special Antelope Island State Park Permit opportunity, they may assign that opportunity to another person, provided:

(i) the conservation organization is notified of the assignment;

(ii) the original winning bid amount for the permit opportunity is received in full by the conservation organization and not decreased;

(iii) the conservation organization handles and otherwise uses the entire winning bid amount consistent with the requirements in Subsection (9); and

(iv) the successful bidder executes an affidavit verifying they are not profiting from the assignment.

(A) For purposes of Subsection (iv), "profiting" does not include a reasonable fee for guiding services provided in conjunction with the assigned permit opportunity.

(b) If a person assigned a Special Antelope Island State Park Conservation Permit opportunity by the successful bidder or a person possessing the permit voucher is unable to use the permit opportunity for any reason, including obtaining another Utah permit for the same species, the conservation organization may remarket the permit opportunity using any legal means and designate another person to receive the opportunity, provided:

(i) the conservation organization selects the new recipient of the permit opportunity;

(ii) the amount of money received by the division for the permit opportunity is not decreased;

(iii) the conservation organization relinquishes to the division all proceeds generated from the re-designated permit, as provided in Subsection (9);

(iv) the conservation organization and the holder of the permit opportunity execute an affidavit verifying neither is profiting from transferring the right to the permit; and

(v) the permit has not been issued by the division to the first designated person.

(7) Within 30 days of the exposition, but no later than May 1 annually, the conservation organization must submit to the division:

(a) a final report on the distribution of the Special Antelope Island State Park Conservation Permits;

(b) the total funds raised on each permit; and

(c) the funds due to the division.

(8)(a) Permits shall not be issued until the applicable permit fees are paid to the division.

(b) If the conservation organization is paying the permit fees for the permit recipient, the fees must be paid from the 10% retained by the conservation organization as provided in Subsection (9)(b).

(9)(a)(i) Conservation organizations shall remit to the division 90% of the total revenue generated by the Special Antelope Island State Park Conservation Permit sales in that year.

(ii) Failure to remit 90% of the total permit revenue to the division by the ~~[September 1]~~ August 15 deadline may result in criminal prosecution under Title 76, Chapter 6, Part 4 of the Utah Code.

(b) A conservation organization may retain 10% of the revenue generated by the permits for administrative expenses.

(c) Special Antelope Island State Park Conservation Permits will be issued under this section and will not be limited by the requirements of R657-41-3 through R657-41-8.

(d) Upon receipt of the permit revenue from the conservation organization, the division will transfer the revenue to the Division of Parks and Recreation, as provided in the cooperative agreement under Subsection (1)(b) between the two divisions.

(10)(a) Except as otherwise provided under Subsections (5) and (6), neither the conservation organization, successful bidder, successful bidder's assignee, nor the holder of a Special Antelope Island State Park Conservation Permit voucher may offer for sale, sell, or transfer the rights to that designation to any other person.

(b) A person cannot obtain a Special Antelope Island State Park Conservation Permit for a bighorn sheep or mule deer and any other permit for a male animal of the same species in the same year.

(c) The person designated to receive a Special Antelope Island State Park Conservation Permit must possess or obtain a current Utah hunting or combination license before being issued the permit.

R657-41-13. Failure to Comply.

(1) The division or the Wildlife Board may suspend or revoke a [Any] conservation organization [administratively or criminally found in violation of this rule or the Wildlife Resources Code may be suspended from participation in the conservation permit program and required to surrender all conservation permit vouchers:]s participation in the Conservation Permit Program if a principal or agent of a participating conservation organization:

(a) violated any provision of this rule or a provision of the Utah Criminal Code cited herein; or

(b) engaged in conduct that results in the conviction of, a plea of no contest to, or a plea held in abeyance to a crime of moral

turpitude, or any other crime that when considered with the functions and responsibilities of a participating conservation organization bears a reasonable relationship to their participation in the program.

(2) The procedures and rules governing any adverse action taken by the division or the Wildlife Board against a certificate of registration or an application for certificate of registration are set forth in Rule R657-2.

KEY: wildlife, wildlife permits, sportsman, conservation permits

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

Notice of Continuation: October 5, 2015

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19

Natural Resources, Wildlife Resources R657-44 Big Game Depredation

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43723

FILED: 05/20/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) rule pursuant to depredation and mitigation permits.

SUMMARY OF THE RULE OR CHANGE: The proposed revisions to the above listed rule: 1) expand the "damage incident period" definition from a set 90 days to include any period of time between July 1 and June 30 that is identified in the mitigation plan; 2) expand the "Mitigation Permit" definition to include immediate family member or employee of the landowner or lessee; 3) define "Depredation Mitigation Plan"; 4) add definitions for "immediate family member", "Landowner", and "Lessee"; 5) better define the process for issuing a stop-kill order, as well as the appeal process; 6) add the option of two-doe pronghorn permits; 7) remove the buck and doe pronghorn permit restriction; 8) and make technical corrections.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 13-16-3.1 and Section 23-16-2 and Section 23-16-3 and Section 23-16-3.2 and Section 23-16-4

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The amendments to this rule are for the purpose of clarifying for both landowners participating in

the depredation program and DWR, the implementation of the depredation program. DWR has determined that these amendments do not create a cost or savings impact to the state budget or DWR's budget, since these changes will not increase workload and can be carried out with existing budget.

◆ **LOCAL GOVERNMENTS:** None--This filing does not create any direct cost or savings impact to local governments because they are not directly affected by this rule. Nor are local governments indirectly impacted because this rule does not create a situation requiring services from local governments.

◆ **SMALL BUSINESSES:** The amendments to this rule are for the purpose of clarifying for both landowners participating in the depredation program and DWR, the implementation and running of the depredation program. DWR has determined that these amendments do not create a cost or savings impact to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The amendments to this rule are for the purpose of clarifying for both landowners participating in the depredation program and DWR, the implementation and running of the depredation program. DWR has determined that these amendments do not create a cost or savings impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR has determined that these amendments will not create additional costs for landowners participating in the depredation program.

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

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2019

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2019

AUTHORIZED BY: Mike Fowlks, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:			
	\$0	\$0	\$0

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

Appendix 2: Regulatory Impact to Non-Small Businesses

These proposed rule changes are not expected to have any fiscal impacts on non-small businesses' revenues or expenditures, because the amendments to this rule are for the purpose of clarifying for both landowners participating in the depredation program and DWR, the implementation and running of the depredation program. DWR has determined that these amendments do not create a cost or savings impact to non-small businesses' revenues or expenditures.

The head of department of Natural Resources, Michael Styler, has reviewed and approved this fiscal analysis.

R657. Natural Resources, Wildlife Resources.

R657-44. Big Game Depredation.

R657-44-1. Purpose and Authority.

Under authority of Section 23-16-2, 23-16-3, 23-16-3.1, 23-16-3.2 and 23-16-4, this rule provides:

- (1) the procedures, standards, requirements, and limits for assessing big game depredation; and
- (2) mitigation procedures for big game depredation.

R657-44-2. Definitions.

(1) Terms used in this rule are defined in Sections 23-13-2 and 23-16-1.1.

(2) In addition:

(a) "Alternate drawing list" means a list of persons who have not already drawn a permit and would have been the next person in line to draw a permit.

(b) "Cleared and planted land" means private land or privately leased state or federal land used to produce a cultivated crop for commercial gain and the cultivated crop is routinely irrigated or routinely mechanically or manually harvested, or is crop residue that has forage value for livestock.

(c) "Commercial gain" means intent to profit from cultivated crops through an enterprise in support of the crop owner's livelihood.

(d) "Damage incident period" means ~~[90 days, or some longer period as approved in writing by the division, during which the division shall]~~ the period of time between July 1 and June 30 of the following year that the division identifies in a depredation mitigation plan to take action to prevent and mitigate further big game depredation and during which compensation for damage [with] may be calculated.

(e) "Depredation mitigation plan" means a document prepared by the division pursuant to Section 23-16-3(2)(b) and R657-44-3(4) outlining the actions it will take to prevent and mitigate big game damage to livestock forage, cultivated crops, irrigation equipment, and fences on private land.

(f) "Immediate family member" means the landowner's or lessee's spouse, child, son-in-law, daughter-in-law, father, mother, father-in-law, mother-in-law, brother, sister, brother-in-law, sister-in-law, stepchild, grandchild, grandfather, and grandmother.

(g) "Irrigated" means the controlled application of water for agricultural purposes through man-made systems to supply water not satisfied by rainfall.

(~~f~~)h) "Landowner" means any person, partnership, or corporation who owns property in Utah and whose name appears on a deed as the owner of eligible property or whose name appears as the purchaser on a contract for sale of eligible property.

(i) "Lessee" means any person, partnership, or corporation whose name appears as the lessee on a written lease, for at least a one-year period, for eligible property used for farming or ranching purposes, and who is in actual physical control of the eligible property.

(j) "Livestock Forage" means any forage, excluding cultivated crops and crop residues, meant for consumption by livestock, not routinely irrigated or routinely mechanically or manually harvested.

(~~g~~)k) "Mitigation permit" means a nontransferable hunting permit issued directly to a landowner or lessee, [authorizing]an immediate family member of the landowner or lessee, or an employee of the landowner or lessee, authorizing the named individual to take specified big game animals for personal use within a designated area.

(~~h~~l) "Mitigation permit voucher" means a document issued to a landowner or lessee, allowing the landowner or lessee to designate who may obtain a big game mitigation permit.

(~~i~~m) "Nuisance" describes a situation where big game animals are found to have moved off formally approved management units onto adjacent units or other areas not approved for that species.

(~~j~~n) "Once-in-a-lifetime species" for the purposes of this section, includes bull moose and bison, bighorn sheep, and mountain goat regardless of sex.

(~~k~~o) "Private land" means land in private fee ownership and in agricultural use as provided in Section 59-2-502 and eligible for agricultural use valuation as provided in Section 59-2-503 and 59-2-504. Private land does not include tribal trust lands.

R657-44-3. Damage to Cultivated Crops, Fences, or Irrigation Equipment by Big Game Animals.

(1) If big game animals are damaging cultivated crops on cleared and planted land, or fences or irrigation equipment on private land, the landowner or lessee shall immediately, upon discovery of big game damage, request that the division take action by notifying a division representative in the appropriate regional office pursuant to Section 23-16-3(1).

(2) Notification may be made:

(a) orally to expedite a field investigation; or

(b) in writing to a division representative in the appropriate division regional office.

(3)(a) The regional supervisor or division representative shall contact the landowner or lessee within 72 hours after receiving notification to determine the nature of the damage and take appropriate action for the extent of the damage experienced or expected during the damage incident period.

(b) The division shall consider the big game population management objectives as established in the wildlife unit management plan approved by the Wildlife Board.

(c) Division action shall include:

(i) removing the big game animals causing depredation; or

(ii) implementing a depredation mitigation plan pursuant to Sections 23-16-3(2)(b) through 23-16-3(2)(f) and approved in writing by the landowner or lessee.

(4)(a) The division mitigation plan may incorporate any of the following measures:

(i) sending a division representative onto the premises to control or remove the big game animals, including:

(A) herding;

(B) capture and relocation;

(C) temporary or permanent fencing; or

(D) removal, as authorized by the division director or the division director's designee;

(ii) recommending to the Wildlife Board an antlerless big game hunt in the next big game season framework;

(iii) scheduling a depredation hunter pool hunt in accordance with Sections R657-44-7, R657-44-8, or R657-44-9;

(iv) issuing mitigation permits to the landowner or lessee for the harvest of big game animals causing depredation during a general or special season hunt authorized by the Wildlife Board, of which:

(A) the hunting area for big game animals may include a buffer zone established by the division that surrounds, or is adjacent to, the lands where depredation is occurring;

(B) the landowner or lessee may ~~retain~~designate an immediate family member or employee to receive mitigation permits;

(C) a person may receive no more than five antlerless deer permits, five doe pronghorn permits, and two antlerless elk permits per mitigation plan;

(~~E~~D) each qualified recipient of a mitigation permit will receive from the division a Mitigation Permit Hunting License that satisfies the hunting license requirements in R657-44-11(c) to obtain the mitigation permit.

(~~F~~E) the Mitigation Permit Hunting License does not authorize the holder to hunt small game; nor does it qualify the holder to apply for or obtain a cougar, bear, turkey, or other big game permit.

(v) issuing big game mitigation permit vouchers for use on the landowner's or lessee's private land during a general or special hunt authorized by the Wildlife Board of which:

(A) mitigation permit vouchers for antlerless deer may authorize the take of one or two deer as determined by the division;

(B) mitigation permit vouchers for pronghorn may authorize the take of one or two doe pronghorn as determined by the division;

(~~C~~) the division may not issue mitigation permit vouchers for moose, bison, bighorn sheep, or mountain goat; and

(~~D~~) the hunting area for big game animals may include a buffer zone established by the division that surrounds, or is adjacent to, the landowner's or lessee's private lands where depredation is occurring.

(b) The mitigation plan may describe how the division will assess and compensate for damage pursuant to Section 23-16-4.

(c) The landowner or lessee and the division may agree upon a combination of mitigation measures to be used pursuant to Subsections (4)(a)(i) through (4)(a)(v), ~~and~~including a damage payment [of damage pursuant to Section 23-16-4.] or a description of how the division will assess and compensate the landowner or lessee under Section 23-16-4 for damage to cultivated crops, fences, or irrigation equipment.

(d) The agreement pursuant to Subsection (4)(c) must be made before a claim for damage is filed and the mitigation measures are taken.

(5) Vouchers may be issued in accordance with Subsection (4)(a)(v) to:

(a) the landowner or lessee; or

(b) a landowner association that:

(i) applies in writing to the division;

(ii) provides a map of the association lands;

(iii) provides signatures of the landowners in the association; and

(iv) designates an association representative to act as liaison with the division.

(6) In determining appropriate mitigation, the division shall consider the landowner's or lessee's revenue pursuant to Subsections 23-16-3(2)(f) and 23-16-4(3)(b).

(7) Mitigation permits or vouchers may be withheld from persons who have violated this rule, any other wildlife rule, the Wildlife Resources Code, or are otherwise ineligible to receive a permit.

(8)(a) The options provided in Subsections (4)(a)(i) through (4)(a)(v) are for antlerless animals only.

(b) Deer and pronghorn hunts may be August 1 through December 31, and elk hunts may be August 1 through January 31.

(9)(a) The division director may approve mitigation permits or mitigation permit vouchers issued for antlered animals.

(b) A mitigation permit may be issued to the landowner or lessee or a qualifying individual designated by the landowner or lessee to take big game for personal use, provided the division and the landowner or lessee desires the animals to be permanently removed.

(c) A mitigation permit voucher may be issued to the landowner or lessee, provided:

(i)(A) the division determines that the big game animals in the geographic area significantly contribute to the wildlife management units;

(B) the landowner or lessee agrees to perpetuate the animals on their land; and

(C) the damage, or expected damage, to the landowner's or lessee's cleared and planted land equals or exceeds the expected value of the mitigation permit voucher on that private land within the wildlife unit; or

(ii)(A) the big game damage occurs on the landowner's or lessee's cleared and planted land;

(B) the division and the affected landowner or lessee desire the animals to be permanently removed; and

(C) the damage, or expected damage, to the cleared and planted land equals or exceeds the expected value of the mitigation permit voucher on that private land within the wildlife unit.

(d) The hunting area for a mitigation permit or permit voucher issued under this subsection includes the landowner's or lessee's cleared and planted land where the depredation occurs and may include a buffer zone established by the division that surrounds, or is adjacent to, that land.

(10)(a) If the landowner or lessee and the division are unable to agree on the assessed damage, they shall designate a third party pursuant to Subsection 23-16-4(3)(d).

(b) Additional compensation may be paid above the value of any mitigation permits or vouchers granted to the landowner or lessee if the damage exceeds the value of the mitigation permits or vouchers.

(11)(a) The landowner or lessee may revoke approval of the mitigation plan agreed to pursuant to Subsection (4)(c).

(b) If the landowner or lessee revokes the mitigation plan, the landowner or lessee must request that the division take action pursuant to Section 23-16-3(1)(a).

(c) Any subsequent request for action shall start a new 72-hour time limit as specified in Section 23-16-3(2)(a).

(12) The expiration of the damage incident period does not preclude the landowner or lessee from making future claims.

(13) The division may enter into a conservation lease with the landowner or lessee of private land pursuant to Section 23-16-3(5).

R657-44-4. Landowner or Lessee Authorized to Kill Big Game Animals.

(1) The landowner or lessee is authorized to kill big game animals damaging cultivated crops on cleared and planted land pursuant to Section 23-16-3.1.

(2) The division director may prohibit the killing of big game animals under Subsection (1) if, within 72 hours after a landowner or lessee has requested that the division take action to remove depredating animals, the division determines the criteria in Section 23-16-3.1(2)(a) are satisfied and the landowner or lessee is offered a depredation mitigation plan.

(3) A landowner or lessee who is offered a depredation mitigation plan may:

(a) accept the plan in writing; or

(b) refuse to accept the plan and appeal it, in writing, to the division director and mitigation review panel as provided in Sections 23-16-3.1(2)(b) and 23-16-3.2(3).

(4)(a) A depredation mitigation plan accepted by the landowner or lessee shall remain effective during the entire damage incident period, unless otherwise revoked by the landowner or lessee pursuant to Section 23-16-3(4) and R657-44-3(11).

(b) A depredation mitigation plan approved or modified by the mitigation review panel pursuant to Section 23-16-3.2(3)(b) shall remain effective during the entire damage incident period unless earlier modified by the mitigation review panel upon petition and showing by the landowner or lessee that a substantial change in the nature and extent of the big game damage or the method of calculating damages necessitates further review and modification to the plan.

(i) A petition to amend an existing depredation mitigation plan approved or modified by the mitigation review panel shall be directed to the director of the division.

(c) Nothing in this section shall be construed to prevent the division and the landowner or lessee from mutually agreeing to alter or amend an existing depredation mitigation plan in order to better address big game damage.

(i) If the parties cannot reach agreement on amending the plan, the landowner or lessee may petition the mitigation review panel for relief as provided in Subsection (4)(b).

(5) The division director's order under Subsection (2) prohibiting the killing of big game animals shall remain in full force and effect during the same time period that the original or amended depredation mitigation plan associated with the big game damage incident remains effective.

(6) The expiration of the damage incident period does not preclude the landowner or lessee from making future claims.

R657-44-8. Depredation and Nuisance Hunts for Antlerless Deer, Elk, Moose or Doe Pronghorn.

(1) When deer, elk, pronghorn or moose are causing damage to cultivated crops on cleared and planted land, or livestock forage, fences or irrigation equipment on private land, or are determined to be nuisance, antlerless or doe hunts not listed in the guidebook of the Wildlife Board for taking big game may be held. These hunts occur on short notice, involve small areas, and are limited to only a few hunters.

(2) Depredation or nuisance animal hunters shall be selected using:

(a) hunters possessing an antlerless deer, elk, moose or doe pronghorn permit for that unit;

(b) hunters from the alternate drawing list for that unit; or

(c) the depredation hunter pool pursuant to Section R657-44-9.

(3) The division may contact hunters to participate in a depredation or nuisance hunt prior to the general or limited entry hunt for a given species of big game. Hunters who do not possess an antlerless deer, elk, moose or doe pronghorn permit shall purchase an appropriate permit.

(4) Hunters with depredation or nuisance hunt permits for antlerless deer, elk, ~~or moose~~ ~~or doe pronghorn~~ may not possess any other permit for those species, except as provided in the guidebook of the Wildlife Board for taking big game and Rule R657-5.

KEY: wildlife, big game, depredation

Date of Enactment or Last Substantive Amendment: ~~July 22, 2013~~ 2019

Notice of Continuation: May 18, 2017

Authorizing, and Implemented or Interpreted Law: 23-16-2; 23-16-3; 23-16-3.5

Natural Resources, Wildlife Resources R657-62 Drawing Application Procedures

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43725

FILED: 05/20/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being amended pursuant to Wildlife Board meetings conducted for taking public input and reviewing the Division of Wildlife Resources' (DWR) drawing application process.

SUMMARY OF THE RULE OR CHANGE: This rule is being amended to allow for youth group applications for antlerless big game species.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 23-14-18 and Section 23-14-19

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This rule amendment allows for the group application of youth hunters during the antlerless application process, it does not create a cost or savings to DWR. Therefore, DWR has determined that this amendment will not create any cost or savings impact to the state budget or DWR's budget, since the changes will not increase workload and can be carried out with the existing budget.

◆ **LOCAL GOVERNMENTS:** Since this amendment only allows for an increased opportunity for youth hunters to successfully draw an antlerless permit as a group, this rule amendment does not create any direct cost or savings impact to local governments since they are not directly affected by this rule. Nor are local governments indirectly impacted because this rule does not create a situation requiring services from local governments.

◆ **SMALL BUSINESSES:** This amended rule allows for youth group applications to be submitted for antlerless big game species, the addition will not create a savings or additional cost to those applying. Therefore, DWR has determined that it would not generate a cost or savings impact to small businesses as a service is not required for them.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This amended rule allows for youth group applications to be submitted for antlerless big game species, the addition will not create a savings or additional cost to those applying. Therefore, DWR has determined that it would not generate a cost or savings impact to other persons wanting to participate in hunting these species.

COMPLIANCE COSTS FOR AFFECTED PERSONS: DWR has determined that this amendment would not create a cost or savings impact to youth hunters who wish to apply as a youth group during the antlerless application process.

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

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2019

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2019

AUTHORIZED BY: Mike Fowlks, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
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 amendment is not expected to have any fiscal impacts on non-small businesses' revenues or expenditures, because it is a service provided only by the Division of Wildlife Resources. Individual youth hunters opting to apply as a youth group will not experience a cost or savings impact on their application. There are no other businesses small or non-small that will be impacted by the proposed rule change.

The head of department of Natural Resources, Michael Styler, has reviewed and approved this fiscal analysis.

R657. Natural Resources, Wildlife Resources.

R657-62. Drawing Application Procedures.

R657-62-1. Purpose and Authority.

(1) Under authority of Sections 23-14-18 and 23-14-19, the Wildlife Board has established this rule for drawing applications and procedures.

(2) Specific season dates, bag and possession limits, areas open, number of permits and other administrative details that may change annually are published in the respective guidebooks of the Wildlife Board.

R657-62-20. Antlerless Species.

(1) Permit Applications.

(a) A person must possess or obtain a valid hunting or combination license in order to apply for or obtain an antlerless permit.

(b) Applicants must meet all age requirements, proof of hunter education requirements and youth restrictions as provided in rule R657-5.

(c) A person may apply in the drawing for and draw the following permits, except as provided in Subsection (d):

- (i) antlerless deer;
- (ii) antlerless elk;
- (iii) doe pronghorn;
- (iv) antlerless moose, if available;
- (v) ewe Rocky Mountain bighorn sheep, if available; and
- (vi) ewe desert bighorn sheep, if available.

(d)(i) Any person who has obtained a buck pronghorn permit, bull moose permit, ram Rocky Mountain bighorn sheep permit, or a ram desert bighorn sheep permit may not apply in the same year for a doe pronghorn permit, antlerless moose permit, ewe Rocky Mountain bighorn sheep permit, or a ewe desert bighorn sheep permit, respectively, except for permits remaining after the drawing as provided in R657-62-15.

(ii) A resident may apply for an antlerless moose, ewe Rocky Mountain bighorn sheep, or ewe desert bighorn sheep in the antlerless drawing, but may not apply for more than one of those permits in a given year.

(iii) A nonresident may apply for all antlerless species in a given year.

(e) Applicants may select up to five hunt choices when applying for antlerless deer, antlerless elk and antlerless pronghorn.

(f) Applicants may select up to two hunt choices when applying for antlerless moose.

(g) Applicants may select up to two hunt choices when applying for ewe bighorn sheep permits.

(h) Hunt unit choices must be listed in order of preference.

(i) A person may not submit more than one application in the antlerless drawing per species.

(2) Youth applications.

(a) For purposes of this section, "youth" means any person 17 years of age or younger on July 31.

(b) Twenty percent of the antlerless deer, elk and doe pronghorn permits are reserved for youth hunters.

(c) Youth applicants who apply for an antlerless deer, elk, or doe pronghorn permit as provided in this Subsection, will automatically be considered in the youth drawing based upon their birth date.

(3) Drawing Order

(a) Permits are drawn in the order listed in the guidebook of the Wildlife Board for taking big game.

(b) Any reserved permits remaining and any youth applicants who were not selected for reserved permits shall be returned to the antlerless drawing.

(c) If permits remain after all choices have been evaluated separately for residents and nonresidents, a second evaluation will be done allowing cross-over usage of remaining resident and nonresident permit quotas.

(4) Group Applications

(a) Up to four hunters can apply together for antlerless deer, antlerless elk and doe pronghorn

(b) Group applications are not accepted for antlerless moose or ewe bighorn sheep permits.

(c) Youth hunters who wish to participate in the youth drawing ~~must not~~ may apply as a group ~~[-]~~, consistent with the following:

(i) all applicants must qualify as a youth;

(ii) a minimum of two youth must apply to be considered as a group application; and

(iii) no more than four youth may apply in a single group application;

(5) Waiting Periods

(a) Antlerless moose waiting period.

(i) Any person who draws or obtains an antlerless moose permit or a cooperative wildlife management unit antlerless moose permit through the antlerless drawing process, may not apply for or receive an antlerless moose permit thereafter for a period of five seasons.

(ii) A waiting period does not apply to:

(A) cooperative wildlife management unit antlerless moose permits obtained through the landowner; or

(B) antlerless moose wildlife expo permits, as provided in R657-55-6.

(b) Ewe bighorn sheep waiting period.

(i) Any person who draws or obtains a ewe bighorn sheep permit through the antlerless drawing process may not apply for or receive a permit for the same species of ewe bighorn sheep for a period of five seasons.

(ii) A waiting period does not apply to ewe bighorn sheep wildlife expo permits, as provided in R657-55-6.

KEY: wildlife, permits

Date of Enactment or Last Substantive Amendment: ~~[August 9, 2018]~~2019

Notice of Continuation: April 14, 2014

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19

Transportation, Operations,
Aeronautics
R914-4
Challenging Corrective Action Orders

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43722

FILED: 05/17/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Creating this rule is required by Subsection 72-10-110(2)(d)(ii), which states, "The department [of Transportation] shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a process for challenging the department's calculation under Subsection [72-10-110](2)(d)(i)." The Legislature included Subsection 72-10-110(2)(d) as part of S.B. 200, passed in the 2018 General Session. Subsection 72-10-110(2)(d) took effect on 01/01/2019.

SUMMARY OF THE RULE OR CHANGE: This new rule provides a procedure by which an owner of an aircraft may challenge the Department of Transportation's (Department) calculation of the average wholesale value of an aircraft and other actions.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 72-1-201(1)(h) and Subsection 72-10-110(2)(d)(ii)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The Department anticipates this proposed new rule will have a direct fiscal impact on the state's budget. The Department will provide an officer to preside over challenge proceedings pursuant to this rule. The aggregate fiscal impact of this new rule is unknown and impossible to estimate until after the rule has been in effect long enough to assess the number of challenges that are filed under the rule.

♦ **LOCAL GOVERNMENTS:** This proposed new rule will not have a fiscal impact on local governments because they are exempt from property taxes, and this new rule relates to challenging valuation of aircraft for property tax purposes.

♦ **SMALL BUSINESSES:** This proposed new rule will not have a direct fiscal impact on small businesses. This new rule provides businesses and individuals a process to follow to exercise their due process right to challenge the Department's valuation of aircraft for taxation purposes.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This proposed new rule will not have a direct fiscal impact on persons other than small businesses, businesses, or local government entities. This new rule provides businesses and individuals a process to follow to exercise their due process right to challenge the Department's valuation of aircraft for taxation purposes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with this proposed new rule. Any affected person may file a challenge under this rule without cost.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed new rule will not have a fiscal impact on businesses generally.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 TRANSPORTATION OPERATIONS, AERONAUTICS
 135 N 2400 W
 SALT LAKE CITY, UT 84116-2982
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at cwnewman@utah.gov
 ♦ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at jimpalmer@utah.gov
 ♦ Josh Dangel by phone at 269-217-7091, or by Internet E-mail at jdangel@utah.gov
 ♦ Linda Hull by phone at 801-965-4253, or by Internet E-mail at lhull@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2019

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2019

AUTHORIZED BY: Carlos Braceras, Executive Director

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

1. Creating this rule is required by Subsection 72-10-110(2)(d)(ii), which states, "The department [of Transportation] shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a process for challenging the Department's calculation under Subsection [72-10-110](2)(d)(i)." The Legislature included subsection 72-10-110(2)(d) as part of S.B. 200 from the 2018 General Session. Subsection 72-10-110(2)(d) took effect on 01/01/2019. This new rule provides a procedure by which an owner of an aircraft may challenge the Department's calculation of the average wholesale value of an aircraft and other actions.

2. This proposed new rule will not have a direct fiscal impact on business or private individuals. This new rule provides businesses and individuals a process to follow to exercise their due process right to challenge the Department's valuation of aircraft for taxation purposes.

3. This proposed new rule will not have a fiscal impact on local governments because they are exempt from property taxes.

4. This analysis was reviewed and approved by the executive director of the Department of Transportation.

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
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

R914. Transportation, Operations, Aeronautics.

R914-4. Challenging Corrective Action Orders.

R914-4-1. Purpose and Authority.

(1) The purpose of this administrative rule is to provide a procedure by which an owner of an aircraft may challenge the Department's calculation of the average wholesale value of the aircraft and other actions.

(2) Utah Code Subsection 72-10-110(2)(d)(ii) requires the Department to make this rule. The Department has general rulemaking authority granted by Subsection 72-1-201(1)(h).

R914-4-2. Definitions.

As used in this rule:

(1) "Department" means the Utah Department of Transportation;

(2) "Director" means the Director of Utah Department of Transportation, Division of Aeronautics;

(3) "Division" means the Utah Department of Transportation Division of Aeronautics.

(4) "Presiding Officer" means the Director of Operations for the Department or a person designated by the Director of Operations to conduct an appeal proceeding and issue a decision on a review.

(5) "Review" means an appeal of agency action to challenge a corrective action order issued by the Division.

R914-4-3. Initiating an Appeal.

(1) Persons wanting to file an appeal with the Division must either email their Request for Agency Action to the Division at: aircraftregistration@utah.gov, or deliver it by postal or personal delivery to: Utah Department of Transportation; Division of Aeronautics 135 North 2400 West; Salt Lake City, Utah 84116.

(2) Appeals may be delivered or sent by electronic mail; and must be received by the Division before 5:00 P.M. of the 30th day after the date of the Letter of Notification for Aircraft Registration.

(3) Appeals must be filed using the form ADF-38 provided by the Division.

(4) The Division will adjudicate all appeals as expeditiously as reasonably possible.

R914-4-4. Appeal Proceedings.

(1) All appeal proceedings will be informal.

(2) All appeal proceedings will be conducted by the presiding officer.

(3) The presiding officer may hold a hearing if the presiding officer determines a hearing is necessary or if the person making the appeal asks for a hearing with the appeal; however, a hearing is not required.

(4) If the presiding officer determines to hold a hearing, it will be conducted according to the requirements of Utah Code Section 63G-4-203.

(5) After an appeal is filed, the presiding officer will determine whether the appeal is timely filed and complies fully with the requirements of this rule R914-4.

(6) If the presiding officer determines that the appeal is not timely filed or that the appeal does not fully comply with this rule, the presiding officer will dismiss the appeal without holding a hearing.

(7) If the presiding officer determines that the appeal is timely filed and complies fully with this rule, the presiding officer will:

(a) Dismiss the appeal without holding a hearing if the presiding officer determines that the appeal alleges facts that, if true, do not provide an adequate basis for the appeal;

(b) uphold the appeal without holding a hearing if the presiding officer determines that the undisputed facts of the appeal indicate that the appeal should be upheld; or

(c) hold a hearing on the appeal if there is a genuine issue of material fact or law that needs to be resolved in order to determine whether the appeal should be upheld.

(8)(a) If a hearing is held on an appeal, the presiding officer may:

(i) subpoena witnesses and compel their attendance at the presiding hearing;

(ii) subpoena documents for production at the presiding hearing;

(iii) obtain additional factual information; and

(iv) obtain testimony from experts, the person filing the review, representatives of the Department or other state agencies or others to assist the presiding officer to decide on the review.

(b) The Rules of Evidence do not apply to an appeal hearing.

(c) A presiding officer will:

(i) record each hearing held on an appeal under this rule;

(ii) regardless of whether a hearing on an appeal is held under this rule, preserve all records and other evidence relied upon in reaching the presiding officer's written decision until the decision, and any appeal of the decision, becomes final; and

(d) A presiding officer's holding a hearing, considering an appeal, or issuing a written decision under this section does not affect a person's right to later question or challenge the presiding officer's jurisdiction to hold the hearing, consider the review, or issue the decision.

(9)(a) The deliberations of a presiding officer may be held in private.

(b) If the presiding officer is a public body, as defined in Section 52-4-103, the presiding officer will comply with Section 52-4-205 in closing a meeting for its deliberations.

(10)(a) A presiding officer must, within a reasonable time, issue a written decision regarding any appeal, unless the appeal is settled by mutual agreement.

(b) The decision will:

(i) state the reasons for the action taken; and

(ii) inform the appellant of the right to judicial or administrative appeal as provided in this rule;

(c) A person who issues a decision under Subsection R914-4-4(6) will mail, email, or otherwise immediately furnish a copy of the decision to the appellant.

(11) A decision described in this rule is effective until stayed or reversed on review.

(12) If the presiding officer does not issue the written decision regarding a protest within 30 calendar days after the day on which the protest was filed with the protest officer, or within a longer period as may be agreed upon by the parties, the protester may proceed as if an adverse decision had been received.

(13) A determination under this rule by the presiding officer regarding an issue of fact may not be overturned on a request for reconsideration unless the presiding officer's decision is arbitrary and capricious or clearly erroneous.

(14) An individual is not precluded from acting and may not be disqualified or required to be recused from acting, as a presiding officer because the individual also acted in another capacity during the valuation process.

R914-4-5. Request for Reconsideration.

(1) Within 20 days after the date a presiding officer issues a decision regarding any appeal, an appealing party may file a written request for reconsideration with the Division.

(2) A written request for consideration must state the specific reasons reconsideration is being requested.

(3) Filing a request for reconsideration is not a prerequisite for seeking judicial appeal of a presiding officer's order.

(4) The request for reconsideration must be filed with the Division following the same procedure set forth in subsection R914-4-3 on Initiating an Appeal.

(5)(a) The Director, or a person designated for that purpose, will issue a written order granting or denying the request for reconsideration.

(b) If the Director or the person designated for that purpose does not issue an order within 20 days after the filing of the request, the request for reconsideration will be considered to be denied.

(c) If the Director, or a person designated for that purpose, issues a written order denying the request; or if 20 days passes after the filing of the request without an order granting or denying the request being issued, the appellant's administrative remedies will be considered exhausted.

R914-4-6. Judicial Review.

Appellants must seek judicial review in accordance with the requirements of Utah Code Title 63G, Chapter 4, Part 4.

KEY: aeronautics, corrective action orders, reviews
Date of Enactment or Last Substantive Amendment: 2019
Authorizing, and Implemented or Interpreted Law: 72-10-110(2)(d)(ii); 72-1-201(1)(h)

Transportation, Preconstruction **R930-7** Utility Accommodation

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 43742
 FILED: 05/28/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Transportation (Department) is proposing these amendments to accommodate the projected increase in demand for encroachment permits to access its right of way that development of fifth generation (5G) mobile broadband technology is certain to cause.

SUMMARY OF THE RULE OR CHANGE: These proposed rule changes will accommodate the projected increase in demand for encroachment permits to access its right of way that development of fifth generation (5G) mobile broadband technology is certain to cause. These proposed changes: 1) clarify businesses to which the rule applies and makes numerous other clarifications; 2) add a definition for "buffer zone"; 3) delete the definition for "License Agreement or Statewide Utility License Agreement"; 4) add a definition for "Small Wireless Facility"; 5) change the definition of "Utility" or "utility facility" to reflect the definition included in Section 72-6-116; 6) add several requirements a utility company must satisfy to install a facility within the Department's right of way; 7) increase the liability insurance minimum to \$3,000,000 from \$2,000,000 in aggregate to conform to current state risk management policy; 8) make several material changes to the depth of bury requirements; 9) add a requirement that utility companies submit documentation requesting installation on a highway structure to the Department through the Department's permitting system for review and possible approval; 10) add a requirement that all components of the utility attachment be protected from corrosion; 11) allow existing utility facilities to remain within the right of way acquired for an interstate, freeway, or access-controlled

highway project may remain if they remain outside of the pavement section and within five feet of the outer most right of way limits; 12) clarify the restriction against utility companies beginning any utility construction work on the Department's right of way until the required permit is issued and notice to proceed is given to the utility company by the Department; 13) clarify that utility companies are responsible to maintain their facilities and liability for all harm that that may arise that is related to or as a result of its utility facilities and appurtenances, whether operational, out of service, or abandoned, on or in the Department right of way or Department property; 14) clarify that other than highway appurtenances, the Department is not responsible to maintain any facility within the highway right of way or UDOT property; and 15) make technical and grammatical changes.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 54-3-29 and Subsection 72-6-116(2)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The Department anticipates these proposed amendments may lead to increased enforcement costs that will impact the state budget. However, additional costs may be offset by savings to the state budget attributable to increases in overall safety for those installing new facilities in the right of way, decreased likelihood of one utility company damaging an existing facility belonging to the state or another utility, and an overall increase in efficiency to the permitting system. Increased costs and savings are speculative at present and cannot be quantified with any degree of accuracy.

◆ **LOCAL GOVERNMENTS:** The Department does not believe these proposed amendments will lead to any compliance costs for local governments unless the local governments in question are bearing the costs of installing a utility facility in the Department right of way. However, because the cost of the impact, a local government may incur in such instances will vary based on geographic location and attendant variables it is not possible to estimate what the compliance costs will be with any degree of accuracy at present because the Department has no way to determine which new facilities will be affected.

◆ **SMALL BUSINESSES:** The Department anticipates that these proposed changes may lead to increased costs for businesses, small and non-small. New depth of bury requirements may require utilities to install facilities deeper than they have been. This change is necessary to protect facilities already installed and to protect the safety of workers installing facilities. The increase in the liability insurance minimum to \$3,000,000 from \$2,000,000 in aggregate to conform to current state risk management policy may lead to increased costs for businesses. The aggregate amount of the additional costs to businesses cannot be determined at present.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The Department believes that these proposed amendments may lead to compliance costs for persons other than businesses and local governments if the entity installing a

utility facility on the Department's right of way is able and determines to pass all or a portion of the compliance costs it incurs to such other persons. However, it is impossible to estimate what such compliance costs might be with any accuracy at present.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The general public may be affected by compliance costs being passed along through the economy by utility companies affected by these rule changes. This pass-along of compliance costs is speculative and impossible to quantify at this time.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These proposed rule changes may have a fiscal impact on businesses in general, but the Department is unable to confirm or estimate that possible impact.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 TRANSPORTATION
 PRECONSTRUCTION
 CALVIN L RAMPTON COMPLEX
 4501 S 2700 W
 SALT LAKE CITY, UT 84119-5998
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at cwnewman@utah.gov
 ♦ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at jimpalmer@utah.gov
 ♦ Josh Dangel by phone at 269-217-7091, or by Internet E-mail at jdangel@utah.gov
 ♦ Linda Hull by phone at 801-965-4253, or by Internet E-mail at lhull@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2019

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2019

AUTHORIZED BY: Carlos Braceras, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

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

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

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

1) The Department of Transportation (Department) estimates that the utilities and telecommunications industries in Utah are the only businesses that may experience a material fiscal impact resulting from enactment of this proposed amendment. This fiscal impact may be positive or negative, depending upon the specific facility or right of way impacted and how fiscal impact is defined.

A) The utilities industry is comprised of establishments involved in:

i) Electric power generation, transmission, and distribution, NAICS of 221112 for generation, and 221122 for distribution;

ii) Natural gas distribution, NAICS of 221210; and

iii) Water distribution and irrigation systems, NAICS 221310, Sewer systems, NAICS 221320.

b) The telecommunications industry is comprised of establishments involved in:

i) Wired Telecommunications Carriers NAICS of 517311; and

ii) Wireless Telecommunications Carriers (except Satellite), NAICS of 517312.

2) The Department of Workforce Services (DWS) Firm Find Data includes information about firms within the seven industries identified by the NAICS industry code, which data on numbers of employees by firm follows:

a) Electric power generation, transmission, and distribution, NAICS of 221112 for generation, lists 16 firms total, 11 are small businesses; and 221122 for distribution; lists 57 firms total, 52 are small businesses;

- b) Natural gas distribution, NAICS of 221210, lists 46 firms total, 40 are small businesses;
- c) Pipeline Transportation of Crude Oil, NAICS of 486110, lists five firms, all of which are small businesses by definition;
- d) Water distribution and irrigation systems, NAICS 221310, lists 182 firms total, 177 are small businesses;
- e) Sewer systems, NAICS 221320, lists 48 firms total, 46 are small businesses;
- f) Wired Telecommunications Carriers NAICS of 517311, lists 150 firms total, 135 are small businesses; and
- g) Wireless Telecommunications Carriers (except Satellite), NAICS of 517312, lists 56 firms, 55 are small businesses.
- 3) Of these 560 firms in the eight possibly affected industries, 39 are non-small businesses and 521 are small businesses, as defined by Subsection 63G-3-102(19). For a complete list of these firms, contact the Department.
- 4) The Department anticipates that this proposed change may lead to increased costs for businesses, small and non-small. New depth of bury requirements may require utilities to install facilities deeper than they have been. This change is necessary to protect facilities already installed and to protect the safety of workers installing facilities. The aggregate amount of the additional costs to businesses cannot be determined at present.
- 5) The Department does not believe this proposed amendment will lead to any compliance costs for local governments unless the local government in question is bearing the costs of installing a utility facility in the Department's right of way. However, because the cost of the impact a local government may incur in such instances will vary based on geographic location and attendant variables it is not possible to estimate what the compliance costs will be with any degree of accuracy at present because the Department has no way to determine which new facilities will be affected.
- 6) The Department believes this proposed amendment may lead to compliance costs for persons other than businesses and local governments if the entity installing a utility facility on the Department's right of way is able and determines to pass all or a portion of the compliance costs it incurs to such other persons. However, it is impossible to estimate what such compliance costs might be with any accuracy at present.
- 7) The Department is proposing this amendment to accommodate the projected increase in demand for encroachment permits to access its right of way that development of fifth generation (5G) mobile broadband technology is certain to cause. It is not possible to estimate what this impact will be with any degree of accuracy at present.
- 8) Carlos Braceras, Executive Director of the Department has reviewed and approved this fiscal analysis.

R930. Transportation, Preconstruction.

R930-7. Utility Accommodation.

R930-7-1. Purpose.

- (1) The purpose of this rule is to:
- maximize public safety;
 - provide for efficient highway operations and maintenance of roadways;
 - maximize aesthetic quality;
 - minimize future conflicts between the highway system and utility companies serving the ~~general~~ public; and
 - ensure that use and occupancy by utility companies do not impair or increase the cost of future highway construction,

expansion, or maintenance or interfere with any right of way reserved for these purposes.

(2) This rule prescribes conditions under which utility facilities may be accommodated ~~[on]within the~~ right of way and sets forth the state's regulations covering the placement and relocation of utility facilities in conflict with the construction and maintenance of highways. ~~[General installation requirements, general and definitive design requirements, and utility construction and inspection requirements apply to indirect and private facilities within the right of way. Within UDOT's sole discretion, indirect and private facilities may be allowed on UDOT's right of way by lease.]~~ This rule applies to any and every facility, utility, or other structure located in the right of way not owned by the Department or the State of Utah.

(3) This rule should be interpreted to achieve maximum lawful public use of the right of way for transportation purposes and to ensure that utility installations and operations affecting state right of way are accomplished in accordance with state and federal laws and regulations. It is in the public interest for utility facilities to be accommodated within rights of way when the accommodation does not adversely affect public safety, the integrity of highway features, or occupy space within the ~~[right of way]~~ right of way that conflicts with current or future transportation purposes or uses. ~~[or future use of the highway.]~~ The permitted use and occupancy of right of way for non-highway purposes, such as utilities, is subordinate to the primary and highest interest for transportation and safety of the traveling public. Utility facilities may be required to relocate outside of the right of way to accommodate UDOT's projects.

(4) This rule is provided to facilitate the establishment of consistent expectations and effective working relationships between UDOT and utility companies through continuous communication, coordination, and ~~[;]~~ cooperation.

(5) Through the Code of Federal Regulations (23 CFR ~~[; Part]~~ Section 645.215(a)), the U.S. Department of Transportation requires each state to submit a statement to the Federal Highway Administration (FHWA) on the authority of utility companies to use and occupy the right of way of state highways, the state highway agency's power to regulate the use, and the policies the state employs or proposes to employ for accommodating utilities within the right of way of Federal-aid highways under its jurisdiction. This rule demonstrates compliance to FHWA.

R930-7-2. Authority and Source Documents.

This rule is enacted under the authority of Utah Code Section 72-6-116(2), wherein UDOT is authorized and ~~[given the]~~ assigned responsibility to regulate and make rules for the installation, construction, maintenance, repair, renewal, system upgrade, and relocation of utility facilities within state owned and administered highway[s] rights of way, including ordering their relocation as may become necessary.

(1) Utah Code provides for the accommodation of utility facilities within the right of way and provides UDOT ~~[the]~~ authority to promulgate rules and regulations for administering those provisions. Accordingly, this rule has been developed pursuant to the following state and federal laws, codes, regulations, policies:

- Utah Code ~~[; Title 54, Public Utilities,]~~ Section 54-3-29;
- American Association of State Highway and Transportation Officials (AASHTO) publications, A Guide for Accommodating Utilities within Highway Right of Way and A Policy

on the Accommodation of Utilities within Freeway Right of Way (2005); and

(c) AASHTO publications, Roadside Design Guide, 2011, and A Policy on Geometric -Design of Highways and Streets, 2011.

(2) This rule incorporates by reference 23 CFR Section 645, Subpart B, (November 22, 2000).

(3) UDOT has secured [~~the~~] authority from FHWA to issue permits for the use or occupancy of the right of way by utility facilities on Federal-aid highways. The use of Federal-aid highway right of way by utilities shall be in accordance with 23 CFR Section 645.215.

R930-7-3. Definitions.

(1) "Abandoned facility" is a utility facility that is not in use, no longer actively providing a service and is physically disconnected from the operating facility that is still in use and still actively providing a service. Abandoned facilities remain the property of the utility company.

(2) "Access control" is the regulation of public access to and from properties abutting the highway facilities. The two basic types of access control are:

(a) "No access (NA)" means access to through-traffic lanes is not allowed except at interchanges. Crossings at [-]grade and direct driveway connections are prohibited.

(b) "Limited access (LA)" means access to selected public roads may be provided. There may be some crossings at [-]grade and some private driveway connections.

(3) "Administrative citation" is a letter from UDOT to a utility company citing one or more non-compliance items and proper redress requirements such as action on the appropriate bond, revocation of permit, and revocation of a license agreement.

(4) "AASHTO" is the American Association of State Highway and Transportation Officials.

(5) "Backfill" means the replacement of soil removed during construction. It may also denote material placed over or around structures and utilities.

(6) "Bedding" means the composition and shaping of soil or other suitable material to support a pipe, conduit, casing, or utility tunnel.

(7) "Boring" means the operation by which carriers or casings are pushed or jacked under highways without disturbing the highway structure or prism. Bores are carved progressively ahead of the leading edge of the advancing pipe as soil is mucked back through the pipe.

(8) "Buffer Zone" means the area composed of material such as sand, flowable fill, concrete, etc. surrounding a Utility facility where no compaction or encroachment is allowed.

~~(8)~~(9) "Carrier" means a pipe directly enclosing a transmitted fluid (liquid, gas, or slurry).

~~(9)~~(10) "Casing" is a larger pipe, conduit, or duct enclosing a carrier.

~~(10)~~(11) "Clear Zone" means the total roadside border area, starting at the edge of the traveled way, available for safe use by errant vehicles. This area may consist of a shoulder, a recoverable slope, a non-recoverable slope, and a clear run-out area. The desired width is dependent upon traffic volumes, speeds, and roadside geometry.

~~(11)~~(12) "Coating" is material applied to or wrapped around a pipe.

~~(12)~~(13) "Conduit" is an enclosed tubular casing for the protection of wires and cables.

~~(13)~~(14) "Depth of bury (cover)" means the depth from ground, sidewalk, or roadway surface to top of pipe, conduit, casing, cable, utility tunnel, or similar facility.

~~(14)~~(15) "Deviation" means a granted permission to depart from the standards and requirements of this rule.

~~(15)~~(16) "Emergency work" is utility company work required to prevent loss of life or significant damage to property.

~~(16)~~(17) "Encasement" is a structural element surrounding a carrier or casing.

~~(17)~~(18) "Encroachment" means entry within the [unauthorized use of] highway right of way.

~~(18)~~(19) "Encroachment permit" is a document that specifies the requirements and conditions for performing authorized work within [on] the highway right of way.

~~(19)~~(20) "Environmentally protected areas" are areas that include, but are not limited to, wetlands, flood plains, stream channels, rivers, threatened or endangered species, archaeological sites, and historic sites.

~~(20)~~(21) "Expressway" is a divided arterial highway for through traffic with partial control of access and generally with grade separations at major intersections.

~~(21)~~(22) "Federal-aid highways" are highways eligible to receive Federal-aid.

~~(22)~~(23) "FHWA" is the Federal Highway Administration.

~~(23)~~(24) "Flexible carrier pipe" is a plastic, fiberglass, or metallic pipe having a large diameter to wall thickness ratio and which can be deformed without undue stress.

~~(24)~~(25) "Flowable fill" is low strength flowable concrete as defined in UDOT Standard Specification 03575.

~~(25)~~(26) "Freeway" is an expressway with full control of access.

~~(26)~~(27) "Frontage road" is a local street or road auxiliary to and located on the side of an arterial highway for service to abutting property and adjacent areas and for control of access.

~~(27)~~(28) "Grade" is the rate or percent of change in slope, either ascending or descending, measured along the centerline of a roadway or access.

~~(28)~~(29) "Grounded" means electrically connected to earth or to some extended conducting body that serves instead of the earth, whether the connection is intentional or accidental.

~~(29)~~(30) "Grout" is a cement mortar or slurry of fine sand or clay.

~~(30)~~(31) "Highway, street, or road" are general terms denoting a public way for the transportation of people, materials, and goods, but primarily for vehicular travel, including the entire area within the right of way.

~~(31)~~(32) "Horizontal directional drilling" (HDD), also known as directional boring and directional drilling, is a method of installing underground pipes and conduits from the surface along a prescribed bore path. The process is used for installing telecommunications and power cable conduits, water lines, sewer lines, gas lines, oil lines, product pipelines, and casings used for environmental remediation. It is used for crossing waterways, roadways, congested areas, environmentally protected areas, and any area where other methods are not feasible.

~~[(32)](32) "Indirect facilities" are facilities owned by a utility company or entity that does not directly serve the public and the facilities provide services to or are rented to other utility companies.]~~

(33) "Interstate highway system" (Interstate) is the Dwight D. Eisenhower National System of Interstate and Defense Highways as defined in the Federal-aid Highway Act of 1956 and any supplemental acts or amendments.

~~[(34)](34) "License Agreement or Statewide Utility License Agreement" is a document by which UDOT licenses the use and occupancy, with conditions, of highway rights of way for utility facilities.~~

~~[(35)](35) "Manhole" or "utility access hole" is an opening in an underground system that workers or others may enter for the purpose of making installations, removals, inspections, repairs, connections, and tests.~~

~~[(36)](35) "Median" is the portion of a divided highway separating the traveled ways for traffic in opposite directions.~~

~~[(37)](36) "MUTCD (Utah MUTCD)" means the current version of Utah Manual on Uniform Traffic Control Devices referenced in R920-1.~~

~~[(38)](37) "Pavement structure" is the combination of sub-base, base course, and surface course placed on a sub-grade to support the traffic load.~~

~~[(39)](38) "Permit" means encroachment permit.~~

~~[(40)](39) "Pipe" is a tubular product made as a production item for the transmission of liquid or gaseous substances. Cylinders formed from plate material in the fabrication of auxiliary equipment are not pipe as defined here.~~

~~[(41)](40) "Pipeline" is a continuous carrier used primarily for the transportation of liquids, gases, or solids from one point to another using either gravity or pressure flow.~~

~~[(42)](41) "Plowing" means the direct burial of utility lines by means of a mechanism that breaks the ground, places the utility line, and closes the break in the ground in a single operation.~~

~~[(43)](42) "Practicable" means reasonably capable of being accomplished or feasible as determined by UDOT.~~

~~[(44)](43) "Relocate" means the adjustment of utility facilities when found by UDOT to be necessary for construction or maintenance of a highway. It includes removing and reinstalling the facility, including necessary temporary facilities, acquiring the necessary ~~right-of-way~~ right of way on the new location, moving, rearranging or changing the type of existing facilities and taking any necessary safety and protective measures. It also means constructing a replacement facility that is both functionally equivalent to the existing facility and necessary for continuous operation of the utility service, the project economy, or sequence of highway construction.~~

~~[(45)](44) "Right of way" is a general term denoting land, property, or interest therein, usually in a strip acquired for or devoted to transportation purposes.~~

~~[(46)](45) "Roadside" is a general term denoting the area between the outer edge of the roadway shoulder and the right of way limits.~~

~~[(47)](46) "Roadway" is the portion of a highway, including shoulders, for vehicular use. A divided highway has two or more roadways.~~

~~[(47)](46) "Small Wireless Facility" means as defined in Utah Code Section 54-21-101.~~

(48) "Slope" is the relative steepness of the terrain expressed as a ratio or percentage. Slopes may be categorized as

positive or negative and as parallel or cross slopes in relation to the direction of traffic.

(49) "State [h]Highways" are those highways designated as State Highways in Title 72, Chapter 4, Designation of State Highways.

(50) "Structure" means any device used to convey vehicles, pedestrians, animals, waterways or other materials over highways, streams, canyons, or other obstacles. It also includes buildings, signs, and UDOT facilities with foundations.

(51) "Statewide Utility License Agreement" or "SULA" is a document by which UDOT licenses the use and occupancy, with conditions, of highway rights of way for utility facilities.

~~[(51)](52) "Subsurface Utility Engineering (SUE)" is the management of certain risks associated with utility mapping at appropriate quality levels, utility coordination, utility relocation, communication of utility data, utility relocation cost estimates, implementation of utility accommodation policies, and utility design. SUE tools include traditional records, site surveys, and new technologies such as surface geophysical methods and non-destructive vacuum excavation, to provide quality levels of information. The SUE process for collecting and depicting information on existing subsurface utility [F]facilities is described in ASCE Standard 38-02, Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data.~~

~~[(52)](53) "Trenched" means installed in a narrow open excavation.~~

~~[(53)](54) "Trenchless (Untrenched)" means installed without breaking the ground or pavement surface by a construction method such as directional drilling, boring, tunneling, jacking, or auguring.~~

~~[(54)](55) "UDOT" is the Utah Department of Transportation and where referenced to be contacted, submitted to, approved by, accepted by or otherwise engaged, means an authorized representative.~~

~~[(55)](56) "Utility" or "utility facility" mean[s] the same as the terms are defined in Utah Code Section 72-6-116. ~~privately, publicly, cooperatively, or municipally owned pipelines, facilities, or systems for producing, transmitting, or distributing communications, power, electricity, light, heat, gas, oil, petroleum products, cable television, water, sewer, steam, waste, storm water not connected with highway drainage, and other similar commodities, which directly service the public.~~~~

~~[(56)](57) "Utility appurtenances" include but are not limited to pedestals, manholes, vents, drains, rigid markers, meter pits, sprinkler pits, valve pits, and regulator pits.~~

~~[(57)](58) "Utility company" means as defined in Utah Code Section 72-6-116a. ~~is a privately, cooperatively, or publicly owned utility, including utilities owned by political subdivisions, and where referenced includes authorized representatives, contractors, and agents.~~~~

~~[(58)](59) "Vent" is an appurtenance designed to discharge gaseous contaminants from a casing.~~

R930-7-4. Scope.

(1) This rule supersedes portions of Manual of Accommodation of Utility Facilities and the Control and Protection of State Highway Rights of Way including Section 5 and portions relating to utility accommodation or that refer to utilities in the right of way or percent of reimbursement, which are part of R930-6 at the time of enactment of this rule.

(2) Regulations, laws, or orders of public authority or industry code prescribing a higher degree of protection or construction than provided by this rule shall govern.

R930-7-5. Application.

(1) This rule, R930-7, applies to all utilities, utility facilities and other structures or things~~privately, cooperatively, and publicly owned utility companies, including utility companies owned by political subdivisions, and shall include telecommunication, gas, oil, petroleum, electricity, cable television, water, sewer, data and video transmission lines, drainage and irrigation systems, and other similar utilities to be located, accommodated, adjusted or~~ located, accommodated, adjusted or relocated within, on, along, across, over, through, or under the highway right of way. ~~[This rule does not apply to utility facilities that are required for UDOT highway purposes.]~~ This rule applies to underground, surface, or overhead facilities, either singularly or in combination, including bridge attachments. This rule does not apply to utility facilities that are required for UDOT highway purposes.

(2) This rule applies to all highway projects~~[Federal aid highway projects]~~ including local government projects.~~[In compliance with 23 CFR 645.209(g) local governments are required to enter into formal agreements with UDOT that provide for a degree of protection to the highway at least equal to the protection provided by this rule.]~~

R930-7-6. General Installation Requirements.

(1) General.

(a) Utility companies ~~[with facilities directly serving the public]~~ desiring to use the right of way under the jurisdiction of UDOT for the installation or maintenance of any utility facility must be licensed to do so by entering into a Statewide Utility License Agreement (SULA) with UDOT. This License Agreement sets forth the procedures and conditions for the issuance of encroachment permits for all installations statewide. Utility ~~[E]~~ encroachment permits are not issued without an executed SULA.~~[License Agreement first being executed.]~~ UDOT may impose additional restrictions or requirements for ~~[License Agreements]~~ SULAs or utility encroachment permits.

(b) Utility companies desiring to use the right of way to install Small Wireless Facilities shall also enter into a Non-Exclusive Installation and Occupancy Agreement with UDOT prior to the issuance of a permit.

~~[(b)c] A permitted facility shall, if necessary, be modified by the utility company to improve safety or facilitate alteration or maintenance of the right of way as determined by UDOT.~~

~~[(c) Companies or entities that do not provide direct utility service to the public are prohibited from installing or constructing longitudinal facilities or site towers or poles within the right of way by permit. UDOT will not issue any permits for this type of facilities.]~~

(2) License Agreements or Statewide Utility License Agreements.

(a) Agreements are executed by UDOT and utility companies to set forth the terms and conditions for the accommodation and maintenance of utility facilities within the right of way. A License Agreement is required for~~;~~ but does not guarantee the approval of encroachment permits.

(b) Facilities that are not defined as a utility under Utah Code Section 54-3-29(1)(g) or facilities that only serve a business or

individual are required to enter into a license agreement with UDOT for crossings only and may not be installed longitudinally or attached to bridges. The business or individual with these types of facilities are still required to comply with the requirements of this Rule.

~~[(b)c] As part of executing a License Agreement with UDOT, owners of facilities located in the right of way are required to post a continuous bond in the amount of \$100,000.00, naming UDOT as the insured, to guarantee satisfactory performance. The Statewide Railroad and Utilities Director~~[Utilities Engineer] may approve a lesser amount.

~~[(e)d] Political Subdivisions are~~[A public utility is] exempt from the bond requirements described in this section if the political subdivision~~[public utility]~~:

~~(i) is a member of the Utah Local Governments Trust~~[municipal insurance pool];

~~(ii) is self-insured or~~[a political subdivision, or
~~(iii) at UDOT's option]~~ carries liability insurance with minimum coverage of \$1,000,000 per occurrence and as more specifically described in its License Agreement. This option requires prior UDOT approval.

~~(e) For small canal companies that cannot obtain the required bond, UDOT may allow the canal to carry liability insurance with minimum coverage of \$1,000,000 per occurrence and as more specifically described in its License Agreement. This option requires prior UDOT approval.~~

~~[(d)f] Upon discovery of utility caused damage to the highway or to the right of way, UDOT may opt to exercise its bonding rights in recovering costs incurred to restore the highway or right of way. The utility company is liable for all restoration costs incurred [as a result] because of damages caused by its utility, and its liability is not limited to the amount of the bond.~~

~~[(e)g] License agreements may be terminated at any time by either party upon 30 days advance written notice to the other. Permits previously issued and approved under a terminated agreement are not affected and remain in effect on the same terms and conditions set forth in the agreement and permits. The obligation to maintain the \$100,000 bond continues until the utility company's facilities are removed from UDOT's right of way.~~

(3) Emergency Work.

(a) In all emergency work situations, the utility company or its representative shall contact UDOT immediately and on the first business day shall contact UDOT to complete a formal permit. Failure to contact UDOT for an emergency work situation and obtain an encroachment permit within the stated time ~~[period is considered to be]~~ is a violation of the terms and conditions of the utility company's license agreement. At the discretion of the utility company, emergency work may be performed by a bonded contractor, public agency, or a utility company. None of the provisions of this rule are waived for emergency work except for the requirement of a prior permit.

(4) One Call Requirements.

(a) Underground facilities are not permitted within the right of way unless the utility company subscribes to Blue Stakes of Utah and other appropriate "call-before-you-dig" systems, or otherwise provides utility plans as detailed in Section R930-7-11(6)(a) of this rule.

(5) Preservation of New Pavement.

(a) Cuts or open excavations on newly constructed, paved, or overlaid highways are not allowed for two years. If an emergency cut or excavation occurs, the responsible utility company shall comply

with any special conditions imposed by UDOT regarding restoration of the roadway.

(6) Encroachment Permits.

(a) Encroachment Permits on State Highways.

Utility companies shall obtain an encroachment permit from UDOT for the installation and maintenance of utility facilities on the right of way pursuant to Utah Administrative Code Rule r930-6-4. Encroachment permits are approved or disapproved by UDOT. Applications for encroachment permits are submitted to the Region Permits Officers by the utility company or its contractor. No utility company or utility company contractor shall begin any utility work on the right of way until an approved encroachment permit is issued by UDOT and the utility company is authorized to proceed in writing. Prior to the issuance of encroachment permits, fees are assessed to cover related costs incurred by UDOT including costs for planning, coordination, and utility plan review.

If the utility company expects work to significantly impact travel lane capacity, UDOT recommends the utility company contact the appropriate Region Permit Office to discuss concepts in advance of submitting an encroachment permit application.

Utility companies shall electronically submit a detailed plan of work [~~two sets of plans~~] depicting the proposed installation. The plans shall be sized as required by UDOT and include utility company identification, work location, utility type and size, type of construction, depth of bury, vertical and horizontal location of facilities relative to the centerline of road, location of all appurtenances, trench details, right of way limits, and traffic control plans. Traffic control plans shall conform to the Utah MUTCD as outlined in [Section] rule R930-7-7(1) (d), are mandatory for each instance of utility construction or maintenance [;] and shall be attached to each permit application.

Utility companies may authorize their contractors to obtain permits on their behalf. All terms and conditions set forth in the License Agreement apply. The utility company's construction forces or the utility contractor shall always carry a copy of the approved permit [~~at all times~~] while working on the right of way.

(b) Bonding and Liability Insurance Requirements.

(i) Individual (one-time use) Encroachment Permit Bonding Requirements. As authorized by Sub-section 72-7-102(3)(b)(i) this rule requires encroachment permit applicants to post a Performance and Warranty Bond, using UDOT's approved bond form, for a period of three years from the date of beginning of utility construction work or two years from the end of utility construction work, whichever provides the longer period of coverage. A separate Performance and Warranty Bond is required for each individual encroachment permit. Political subdivisions of the state are not required to post a bond unless the political subdivision fails to meet the terms and conditions of previous permits issued as determined by UDOT. The amount of the bond is determined by the UDOT Region Permits Officer based on the scope of work being performed but will not be less than \$10,000.

(ii) Statewide (multiple use) Encroachment Permit Bonding Option. In lieu of posting multiple individual one-time use bonds, encroachment permit applicants who routinely acquire encroachment permits may elect to post a statewide performance and warranty bond, using UDOT's approved bond form. A statewide bond satisfies bonding requirements for permitted utility construction work in all UDOT Regions. The bond amount is determined by UDOT but will not be less than \$100,000. This statewide encroachment permit bond is in addition to the continuous bond for the License Agreement.

(iii) Inspection Bond. UDOT may require an additional inspection bond to ensure payment for UDOT field review and inspection costs before an encroachment permit is granted.

(iv) Proceeds Against the Bond. UDOT may proceed against the bond to recover all expenses incurred if payment is not received from the permit applicant within 45 calendar days of receiving an invoice. Upon discovery of utility caused damage to the highway or to the right of way, UDOT may opt to exercise its bonding rights in recovering costs incurred to restore the highway or right of way due to utility caused damages. Failure by the utility company to maintain a valid bond in the amounts required shall be cause for denying issuance of future permits and for the removal of the utility from the right of way.

(v) Liability Insurance Requirements. Permit applicants are also required to provide a certificate of liability insurance in the minimum amounts of \$1,000,000 per occurrence and \$[~~2~~]3,000,000 in aggregate. Failure to meet this requirement will result in application denial. Liability insurance coverage is required throughout the life of the permit and cancellation will result in permit revocation.

(vi) Information about bond forms and liability insurance requirements are available on UDOT's website at: <http://www.udot.utah.gov/go/encroachmentpermit>

(c) Assignment of Permits. Permits shall not be assigned without the prior written consent of UDOT. All assignees shall be required to execute a License Agreement.

(d) Indemnification. Permit holders performing utility work on the right of way shall [~~at all times~~] always indemnify, defend and hold harmless UDOT, its employees, and the State of Utah from responsibility for any damage or liability arising from their construction, maintenance, repair, or any other related operation during the work or as a result of the work. Permit holders shall also be responsible for the completion, restoration, and maintenance of any excavation for a period of three years unless UDOT requires a longer period of indemnification due to specific or unique circumstances.

(e) Cancellation of Permits and Termination of License Agreement. The following situations will cause the cancellation of permits, [~~and/or~~] termination of the License Agreement, or both:

(i) A utility company's failure to maintain a valid bond in the amount required;

(ii) A utility company's failure to comply with the terms and conditions of the License Agreement;

(iii) A utility company's failure to comply with the requirements of the encroachment permit; and

(iv) A utility company's failure to pay any sum of money for costs incurred by UDOT in association with plan review application, installation or construction review, permit fees, inspection, as-built plan submittals, reconstruction, repair, or maintenance of the utility facilities, or any other costs associated with the Department's approved fee schedule.

When the permit is canceled, UDOT also may remove the facilities and restore the highway and right of way at the sole expense of the utility company. Prior to any cancellation, UDOT shall notify the utility company in writing, setting forth the violations, and will provide the utility company a reasonable time to correct the violations to the satisfaction of UDOT. UDOT may also not issue any further permits to utility companies that do not comply with this rule, permit requirements, or the [~~License Agreement~~] SULA.

R930-7-7. General Design Requirements.

(1) General.

(a) Joint use of state right of way may impact both the highway and the utility. Each utility company requesting the use of right of way for the accommodation of its facilities is responsible for the proper planning, engineering, design, construction, and maintenance of its facilities installed within the right of way [proposed installations]. The utility company shall coordinate with UDOT and develop its projects to meet design standards and to optimize safety, cost effectiveness, and efficiency of operations for both the utility company and the state. Utility companies are directed to the following AASHTO publications for assistance:

- (i) Roadside Design Guide;
- (ii) A Policy on Geometric Design of Highways and Streets;
- (iii) A Guide for Accommodating Utilities within Highway Right of Way; and
- (iv) A Policy on the Accommodation of Utilities within Freeway Right of Way.

(b) ~~[The utility company is responsible for the design, construction, and maintenance of its facilities installed within the right of way.]~~ All elements of ~~[these]~~ the utility facilities including materials used, installation methods, and locations shall be subject to review and approval by UDOT.

(c) Plans, Drawings and Specifications. The utility company shall provide UDOT with comprehensive plans, drawings and specifications as may be required for all proposed utility facilities within the right of way. Utility plan submittals shall contain physical features of the utility site including, but not limited to the following:

- (i) highway route number;
- (ii) highway mile post locations;
- (iii) map with route and site location;
- (iv) existing features such as manholes, structures, drainage facilities, other utilities, access controlled and right of way lines, center line of highway relative to the utility facility location, and relevant vertical information;
- (v) plan and drawing scales; and
- (vi) legend including definition of symbols used.

The plans, drawings, and specifications shall also contain administrative information, identification and type of materials to be used, relevant information on adjacent land classification and ownership, related permits and approvals if required, and identification of the responsible Engineer of Record.

(d) Traffic Control Plans. The utility company shall provide traffic control plans (TCP) that conform to the current Utah MUTCD and UDOT Traffic Control Standards and Specification.

(e) The utility company is responsible to ensure compliance with industry codes and standards, the conditions and special provisions specified in the permit, and applicable laws, rules and regulations of the State of Utah and the Code of Federal Regulations.

(f) All utility facility installations located in, on, along, across, over, through, or under the surface of the right of way, including attachments to highway structures, are the responsibility of the utility company and, as a minimum, shall meet the following utility industry and governmental requirements.

(i) Electric power and telecommunications facilities shall conform to the current applicable National Electric Safety Code.

(ii) Water, sewage and other effluent lines shall conform to the requirements of the American Public Works Association or the American Water Works Association.

(iii) Pressure pipelines shall conform to the current applicable sections of the standard code of pressure piping of the American National Standards Institute, 49 CFR 192, 193 and 195, and applicable industry codes.

(iv) Liquid petroleum pipelines shall conform to the current applicable recommended practice of the American Petroleum Institute for pipeline crossings under railroads and highways.

(v) Any pipelines carrying hazardous materials shall conform to the rules and regulations of the U.S. Department of Transportation governing the transmission of the materials.

(vi) Telecommunications with longitudinal installations within Interstate, Freeway and other Access Controlled Highway right of way shall conform to Utah Administrative Rule R907-64.

(2) Subsurface Utility Engineering.

(a) The use of Subsurface Utility Engineering (SUE) shall be required as an integral part of the design for new utility facility installations on the right of way when determined by UDOT to be warranted.

R930-7-8. Definitive Design Requirements.

(1) Location Requirements.

(a) Longitudinal Installations. The type of utility construction, vertical clearances, lateral location of poles and down guys, and related ground mounted utility facilities along roadways are factors of major importance in preserving a safe traffic environment, the appearance of the highway, and the efficiency and economy of highway construction and maintenance. Longitudinal utility facilities shall be located on a uniform alignment and as close to the right of way line as practicable. The joint use of pole lines is acceptable and encouraged; however, all installations shall be located so that all servicing may be performed with minimal traffic interference. The following additional requirements apply to longitudinal installations.

(i) Utility facilities shall be located ~~[so as]~~ to minimize the need for future utility relocations due to highway improvements, avoid risks to the highway, and not adversely impact environmentally protected areas.

(ii) The location of utility installations along urban streets with closely abutting structures such as buildings and signs generally requires special considerations. These considerations shall be resolved in a manner consistent with the prevailing limitations and as approved by UDOT.

(iii) The location of utility facilities and associated appurtenances shall be in accordance with the Americans with Disabilities Act.

(iv) The horizontal location of utility facilities and appurtenances within the right of way shall conform to the current edition of the AASHTO Roadside Design Guide.

(v) Adequate warning devices, barricades, and protective devices must be used to prevent traffic hazards. Where circumstances necessitate the excavation closer to the edge of pavement than established above, concrete barriers or other UDOT approved devices shall be installed for protection of traffic in accordance with UDOT Traffic Control Standards and UDOT's Supplemental Drawings.

(vi) There are greater restrictions on the accommodation of utility facilities within interstate, freeway, and other access-controlled highway right of way. See ~~[Section]~~ rule R930-7-10 for details.

(b) Overhead Installations.

(i) Minimal vertical clearances for installed overhead lines are 18 feet for crossings and longitudinal installations, and 23 feet for

intersections. In addition, the vertical clearance for overhead lines above the highway and the vertical and lateral clearance from bridges and above ground UDOT facilities shall meet or exceed the current edition of the National Electrical Safety Code. Where overhead lines cross UDOT above ground facilities, including but not limited to signs, traffic signal heads, poles, and mast arms, vertical and lateral clearance shall meet OSHA working clearances for electrical lines in effect at the time of the installation which will accommodate maintenance work by UDOT personnel without having to discharge or shield the lines.

(ii) Utility companies planning to attach cable to other utility company poles shall obtain approval from the owner of the poles prior to a permit being issued by UDOT.

(iii) The utility facility shall conform to the current edition of the AASHTO Roadside Design Guide. Where there are existing curbed sections, utility facilities shall be located as far as practicable behind the face of curbs and, where feasible, behind sidewalks at locations that will not interfere with adjacent property use. In all cases there shall be a minimum of two feet clearance behind the face of the curb. All cases shall be resolved in a manner consistent with prevailing limitations and conditions.

(iv) Before locating a utility facility at other than the right of way line, consideration shall be given to designs using self-supporting, armless single pole construction, with vertical alignment of wires or cables, or other techniques permitted by government or industry codes that provide a safe traffic environment. Deviations from required clearances may be made where poles and guys can be shielded by existing traffic barriers or placed in areas that are inaccessible to vehicular traffic.

(v) Where irregular shaped portions of the right of way extend beyond or do not reach the normal right of way limits, variances in the location of utility facilities may be allowed to maintain a reasonably uniform alignment and thereby reduce the need for guys and anchors between poles and roadway.

(c) Subsurface Installations.

(i) Underground utilities may be placed longitudinally outside of the pavement by plowing or open trench method. Underground utilities shall be located on a uniform alignment and as near as practicable to the right of [-]way line to provide a safe environment for traffic operations, preserve the integrity of the highway, and preserve space for future highway improvements or other utility facility installations. The allowable distance from the right of way line will generally depend upon the terrain and obstructions such as trees and other existing underground and overhead objects. On highways with frontage roads, longitudinal installations shall be located between the frontage roads and the right of way lines. Utility companies shall include the placement of markers referenced in [Section]rule R930-7-11(5).

(ii) Unless UDOT grants a deviation, underground utility installations across existing roadways shall be performed by trenchless method in accordance with UDOT requirements and casings may be required. Bore [P]pits shall be located outside of the clear zone and at least 30 feet from the edge of the nearest through traffic lane and at least 20 feet from the edge of pavement on ramps. On low traffic roadways and frontage roads, as determined by UDOT, bore pits shall be at least ten feet from the edge of pavement, five feet beyond toe of slope under fill sections and at least five feet from the face of curb and meet clear zone requirements from the edge of the traveled way whichever is greater. Bore pits shall be located and constructed [so as

]to eliminate interference with highway structural footings. Shoring shall be used where necessary.

TABLE 1

Bore Pit Locations	Outside Clear Zone
Bore Pit Set Back	
At least ten feet from the edge of pavement, five feet beyond toe of slope under fill sections and at least five feet from the face of curb	At least 30 feet from the edge of the nearest through traffic lane and at least 20 feet from the edge of pavement on ramps.

(iii) The depth of bury for all [utility]facilities under pavement, sidewalk, drainage features or existing ground surface shall ~~meet the[be a]~~ minimum requirements outlined in Table 2 or the Company shall install its facilities to the depth requirement stated in each individual permit.~~[of four feet below the top of pavement or existing grade including open drainage features. Where utility facilities are installed within 20 feet from the edge of pavement, the depth of bury shall be a minimum of five feet below top of grade so as to allow for installation of UDOT signs or delineators. Utility facilities under sidewalks shall be installed a minimum of three feet below the top of sidewalk.~~

~~(iv) Utility facilities installed greater than 20 feet from the edge of pavement shall be installed a minimum depth of three feet below grade. Specific types of facilities such as high pressure gas lines or petroleum lines may require additional cover.]~~

(v) All underground utilities installed in the right of way must meet the minimum standards for compaction as outlined in the current edition of the UDOT Standards and Specifications for Road and Bridge Construction.

(v[†]) Where minimum depth of bury is not feasible, the facility shall be rerouted or, if permitted by UDOT[;], through the deviation process outlined in R930-7-13, shall be protected with a casing, encasement, concrete slab, or other suitable protective measures.

TABLE 2

[SUMMARY OF UDOT DEFINITIVE UTILITY REQUIREMENTS]
 MINIMUM DEPTH OF BURY (Cover) For Underground Utility Facilities*
 [Longitudinal and Crossing Installations
 All underground utilities (cased and uncased)]

Under Pavement Surface	Under Sidewalks	Under Ditch	Less than 20 ft. from edge of pavement	Greater than 20 ft. from edge of pavement
Min. of four ft. below top of pavement	Min. of three ft. below top of sidewalk	Min. of three ft. below low natural point of ditch	Min. of five ft. below natural grade	Min. of three ft. below natural grade

Location	Under Pavement	Under Sidewalk	Under Ditch	Utility Location Less Than 20 ft. From Edge of Pavement	Utility Location Greater Than 20 ft. From Edge of Pavement

Minimum Depth	4 ft.	3 ft.	3 ft.	5 ft.	3 ft.**
---------------	-------	-------	-------	-------	---------

Measured From	Top of Pavement	Top of Sidewalk	Low point of Ditch	Ground Surface	Ground Surface
---------------	-----------------	-----------------	--------------------	----------------	----------------

Measured From Top of Utility Facility or Utility Buffer Zone (if required by Utility Company)

* Applies to longitudinal and crossing installations, cased and uncased.

** Specific types of facilities such as high-pressure gas lines may require additional cover.

(d) Crossings.

(i) Utility crossings shall be at 90 degrees unless a deviation from this rule is approved by UDOT through the deviation process outlined in R930-7-13. Crossing installations under paved surfaces shall be by trenchless methods. Jetting by means of water or compressed air is not permitted.

(ii) Utility crossings shall be avoided in deep roadway cuts, near bridge footings, near retaining and noise walls, at highway cross drains where flow of water may be obstructed, in wet or rocky terrain where it is difficult to attain minimum cover, and through slopes under structures.

(e) Median Installations.

(i) Overhead utility facilities such as poles, guys, or other related facilities shall not be located in highway medians. Deviations may be considered for crossings where wide medians provide for sufficient space to meet clear zone requirements from the edges of the travelled ways.

(f) Appurtenances.

(i) Utility appurtenances shall be located outside the clear zone and as close to the right of way line as practicable. Where these requirements cannot be met, and no feasible alternative exists, a deviation to locate appurtenances within the clear zone in areas that are shielded by traffic barriers may be considered after the utility company provides written justification for such location for UDOT review through the deviation process outlined in R930-7-13. Cabinets, regulator stations, and other similar utility components shall not be located on the right of way unless they are determined by UDOT to be sufficiently small to allow a deviation.

(ii) Manholes, valve pits, and similar appurtenances shall be installed so that their uppermost surfaces are flush with the adjacent undisturbed surface.

(iii) Utility access points and valve covers shall be located outside the roadway where practicable. In urbanized areas where no feasible alternative exists, ~~to locating utility access points and valve covers outside of the roadway exists;~~ the utility company must coordinate with UDOT to meet safety, operational, and maintenance requirements of both the utility company and UDOT.

(iv) Utility companies shall avoid placing manholes in the pavement of high speed and high[-]volume highways. Deviations may be considered after written justification for such location is submitted by the utility company and reviewed and approved by UDOT through the deviation process outline in R930-7-13. New manhole installations shall be avoided at highway intersections and within the wheel path of traffic lanes.

(v) Vents, drains, markers, utility access holes, shafts, shut-offs, cross-connect boxes, pedestals, pad-mounted devices, and similar appurtenances shall be located along or across highway rights of way

in accordance with the provisions of the Americans With Disabilities Act.

(2) Environmental Compliance.

(a) The utility company shall comply with all applicable state and federal environmental laws and regulations[-] and shall obtain necessary permits. Environmental requirements include but are not limited to the following[-]:

(i) Water Quality. A "Storm Water General Permit for Construction Activities" is required from the Utah Division of Water Quality for disturbances of one or more acres of ground surface.

(ii) Wetlands and Other Waters of the U.S. A "Section 404 Permit" is required from the U.S. Army Corps of Engineers for any impact to a wetland or water of the U.S.

(iii) Threatened or Endangered (T and E) Species. Comply with the Endangered Species Act; avoid impacts to T and E species or obtain a Permit from the U. S. Fish and Wildlife Service.

(iv) Historic and Archaeological Resources. Comply with the "National Historic Preservation Act"; avoid impacts to historic and archaeological resources. If resources could be impacted, contact the Utah State Historic Preservation Office.

(b) The utility company is responsible for environmental impacts and violations resulting from construction activities performed by the utility company or its contractors.

(c) If UDOT discovers or is made aware of a violation by the utility company or a failure to comply with state and federal environmental laws, regulations and permits, UDOT may revoke the permit, notify appropriate agencies, or both.

(3) Installation of Utilities in Scenic Areas.

(a) The type, size, design, and construction of utility facilities in areas of natural beauty shall not materially alter the scenic quality, appearance, and views from the highway or roadsides. These areas include scenic strips, overlooks, rest areas, recreation areas, adjacent rights of way and highways passing through public parks, recreation areas, wildlife and waterfowl refuges, and historic sites. Utility installations in these areas shall not be permitted. Deviation from this requirement may be allowed if there is no reasonable or feasible alternative as determined by UDOT based on written justification submitted by the utility company through the deviation process outlined in R930-7-13. On Federal-aid highways, all decisions related to utility installations within these areas shall be subject to the provisions detailed in 23 CFR Section 645.209(h).

(i) New underground utility installations may be permitted within scenic strips, overlooks, scenic areas, or in the adjacent rights of way, when they do not require extensive removal, or alteration of trees, and other shrubbery visible to the highway user, or do not impair the scenic appearance of the area.

(ii) New overhead installations of telecommunication and electric power lines are not permitted in such locations unless there is no feasible and reasonable alternative as determined by UDOT through the deviation process outlined in R930-7-13. Overhead installations shall be justified to UDOT by demonstrating that other locations are not available and that underground facilities are not technically feasible, economical or are more detrimental to the scenic appearance of the area.

Any installation of overhead facilities shall be made at a location and in a manner that will not detract from the scenic quality of the area being traversed. The installation shall utilize a suitable design and use materials aesthetically compatible to the scenic area, as approved by UDOT.

(4) Casing and Encasement Requirements.

(a) General. A carrier pipe is sometimes installed inside of a larger diameter pipe defined as a casing. Casings are typically used to provide complete independence of the carrier pipe from the surrounding roadway structure, and to provide adequate protection to the roadway from leakage of a carrier pipeline. It also provides a means for insertion and replacement of carriers without access or disturbance to through-traffic roadways.

(b) Casing requirements for crossing installations.

(i) All pipelines under pressure crossing under the roadbed of highways shall be in casings unless the pipeline is welded steel, meets industry corrosion protection standards, complies with federal and state requirements, and meets accepted industry standards regarding wall thickness and operating stress levels. In some cases, UDOT may require a casing regardless of these exceptions if needed to protect the roadway, maintain public safety, or both.

(ii) In urban areas where space is limited for venting or where small pipelines are crossing, specifically intermediate high[-] pressure lines, deviations for casing may be granted by UDOT.

(iii) Where a casing is required, it must be provided under medians, from top of back-slope to top of back-slope for cut sections, five feet beyond toe of slope under fill sections, five feet beyond face of curb in urban sections and all side streets, and five feet beyond any structure where the line passes under or through the structure. Deviations, outlined in R930-7-13, must be approved by UDOT. On freeways, expressways, and other access[-]-controlled highways, casings shall extend to the access control lines.

(iv) Utility installations by trenchless technologies, such as jacking, boring, or horizontal directional drilling methods, may be placed under highways without a casing pipe if approved by a UDOT through the deviation process outlined in R930-7-13 ~~representative~~.

(v) Where minimum depth of bury is not feasible, the facility shall be rerouted or protected with a casing, concrete slab, or other suitable measures as determined by UDOT through the deviation process outlined in R930-7-13.

(c) Casings shall be considered for the following conditions:

(i) as an expedient~~[ey]~~ method for~~[in]~~ the insertion, removal, replacement, or maintenance of carrier pipe crossings of freeways, expressways, and other access[-]-controlled highways, and at other locations where it is necessary to avoid open ~~trenched~~ construction;

(ii) as protection for carrier pipe from external loads or shock either during or after construction of the highway; and

(iii) as a means of conveying leaking fluids or gases away from the area directly beneath the roadway to a point of venting at or near the right of way line, or to a point of drainage in the highway ditch or a natural drainage way.

(d) UDOT may require casings for pressurized carriers or carriers of a flammable, corrosive, expansive, energized, or unstable material.

(e) Trenchless installations of coated carrier pipes shall be cased. Permission to deviate from this requirement may be granted where assurance is provided against damage to the protective coating.

(f) Encasement or other suitable protections shall be considered for pipelines with less than minimum cover, such as those near bridge footings or other highway structures, or across unstable or subsiding ground, or near other locations where hazardous conditions may exist.

(g) Rigid encasement or suitable bridging shall be used where support of pavement structure may be impaired by depression of flexible carrier pipe. Casings shall be designed to support the load of the highway and superimposed loads thereon and, as a minimum, shall be equal to or exceed the structural requirements of UDOT highway culverts in the UDOT Structures Design and Detailing Manual (SDDM) ~~[Bridge Design Manual]~~.

(h) Casings shall be sealed at the ends using suitable material to prevent water and debris from entering the annular space between the casing and the carrier. Such installations shall include necessary appurtenances, such as vents and markers.

(5) Mechanical and Other Protective Measures for Uncased Installation.

(a) When highway pipeline crossings are installed without casings or encasement, the following are ~~[suggested]~~ controls for providing mechanical or other protection.

(i) The carrier pipe shall conform to utility material and design requirements and utility industry and government codes and standards. The carrier pipe shall be designed to support the load of the highway plus superimposed loads operating under all ranges of pressure from maximum internal to zero pressure. Such installations shall use a higher factor of safety in the design, construction, and testing than would normally be required for cased construction.

(ii) Suitable bridging, concrete slabs, or other appropriate measures shall be used to protect existing uncased pipelines which may be vulnerable to damage from construction or maintenance operations. Construction or maintenance activities shall not proceed until protective measures are approved by UDOT.

(b) Uncased crossings of welded steel pipelines carrying flammable, corrosive, expansive, energized, or unstable materials may be permitted if additional protective measures are taken in lieu of encasement. Such measures shall use a higher factor of safety in the design, construction, and testing of the uncased carrier pipe, including thicker wall pipe, radiograph testing of welds, hydrostatic testing, coating and wrapping, and cathodic protection.

R930-7-9. Utilities on Highway Structures.

(1) General.

(a) The installation of utility facilities on highway structures can adversely impact the integrity and capacity of the structure, the safe operation of traffic, maintenance efficiency, complexity to perform needed structure rehabilitation or replacement of the structure, and the aesthetic appeal of the structure. Utility facilities shall not be installed on highway structures except in extreme cases. When installation of utilities at an alternate location exceeds the cost of attaching to the structure by four times, UDOT will consider such an installation as described in paragraph (2) of this section, R930-7-9. ~~[The utility company shall submit documentation requesting installation on highway structures to the UDOT Structures Division for review and approval. Attachment of a utility facility will only be considered if the structure is adequate to support the additional load. This adequacy must be verified by a load rating completed by the utility company following UDOT's Load Rating Policies and Procedures, submitted to UDOT along with the necessary documentation including calculations and a load rating model.]~~

(b) Installing utility facilities within 50 feet of structures may impact the design, installation, operation, maintenance and safety of the structures, and the utility facilities. Utility companies shall

address potential impacts when projects are proposed to ensure compatibility between utility facilities and UDOT structures and to assure all relevant utility industry codes and UDOT structural requirements are adequately addressed.

(2) Installation on Highway Structures.

(a) The utility company shall submit documentation requesting installation on a highway structure to UDOT through UDOT's permitting system for review and possible approval.

(b) Attachment of a utility facility will only be considered if the structure is adequate to support the additional load and can accommodate the utility without compromising highway features. This adequacy must be verified by a load rating completed by the utility company in accordance with the current versions of the UDOT Structures Design and Detailing Manual and UDOT Bridge Management Manual including calculations.

(c) If UDOT allows a [structure]utility installation on a highway structure, it shall be at a location and of a design approved by UDOT.[subject to review and approval by UDOT's Structures Department. Utility installations on structures shall not be considered unless the structure is of a design that is adequate to support the additional load and can accommodate the utility without compromising highway features.] In addition, the utility installation on a highway structure shall be subject to the following requirements[-]:

(i) Due to variations in highway structure designs, site-specific conditions, and other considerations, there is no standardized method by which utilities are installed on structures. Therefore, each proposed installation shall be considered on its individual merits and shall be individually designed for the specific structure.

(ii) Where installations of pipelines carrying hazardous materials are allowed, the pipeline shall be cased. The casing shall be open or vented at each end [~~so as~~]to prevent possible build-up of pressure and to detect leakage. Where located near streams, casings shall be designed and installed so that leakage does not compromise the stream. If a deviation from this Rule, R930-7, is allowed for no casing, additional protective measures shall be used including higher standards for design, safety, construction and testing of the pipeline than would normally be required for cased construction.

(iii) All pipeline installations carrying gas or liquid under pressure which by their nature may cause damage or injury if leaked, shall be installed with emergency shutoff valves. Such valves shall be placed within an effective distance on each side of the structure, as approved by UDOT, and shall be automatic if required by UDOT.

(iv) Utility installations on highway structures shall not reduce vertical clearances above rivers, streams, roadway surfaces or rails. Installations should be designed to occupy a position beneath the deck in an interior bay of a girder or beam, or within a cell of a box girder bridge. Installations shall always be above the bottom of girders on a girder bridge or above the bottom of the bottom cord of a truss bridge. Utility installations outside of a bridge structure are unsightly and susceptible to damage and will only be approved by UDOT if there is no reasonable alternative.

(v) All utility facilities installed on highway structures shall be constructed of durable materials, designed with a long[-]-life expectancy, and must be installed in a manner that will minimize routine servicing and maintenance.

(vi) Utility facility mountings shall be of sufficient strength to carry the weight of the utility and shall be of a design and type that will not rattle or loosen due to vibrations caused by vehicular traffic.

Acceptable utility installation methods are hangers or roller assemblies suspended either from inserts from the underside of the bridge floor or from hanger rods clamped to the flange of a superstructure member. Bolting through the bridge floor is not permitted. Where there are transverse floor beams sufficiently removed from the underside of the deck, the utility placement shall allow adequate clearance to enable full inspection of both the deck and the utility line. UDOT may consider a proposal to support the utility line on top of the floor beams.

(vii) ~~[Communication]~~Telecommunication and electric power line installations shall be suitably insulated, grounded, and preferably carried in protective conduit or pipe from the point of exit from the ground to re-entry. Cable shall be carried to a manhole located beyond the back-wall of the structure. Access manholes are not allowed in a bridge deck.

(viii) Utility installations shall provide for lineal expansion and contraction due to temperature variations in conjunction with bridge movement.

(ix) All utility facility clearances from structure members must conform to all governing codes and shall not render any portion of the structure inaccessible for maintenance purposes.

(x) The utility company shall be responsible for restoration or repair of any portion of a structure or highway damaged by utility facility installation, maintenance or use.

(xi) The expansion of an existing utility facility carried by an existing structure may be permitted if the expansion does not adversely impact the performance and load carrying capacity of the structure and otherwise complies with this rule.

(xii) All components of the utility attachment shall be protected from corrosion. Steel components shall be stainless, galvanized or painted in accordance with the current UDOT Standard Specifications for Highway and Bridge Construction.

(3) Utility Company Responsibilities.

(a) It is the responsibility of the utility company to obtain approval from UDOT for a highway structure installation. The utility company shall know~~[ascertain the extent of]~~ UDOT's requirements prior to initiating the design for installation. A Utah registered Professional or Structural Engineer shall be responsible for the design if the installation is allowed. The utility company must prepare and submit complete design documents showing all details of the proposed highway structure installation~~[work]~~. These documents shall include plans, calculations, updated load rating with a Virtis load rating model, the permit application, and any other necessary information. The utility company shall be responsible for protecting, maintaining or relocating its utility installation, including the arrangement of service interruptions, to accommodate future UDOT structure work.

(b) All materials incorporated in the design must be certifiable for quality and strength and full specifications must be provided in support of the design.

(c) Adequate written justification must support the need for installing the utility facility on the structure and demonstrate that there is no viable cost-effective alternative.

(d) Design documents are required to meet requirements of the current versions of the AASHTO LRFD Bridge Design Specifications and UDOT Structures Design and Detailing Manual. [All components of the utility attachment shall be protected from corrosion. Steel components shall be stainless, galvanized or painted in accordance with the current UDOT Standard Specifications for Highway and Bridge Construction.]

R930-7-10. Utilities within Interstate, Freeway and Access Controlled ~~right-of-way~~ Right of Way.

(1) General Provisions. There are two basic types of access control.

No Access - ~~provides access only at interchanges~~~~[does not allow access to the through-traffic lanes except at interchanges]~~. Crossings at grade and direct driveway connections are prohibited. Access is controlled by fencing. This is typical of interstates and freeways.

Limited Access - provides access to selected roads. There may be some crossings at grade and some private driveway connections. This is typical of expressways and certain other highways.

(2) Factors UDOT may consider for allowing Utility accommodation within access controlled right of way include distance between distribution points, terrain, cost, and prior existence.

(3) Longitudinal telecommunication installations may be allowed under Rule R907-64 and Utah Code Section 72-7-108.

(4) Pursuant to FHWA regulations, UDOT may allow longitudinal accommodation of utility facilities but with greater restrictions within no access and limited access highway right of way as follows:

(a) ~~[No access:—]~~Longitudinal installations ~~[on highways]~~ within no access highway right of way are not permitted except in cases where no other feasible location exists and under strictly controlled circumstances. FHWA approval is required for installations on interstate ~~[facilities]~~roadways. Longitudinal telecommunication facilities are allowed pursuant to Utah Code Section 72-7-108.~~[—and]~~

(b) ~~[Limited Access:—]~~Longitudinal installations ~~[on highways]~~ within limited access highway right of way are generally not permitted.

(5) Utility facilities ~~[are allowed to]~~may cross no access and limited access highway ~~[right-of-way]~~right of way but with additional requirements as noted below in Subsection R930-7-10(7).

(6) Longitudinal Utility Facilities.

(a) In addition to the requirements in Subsection R930-7-8(1)(a), the following requirements apply~~[-]~~:

(i) Service connections are not permitted within no access highway right of way. Service connections are not permitted within limited access highway right of way unless no reasonable alternative exists as demonstrated by the utility company and as reviewed and approved by UDOT through the deviation process outlined in R930-7-13.

(ii) Service, maintenance, and operation of utilities installed along and within no access highway right of way may not be conducted from the through-traffic roadways or ramps. All maintenance activities must be accessed from a point approved by UDOT and FHWA.

(iii) An existing utility facility within the right of way acquired for an interstate, freeway, or access~~[-]~~-controlled highway project may remain if it remains outside of the pavement section and within five feet of the outer most right of way limits, can be serviced, maintained, and operated without access from the through-traffic roadways or ramps, and it does not adversely affect the safety, design, construction, operation, maintenance, or stability of the interstate, freeway, or access~~[-]~~-controlled highway. Otherwise, it shall be relocated.

(iv) Where approval for installation is permitted, utility installations and related components shall be buried parallel to the

interstate, freeway, or access~~[-]~~-controlled highway and shall be located within five feet of the outer most right of way limits. Utility appurtenances shall be located as close as possible to the right of way line.

(v) An existing utility carried on an interstate, freeway, or access~~[-]~~-controlled highway structure crossing a major valley or river may be permitted by UDOT to continue to be carried at the time the route is improved if the utility facility is serviced without interference to the traveling public.

(7) Utility Crossings.

(a) In addition to the requirements in Subsection R930-7-8(1)(d), the following requirements apply.

(i) A utility following a crossroad or street which is carried over or under an interstate, freeway, or access~~[-]~~-controlled highway must cross the interstate, freeway, or access~~[-]~~-controlled highway at the location of the crossroad or street in such a manner that the utility can be serviced without access from the through-traffic roadways or ramps.

(ii) Overhead utility lines crossing an interstate, freeway, or access~~[-]~~-controlled highway shall be adjusted so that supporting structures are located outside access control lines. In no case shall the supporting poles be placed within the clear zone. Where required for support, intermediate supporting poles may be placed in medians of sufficient width that provide the clear zone from the edges of both travelled ways. If additional lanes are planned, the clear zone shall be determined from the ultimate edges of the travelled way. When right of way lines and access control lines are not the same, such as when frontage roads are provided, supporting poles may be ~~[located]~~ in the area between them.

(iii) At interchange areas, supports for overhead utility facilities will be permitted only if located beyond the clear zone of traffic lanes or ramps, sight distance is not impaired, and can be safely accessed.

(iv) Manholes and other points of access to underground utilities may be permitted within the right of way of an interstate, freeway, or access~~[-]~~-controlled highway if they can be serviced or maintained without access from the through-traffic roadways or ramps. When right of way lines and access control lines are not the same, such as when frontage roads are provided, manholes and other points of access may be ~~[located]~~ in the area between them.

(v) Where a casing is not otherwise required, it shall be considered as expedient in the insertion, removal, replacement, or maintenance of carrier pipes crossing interstate, freeways, or access~~[-]~~-controlled highways. Casings shall extend to the access control lines. See Subsection R930-7-8(4).

(8) Longitudinal Telecommunications Installation.

(a) Installation must comply with R907-64.

(9) Wireless Telecommunications Facilities.

(a) Facilities must comply with R907-64.

R930-7-11. Utility Construction and Inspection.

(1) General Provisions.

(a) The method used for utility construction work is generally determined by local conditions. The location, terrain, obstructions, soil conditions, topography, and UDOT standards to maintain the integrity and safety of the right of way and roadway are important considerations for the proper placing of utilities. Familiarity and compliance with this rule will facilitate the construction process for utility companies.

(b) UDOT may perform routine inspection of utility construction work to monitor compliance with the license agreement, encroachment permit and with state and federal regulations. A permit may be revoked for cause if a utility company or contractor is not complying with the terms and limitations of the permit which will require a new permit at the contractor's expense to proceed with the utility construction work.

(c) Costs associated with the inspection are the responsibility of the utility company. Failure to pay inspection invoices issued by UDOT may result in revocation of the permit and may require the posting of an inspection bond on future permit applications.

(2) Utility Construction and Maintenance.

(a) ~~The utility company shall not begin any utility construction work on UDOT right of way until the permit is issued and notice to proceed is given to the utility company by UDOT. After notice to proceed is received, the utility company shall complete construction in accordance with UDOT requirements. No utility construction work by a utility company or a utility company's contractor may begin until a written encroachment permit has been issued to the utility company by UDOT.~~

(b) Traffic control for utility construction and maintenance operations shall conform to UDOT's current accepted Utah MUTCD or UDOT Traffic Control Plans, whichever is more restrictive. All utility construction and maintenance operations shall be planned to keep interference with traffic to an absolute minimum. On heavily traveled highways, utility operations interfering with traffic shall not be conducted during periods of peak traffic flow. This work shall be planned so that closures of intersecting streets, road approaches, or other access points are held to a minimum.

~~(c) [The utility company shall not begin any work on UDOT right of way until the permit is issued and notice to proceed is given to the utility company by UDOT. After notice to proceed is received, the utility company shall complete construction in accordance with UDOT requirements.~~

~~(d)~~ When ~~[highway]~~ utility construction work ~~[or maintenance activities]~~ involves existing underground utility facilities, the utility company or Utility contractor shall comply with Utah Code Title 54, Chapter 8a, Damage to Underground Utility Facilities.

~~(e)~~ Utility construction work shall be completed within the number of days specified in the approved permit. When the Utility construction work is not completed within the specified time UDOT has the option of extending the time or revoking the permit and acting on the appropriate bond to pay for completion of the Utility construction work. All time extensions granted by UDOT shall be in writing.

~~(f)~~ Disturbance of areas within highway ~~[right of way]~~ right of way during utility construction work shall be kept to a minimum and all right of way shall be restored to the satisfaction of UDOT. All utility construction work methods used within the highway right of way shall be performed in accordance with current Standard Specifications for Highway and Bridge Construction, UDOT Permit Excavation Handbook, the provisions of this rule, and encroachment permit requirements. Unsatisfactory utility construction work, as determined by UDOT's inspector, shall promptly be corrected to comply with appropriate standards and specifications. UDOT may issue written notification that identifies the deficiencies and the ~~[period of]~~ time to cure or correct the deficiencies. If the restoration is not performed within the specified time, UDOT may perform or have

performed the corrective work and the utility company shall be responsible for all costs incurred.

~~(g)~~ The utility company shall avoid disturbing or damaging existing highway drainage facilities and is responsible for repairs, including restoration of ditch flow lines. Wherever necessary, the utility company shall provide drainage away from its own facilities to avoid damage to the highway.

~~(h)~~ The utility company is prohibited from spraying, cutting or trimming trees or other landscape elements unless specific written permission is obtained from UDOT. The approval of an encroachment permit does not include approval of such work unless the cutting, spraying, and trimming is clearly indicated on the permit application. In general, when permission is given, only light trimming will be permitted. When tree removal is approved, the stump shall be removed, and the hole properly backfilled to natural ground density or restored as otherwise approved by UDOT. The work site shall be left clean and trash free. All debris shall be removed. Reseeding shall be performed in accordance with UDOT's approved schedule.

~~(i)~~ UDOT may require that any abandoned utility pipe or conduit be removed, capped, or filled with an appropriate material acceptable to UDOT.

~~(j)~~ All utility facilities located ~~within the highway~~ rights of way shall be adequately maintained. Any physical modifications, relocations, additions, excavations, or impedance of traffic within the highway right of way shall require the submittal of a new encroachment permit application. No Utility construction work may begin until the new encroachment permit is approved.

~~(k)~~ Restoration of the highway right of way disturbed by excavation, grading work, or other activities shall include reseeding and restoration of existing landscaping. All areas which are denuded of vegetation ~~[as a result]~~ because of construction or maintenance shall be reseeded, which is subject to inspection and acceptance by UDOT.

(3) Open Trench Construction Traversing Highways.

(a) Open trench utility installations are not permitted unless an acceptable trenchless method is unfeasible such as in unsuitable soil conditions or extremely difficult rock. UDOT may also grant a deviation from requiring trenchless construction where older pavement is severely deteriorated.

(b) Open trench construction on highway ~~[s]~~ rights of way is limited to areas where traffic impacts are minimal. Any pavement structure broken, disturbed, cut or otherwise damaged in any way shall be removed and replaced to a design equal to or greater than the surrounding undisturbed pavement structure, or as otherwise determined by UDOT.

(c) For open trench installations, the utility company is responsible for the restoration and maintenance of the pavement structure for three years as outlined in Section R930-7-6(6)(b), unless a deviation ~~from this rule as outlined in R930-7-13~~ is granted by UDOT. When the utility company or its contractor performing the Utility construction work is not equipped, ~~[to]~~ or fails to properly repair the damage to the pavement structure, UDOT will repair the damage and bill the utility company for the actual costs incurred, including any administrative costs. All pavement restoration work performed by the utility company shall be completed within 48 hours after completion of the excavation and backfill.

(d) All open trench utility installations shall conform to the applicable provisions of the current UDOT Standard Specifications for Road and Bridge Construction.

(e) It is the utility company's responsibility to restore the structural integrity of the ~~[road bed]~~roadbed, secure the utility facility against deformation and leakage, assure that the utility trench does not become a drainage channel, and that the backfilled trench doesn't impede or alter road drainage.

(f) Trenches shall be cut to have vertical faces. Maximum width shall be two feet or the outside diameter of the pipe plus one and one-half feet on each side. All trenches shall be shored where necessary and shall meet OSHA requirements.

(g) Bedding shall be provided to a depth of one-half the diameter of the pipe and shall consist of granular material, free from rocks, lumps, clods, cobbles, or frozen materials, and shall be graded to a firm surface without abrupt change in bearing value. Unstable soils and rock ledges shall be sub-excavated from beneath the bedding zone and replaced with suitable granular material.

(h) Backfill shall meet the current UDOT Standard Specification 02056 Embankment, Borrow and Backfill and 03575 Flowable Fill. Additional specifications may be required by UDOT.

(i) Pavement replacement may be performed by either the utility company or a contractor engaged by the utility company. The Region Permits Officer will determine pavement replacement requirements. The utility company is liable for three years from the date of completion of the pavement replacement for the cost of repairs if the backfill subsides or the patched pavement fails.

(j) Where a utility company fails to properly repair any damage to the pavement structure, UDOT may repair the damage and the costs, including administrative costs, will be the responsibility of the utility company.

(4) Trenchless Utility Construction.

(a) Trenchless utility installations are required for all utility crossings of highways or roadways, where practicable. This construction method is required to avoid disturbing the pavement surface, particularly where underground utilities exist on major highways, expressways, or freeways. Only UDOT approved methods may be used to install a utility facility under a highway.

(b) All trenchless pipeline installations shall extend under and across the entire roadway prism to a point five feet beyond the toes of the fore-slopes, borrow ditch bottom, or across the access controlled right of way lines, but never less than 15 feet from the edge of pavement or a ramp.

(c) Water jetting or tunneling may not be used. Water-assisted or wet boring may be permitted if the utility company can demonstrate to UDOT through the deviation process outlined in R930-7-13 that the operation will not adversely impact the roadway and sub-grade.

(d) The size of a trenchless operation shall be restricted to the minimum size necessary for the utility or pipeline installation and shall not exceed the utility facility or pipeline diameter by more than 5% unless otherwise required based on equipment and product manufacturer's specifications. Grout or flowable fill backfill shall be used for carriers or casings and for over-breaks, unused holes or abandoned carriers or casings. The composition of the grout shall be cement mortar, a slurry of fine sand or other fine granular materials.

(e) Portals including surface openings and bore pits shall be established safely beyond the highway surface and the clear zone ~~[see as]~~to avoid impairing the roadway during installation of the pipeline.

(f) Where a bulkhead seals the pipeline portal, the portal shall be suitably offset from the surfaced area of the highway. Shoring and bulkheading shall conform to applicable federal, state, and local

jurisdiction construction and safety standards. Where a bulkhead is not installed in the pipeline, the portal shall be offset no less than the vertical difference in elevation between the surfaced area of the highway and the bottom of the bore pit.

(g) The utility company shall follow manufacturer's guidelines and industry standards for equipment set-up and operation. The utility company shall assess soil conditions to determine the most appropriate installation technique. Subsurface bore paths shall be tracked and recorded by the utility company, and all failed bores shall be appropriately abandoned and backfilled by the utility company.

(h) Drilling fluids shall be prepared and used according to fluid and drilling equipment manufacturer's guidelines. The utility company shall use fluid containment pits at both bore entry and exits points~~;~~ and shall use appropriate operational controls so as to avoid heaving or loss of drilling fluids from the bore. Antifreeze additives shall be non-toxic and biodegradable products.

(i) The utility company shall dispose of drilling fluids and other materials in permitted facilities that accept the types of chemicals and wastes used in the trenchless operations.

(5) Utility Markers.

(a) The location of utility facilities within highway right of way presents certain risks to construction and maintenance activities, construction personnel, and to the facility itself when work in and around the area of the utility facility is in progress. To minimize risk and maximize safety, it is the utility company's responsibility to provide identification markers and tracer wire ~~[or detectable warning tape]~~for all buried facilities located within the highway right of way.

(b) A trace wire, metallic tape, or other accepted industry material approved by UDOT for locating utilities with geophysical equipment shall be properly installed with all non-metallic underground ~~[lines]~~utility facilities.

(c) The utility company shall place permanent markers identifying the location of underground utility facilities, whether they are crossing the highway right of way or installed longitudinally along the highway right of way. Markers shall not interfere with highway safety and maintenance operations. Preferably, markers ~~shall be~~~~[are to be]~~ located at the right of way line if that location will provide adequate warning. The telephone number for one-call notification services to request marking the line location prior to excavation, and for emergency response, shall appear on the marker.

(d) The utility company shall maintain its markers in good condition. Color faded markers shall be replaced as necessary so that their visibility to maintenance crews and others is not impaired.

(6) GPS Requirements.

(a) It is the responsibility of the utility company to produce and maintain a set of certified reproducible plans and an electronic file showing the location of all its utility facilities within the highway right of way including overhead facilities and crossing points. The utility company is responsible to maintain an accurate file to be used by UDOT for future planning to avoid utility conflicts. These plans shall also include appropriate vertical and horizontal ties to the highway survey control.

(b) For new and relocated facility installations, the utility company shall use a survey grade Global Positioning System (GPS) to survey their facility locations and submit an electronic file to UDOT. Specific requirements for survey data will be determined by UDOT. The location survey points shall include major junction points, manholes, valves, changes in line or grade, and any other significant

feature that will facilitate installation approval and future planning activities.

(c) If the utility company fails to provide UDOT with a set of plans and files showing the surveyed utility locations upon request then the utility company is required to secure the actual locations of their facilities at no cost to UDOT. If the utility company fails to provide the utility location information requested within ten days, UDOT may hire a Subsurface Utility Engineering (SUE) consultant to locate the utilities at the utility company's expense.

R930-7-12. Maintenance Responsibility.

The utility company is responsible for ~~[maintenance]~~ maintaining its facilities and liability for all harm that that may arise that is related to or as a result of its utility facilities and appurtenances, whether operational, out of service, or abandoned, on or in UDOT right of way or ~~[on] UDOT property, [including facilities installed without a Statewide Utility License Agreement or permit, whether operational, out of service, or abandoned.]~~ Other than highway appurtenances, UDOT is not responsible to maintain any facility within the highway right of way or UDOT property.

R930-7-13. Deviations.

(1) Deviations from provisions of this rule may be allowed if they do not violate state and federal statutes, law, or regulations and UDOT has determined the use of the right of way will be for the public good without compromising the transportation purposes of the right of way.

(2) Requests for deviations with limited impact may be considered by UDOT on an individual basis, upon justification submitted by the utility company. UDOT will not consider cost to the utility company as the primary deciding factor in granting a deviation.

(3) Requests for significant deviations must demonstrate extreme hardship and unusual conditions and provide justification for the deviation. Requests must demonstrate that alternative measures can be specified and implemented and still fulfill the intent of state and federal statute and regulations. Requests for these deviations must include the following:

(a) formal request by the utility company; and
(b) an evaluation of the direct and indirect design, safety, environmental, and economic impacts associated with granting a deviation.

(4) In order for UDOT to grant a significant deviation the following approvals are necessary:

(a) formal recommendation for approval by the UDOT Region Preconstruction Engineer and Permits Officer or the officer's supervisor, as applicable;

(b) formal recommendation for approval from the UDOT Region Director or designee;

(c) concurrence of the UDOT Statewide Railroad and Utilities Director [Engineer]; and

(d) FHWA concurrence if the deviation applies to a utility facility located within a Federal-aid highway right of way.

(5) For UDOT projects that are solely state funded, UDOT may deviate from the utility relocation regulations contained in the Code of Federal Regulations by reimbursing a utility company for replacement of existing buildings with functionally equivalent buildings, if the following requirements are met:

(a) the utility company owns the property in fee that UDOT needs to acquire for its project;

(b) the utility company owns operational facilities located upon, below or above the property;

(c) the utility company owns a building on the property that provides maintenance services for the utility facility;

(d) a property purchase in accordance with 49 CFR 24 will not adequately compensate the utility company's costs to relocate and functionally re-establish the maintenance facility; and

(e) the deviation promotes the public interest.

R930-7-14. Enforcement.

(1) This rule is subject to enforcement pursuant to and as provided for in Utah Code, and in Utah Administrative Code, or federal regulations and may include, but not be limited to the following:

(a) administrative citations, in letter form, citing non-compliance items and proper redress requirements, including notice that UDOT may take whatever action is necessary to rectify the situation and subsequently submit a claim against the appropriate bond to recover from the utility company actual costs incurred by UDOT;

(b) increased bonding levels to recoup potential restoration costs on current or future utility projects;

(c) denial of future permits until past non-compliance is resolved;

(d) termination of the License Agreement; and

(e) legal action to secure reimbursement from the utility company for costs incurred by UDOT due to damages to the right of way or noncompliance with the permit, rule or License Agreement.

KEY: ~~[right-of-way]~~ right of way, utilities, utility accommodation
Date of Enactment or Last Substantive Amendment: ~~[October 24, 2016]~~ 2019

Notice of Continuation: September 12, 2017

Authorizing, and Implemented or Interpreted Law: 72-6-116(2)

Transportation, Preconstruction **R930-8** Utility Relocations Required by Highway Projects

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 43745

FILED: 05/30/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Department of Transportation (Department) is proposing this amendment to accommodate changes made by H.B. 358 passed during the 2019 General Session.

SUMMARY OF THE RULE OR CHANGE: These proposed rule changes: 1) delete the definition of "utility facility" in the existing rule; 2) change the requirement that reimbursement for relocation costs be determined by 23 CFR Section 645 sub-part A to 23 CFR Section 645, 103, 107, 109, 111, 113,

115, and 117; and 3) make other technical or grammatical changes.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 54-3-29(5)(b) and Subsection 54-3-29(6) and Subsection 54-3-29(7) and Subsection 72-6-116(2) and Subsection 72-6-116(6)

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: The Department does not anticipate that these proposed rule changes will cause a fiscal impact to the state's budget. The Department proposes these rule changes so that this rule does not conflict with the amended Section 72-6-116.

◆ LOCAL GOVERNMENTS: The Department does not anticipate that these proposed rule changes will cause a fiscal impact to local governments. The Department proposes these rule changes so that this rule does not conflict with the amended Section 72-6-116.

◆ SMALL BUSINESSES: The Department does not anticipate that these proposed rule changes will cause a fiscal impact to businesses, small or non-small. The Department proposes these rule changes so that this rule does not conflict with the amended Section 72-6-116.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The Department does not anticipate that these proposed rule changes will cause a fiscal impact to persons other than small businesses, businesses, or local government entities. The Department proposes these rule changes so that this rule does not conflict with the amended Section 72-6-116.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Department does not anticipate that these proposed rule changes will lead to compliance costs for any person. The Department proposes these rule changes so that this rule does not conflict with the amended Section 72-6-116.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These proposed changes should not have a fiscal impact on businesses.

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

TRANSPORTATION
 PRECONSTRUCTION
 CALVIN L RAMPTON COMPLEX
 4501 S 2700 W
 SALT LAKE CITY, UT 84119-5998
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at cnewman@utah.gov
- ◆ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at jimpalmer@utah.gov
- ◆ Josh Dangel by phone at 269-217-7091, or by Internet E-mail at jdangel@utah.gov

◆ Linda Hull by phone at 801-965-4253, or by Internet E-mail at lhull@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 07/15/2019

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2019

AUTHORIZED BY: Carlos Braceras, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
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	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

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

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

- 1) The Department estimates that the utilities and telecommunications

industries in Utah are the only businesses that may experience a material fiscal impact resulting from enactment of this proposed amendment. This fiscal impact may be positive or negative, depending upon the specific facility or right of way impacted and how we define fiscal impact.

A) The utilities industry is comprised of establishments involved in:

i) Electric power generation, transmission, and distribution, NAICS of 221112 for generation, and 221122 for distribution;

ii) Natural gas distribution, NAICS of 221210; and

iii) Water distribution and irrigation systems, NAICS 221310, Sewer systems, NAICS 221320.

b) The telecommunications industry is comprised of establishments involved in:

i) Wired Telecommunications Carriers NAICS of 517311; and

ii) Wireless Telecommunications Carriers (except Satellite), NAICS of 517312.

2) The Department of Workforce Services (DWS) Firm Find Data includes information about firms within the seven industries identified by the NAICS industry code, which data on numbers of employees by firm follows:

a) Electric power generation, transmission, and distribution, NAICS of 221112 for generation, lists 16 firms total, 11 are small businesses; and 221122 for distribution; lists 57 firms total, 52 are small businesses;

b) Natural gas distribution, NAICS of 221210, lists 46 firms total, 40 are small businesses;

c) Pipeline Transportation of Crude Oil, NAICS of 486110, lists five firms, all of which are small businesses by definition;

d) Water distribution and irrigation systems, NAICS 221310, lists 182 firms total, 177 are small businesses;

e) Sewer systems, NAICS 221320, lists 48 firms total, 46 are small businesses;

f) Wired Telecommunications Carriers NAICS of 517311, lists 150 firms total, 135 are small businesses; and

g) Wireless Telecommunications Carriers (except Satellite), NAICS of 517312, lists 56 firms, 55 are small businesses.

3) Of these 560 firms in the eight possibly affected industries, 39 are non-small businesses and 521 are small businesses, as defined by Section 636-3-102(19). For a complete list of these firms, contact the Department.

4) The Department is proposing this amendment to accommodate changes made by H.B. 358 passed in the 2019 General Session. Passage of H.B. 358 (2019) amended the definition of "utility" in Subsection 72-6-116(1)(b) to include "crude oil, petroleum" for the first time. H.B. 358 also adds a subsection to Subsection 72-6-116(3) that effectively requires the Department to pay 50% of the cost to of relocate a utility to accommodate construction of a state highway project.

5) The Department does not anticipate this proposed rule change will cause a fiscal impact to the state's budget. The Department proposed this rule change so that the rule does not conflict with the amended Section 72-6-116.

6) The Department does not anticipate this proposed rule change will cause a fiscal impact to the budgets of businesses, small or non-small. The Department proposed this rule change so that the rule does not conflict with the amended Section 72-6-116.

7) The Department does not anticipate this proposed rule change will cause a fiscal impact to the budgets of local governments. The Department

proposed this rule change so that the rule does not conflict with the amended Section 72-6-116.

8) The Department believes this proposed amendment should not lead to compliance costs for persons other than businesses and local governments. The Department proposed this rule change so that the rule does not conflict with the amended Section 72-6-116.

9) Carlos Braceras, executive director of the Department has reviewed and approved this fiscal analysis.

R930. Transportation, Preconstruction.

R930-8. Utility Relocations Required by Highway Projects.

R930-8-1. Purpose.

This Rule sets forth the Department's requirements and authority as to a Utility Company's coordination and cooperation when removal, relocation, or alteration of a [U]utility [F]facility is made necessary by a highway project and sets forth the options the Department may pursue to proceed with a highway project in the event that a [U]utility [C]company fails to cooperate or coordinate with the Department as required by statute or rule.

R930-8-2. Authority.

This Rule is enacted pursuant to Utah Code Sections 54-3-29(5)(b), (6), and (7), and 72-6-116(2) and (6).

R930-8-3. Definitions.

As used in this Rule R930-8:

(1) "Department" means the Utah Department of Transportation.

(2) "Non-operating Property" and "Non-operating Real Property" refer to property owned by a Utility Company that is not directly part of the Utility Company's physical plant or facilities that provide the utility service.

(3) "Utility Company" and "Utility" shall have the same definition as in Utah Code Section 72-6-116(b) and (c) and may be used interchangeably.

~~(4) "Utility Facility" shall have the same definition as in Utah Code Section 54-3-29(1)(g).~~

R930-8-4. Utility Company Coordination and Cooperation.

When the Department notifies a Utility that relocation of a [U]utility [F]facility may be necessary due to a highway project, both the Department and the Utility shall use their best efforts to identify conflicts, minimize utility relocation costs and operational impacts, highway project costs and delays, and to coordinate and cooperate with one another, as directed in Utah Code Sections 54-3-29(6)-(7) and 72-6-116(6). When the Department believes a conflict exists, it will offer an initial scoping meeting and provide authorization for the Utility to do preliminary design work. The Utility shall:

(1) Provide to the Department, the location of each [U]utility [F]facility likely to be affected following the process set forth in [R]rule R930-7-11(6).

(2) Identify to the Department conflicts between the Department's proposed highway work and the Utility's operation of its [U]utility [F]facilities.

(3) Submit to the Department all conveyances, vesting documents, or other evidence of title to real property related to the potential relocation of [U]utility [F]facilities as early as practicable.

(4) Submit to the Department the Utility's proposed design for relocation; detailed cost estimates; a reasonable relocation schedule

to accommodate the highway project; reasonable limits on highway project work, including utility outage windows and construction loadings by the Department; and communication procedures between the parties. A reasonable relocation schedule for the project includes, but is not limited to, work sequencing, task durations, material ordering, notification requirements, mobilization, third-party coordination, communication between the parties, and any other activity necessary for the relocation of the [U]utility [F]facility to accommodate the highway project. If the relocation work is to be completed prior to the Department awarding the highway project to its contractor, the Utility shall include specific dates in the schedule.

(5) Execute a written relocation agreement with the Department. The agreement shall include terms and conditions, including but not limited to, the relocation scope of work, reimbursement provisions, federal requirements, description and location of the work to be undertaken, plans and drawings, and detailed cost estimates.

(6) After the Department has awarded the highway project to [the]a contractor, coordinate with the contractor to develop a detailed work plan and schedule and address all other matters of mutual concern during construction. Submit to the Department written acknowledgement of the approved schedule.

(7) Perform the work necessary for removal, relocation, or alteration of the [U]utility [F]facility in accordance with the detailed work plan and schedule developed in (4) and (6) above, and as described in the relocation agreement and supplemental agreements.

R930-8-5. Timeliness.

The work listed in Subsections R930-8-4(1) through (7) must be timely completed by the Utility as not to delay the highway project or otherwise increase costs to the project. The Department will provide reasonable deadlines for the Utility, so the Utility can meet the deadlines and not unnecessarily delay the highway project. The Department will also provide the Utility with reasonable updates of highway project schedule changes.

R930-8-6. Relocation.

The basic concept when relocating [U]utility [F]facilities is to functionally restore the Utility's operation facilities that existed prior to the Department constructing a highway project.

(1) The Department incorporates by reference 23 CFR Section 645, subpart A (05/15/1985), for all [U]utility [F]facility relocations required by the Department's highway projects. For deviations in determining whether the Utility's real property needed for the highway project should be handled as a utility relocation or right-of-way acquisition, [R]rule R930-7-13(5) shall apply.

(2) If the Utility's regulatory and construction requirements can be met, the Department may require [U]utility [E]companies to jointly occupy trenches for the highway construction projects. To the extent Utilities have valid agreements concerning the joint use of above ground facilities, the Utilities shall cooperate with each other for the relocated joint use.

(3) If a Utility determines the existing [U]utility [F]facilities do not need to be replaced or are not needed to maintain its operational facilities, payment for the real property, which is needed to accommodate the construction of the highway project where the [U]utility [F]facilities are located, shall be handled as a right-of-way acquisition.

R930-8-7. Replacement of Property Rights.

(1) When the Department replaces a Utility's fee interest or easement, the Utility shall transfer title to the prior fee or easement to the Department without charge.

(2) If the Utility has facilities within a fee or easement and the facilities are relocated within the Department's right-of-way, the Utility shall transfer title to the fee or easement without charge to the Department and the Department shall reimburse the Utility 100% of the future utility relocation costs in compliance with 23 CFR Section 645, subpart A.

(3) When the Utility's [U]utility [F]facilities are located in a public utility easement as defined in Utah Code Section 54-3-27, the Department may purchase a replacement public utility easement and may require the Utility to relocate its facilities to the replacement public utility easement.

(4) The Utility shall pay UDOT for any betterment between the existing real property interest and the real property interest acquired for relocation.

(5) If the Department obtains a court ordered occupancy or right-of-entry from a property owner, the Utility shall relocate its facilities onto the replacement property rights while the Department obtains the final order or deeds from the property owner.

(6) Acquisition of Non-[O]perating Real Property from a Utility shall be in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and applicable right-of-way procedures in 23 CFR Section 710.203.

R930-8-8. Reimbursement of Relocation Costs.

(1) Reimbursement for relocation costs shall be determined in accordance with 23 CFR Section 645, 103, 107, 109, 111, 113, 115, 117~~[-subpart A]~~, and the Program Guide, Utility Relocation and Accommodation on Federal-Aid Highway Projects, Sixth Edition, January 2003, as amended, Cost Development and Reimbursement, pages B-21 to B-23.

(2) If a Utility cannot provide a copy of a permit that shows the Department's acceptance of the deviation from the rule in effect at the time of installation of the [U]utility [F]facilities and the [U]utility [F]facilities do not meet the overhead and depth of bury clearance requirements, the Utility must relocate its facilities without any reimbursement from the Department. The Utility shall be responsible for 100% of its relocation costs for non-compliant utility facilities.

(3) When reimbursement is made on the basis of actual costs, the Utility's estimate and final billing shall be itemized to show the totals for labor, overhead construction costs, travel expenses, transportation, equipment, materials and supplies, handling costs, and other services.

(4) The Utility's final billing statement shall be provided in a format that facilitates making comparisons with the Department's approved estimates.

(5) A Utility must submit final billings to the Department within six months following the completion of the [U]utility [F]facility relocation work. The Department may make a final payment when the final bill is received from a Utility more than six months after the completion of the [U]utility [F]facility relocation work if the Department and the Utility have agreed in advance that a longer time period is needed.

(6) The costs incurred by the Department and a Utility for compliance with federal and state statutes, rules, and regulations will be included as part of the utility relocation costs.

(7) Temporary [U]utility [F]facility relocations required by the highway project will be included as part of the utility relocation costs.

(8) Telecommunication utility companies granted longitudinal interstate access are required to pay all relocation costs pursuant to Utah Code Section 72-7-108.

R930-8-9. Betterments.

No betterment credit is required for the replacement of utility devices or materials that are:

- (1) Required by the highway project;
- (2) Of equivalent standards although not identical;
- (3) Of the next highest grade or size when the existing devices or materials are no longer regularly manufactured;
- (4) Required by law pursuant to governmental and appropriate regulatory commission code; or
- (5) Required by current design practices regularly followed by the Utility in its own work, and there is a resulting direct benefit to the highway project.

R930-8-10. Issuance of Administrative Order; Enforcement.

(1) In the event that a Utility fails to timely coordinate and cooperate with the Department at any point in the utility relocation process, the Department may issue an administrative order pursuant to Utah Code Section 72-6-116(2)(b) to the Utility to accommodate the highway project. The administrative order shall be issued by the Department's Statewide Railroad and Utilities Director and will include a reasonable timeframe for Utility Company actions to be complete the relocation of the [U]utility [F]facilities, including any design.

(2) If the Utility fails to comply with the Department's administrative order, and the failure to comply is not caused by a third party who the Utility has no control over, the Department may issue an administrative order to remedy non-compliance. The Department may order any or all the following remedies:

(a) The Department may recover from the Utility increased costs caused by the Utility's unreasonable or unjustified delays. Such actual and indirect costs may include, but are not limited to, increased costs on the current highway project or related projects, added expenses from loss of a construction season, and loss of project funding.

(b) The Department may deny further permits for utility installation under R930-7 until the Utility's non-compliance is resolved.

(c) The Department may perform design work and construction work on behalf of the Utility for those [U]utility [F]facilities located within the highway right-of-way, except for fiber for telecommunications, electricity, and natural gas. The Department will only perform such work if the work can be performed without violating any state or federal statute, regulation, or safety requirement. The Utility shall reimburse the Department for the costs the Department incurs to relocate the Utility's facilities, in amounts allowed by Utah Code Section 72-6-116(3).

(3) In addition, the Department may pursue additional remedies or claims against a Utility in a district court in Utah.

(4) The Department shall not limit or waive any of its remedies or claims allowed in this rule or law.

(5) The Department may require a Utility to comply with a practicable shortened process or expedited schedule when an

emergency exists that could affect public safety or the structural or functional integrity of the highway.

R930-8-11. Agency review.

A Utility aggrieved by an administrative order issued under Rule R930-8-10 and Utah Code Section 72-6-116(2)(b) may file a written request for agency review with the Department pursuant to the Administrative Procedures Act, Utah Code Title 63G, Chapter 4, and Rule R907-1. The presiding officer for the agency review will be the Department's Director of Operations, who will issue the Department's Final Order. The administrative proceedings shall be informal.

KEY: right-of-way, utility accommodation, utility facilities, utilities

Date of Enactment or Last Substantive Amendment: [September 28, 2018] 2019

Authorizing, and Implemented or Interpreted Law: 54-3-29(5)(b); 54-3-29(6); 54-3-29(7); 72-6-116(2); 72-6-116(6)

Workforce Services, Housing and
Community Development
R990-200
Private Activity Bonds

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 43746

FILED: 05/30/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This proposed rule outlines the criteria by which an applicant's request for bonding authority will be reviewed and private activity bond (PAB) volume cap is allocated or extended, and when allocation and bond authority may be revoked.

SUMMARY OF THE RULE OR CHANGE: This proposed rule provides definitions in addition to those provided for in statute. This rule outlines the application process, applicant qualification, and the criteria utilized by the PAB Review Board (Board) to determine the allocation of the federally-provided volume cap amount for each type of applicant. This rule also outlines the process for requesting extension of bond allocation or a Carryforward Certificate. This rule also describes the circumstances under which the Board may revoke allocation.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 35A-8-2104

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This proposed rule is not expected to have any fiscal impact on state government revenues or expenditures because the program is a self-funded program

through fees. This rule does not alter the amount of fees received by the program and therefore, there is no new cost or savings to the state.

◆ **LOCAL GOVERNMENTS:** This proposed rule is not expected to have any fiscal impact on local governments' revenues or expenditures because the program does not deal directly with or impact local governments. A small positive impact could be realized in increased local tax revenue provided by the applicants when utilizing bonds to create or grow their housing or manufacturing project in any given local municipality.

◆ **SMALL BUSINESSES:** This proposed rule is expected to have indirect positive fiscal impact on small businesses' revenues or expenditures because it provides a more transparent process for an applicant ascertaining the viability of their application. Otherwise, there is no impact to small businesses because this rule does not address any general business practices outside of offering a different financing mechanism.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Other persons impacted will most likely be housing developers. This proposed rule is expected to have indirect positive fiscal impacts on other persons' revenues or expenditures because it provides a more transparent process for an applicant ascertaining the viability of their application. Otherwise, there is no impact to such persons because this rule does not address any general business practices outside of offering a different financing mechanism.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This proposed rule requires the submission of fees with applications and extension requests, as well as a certificate fee upon award of PAB allocation. The Board is required to charge reasonable fees pursuant to Subsection 35A-8-2104(8). The proposed rule does not establish the amount of the fees. Currently, there is a \$1,500 to \$3,000 first-time application fee for all those who apply for a PAB allocation. The fee is dependent on the amount of allocation sought. There is currently a \$750 to \$1,500 resubmission fee for projects that were previously submitted, approved, and which received an allocation of volume cap, but were not able to issue the bonds. There is currently a \$300 per million dollars of volume cap received confirmation fee for applications approved by the PAB Board. There is currently a \$0 to \$4,000 extension fee, dependent on the number of extensions requested by the applicant.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The potential fiscal impact to businesses as a result of this rule is positive in regards to the potential financing that some businesses can qualify to receive.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 WORKFORCE SERVICES
 HOUSING AND COMMUNITY DEVELOPMENT
 140 E BROADWAY

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 07/15/2019

THIS RULE MAY BECOME EFFECTIVE ON: 07/22/2019

AUTHORIZED BY: Jon Pierpont, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local

Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

The impacts to small businesses were characterized above and the impacts to non-small businesses are described here. This proposed rule is expected to have indirect positive fiscal impacts on non-small businesses' revenues or expenditures because it provides a more transparent process for an applicant ascertaining the viability of their application. Otherwise, there is no impact to non-small businesses because this rule does not address any general business practices outside of offering a different financing mechanism.

The executive director of the Department of Workforce Services, Jon Pierpont, has reviewed and approved this fiscal analysis.

R990. Workforce Services, Housing and Community Development.

R990-200. Private Activity Bonds.

R990-200-1. Purpose.

The purpose of this rule is to establish criteria for allocating private activity bond volume cap to a qualified applicant, whether an allocation of private activity bond volume cap may be extended, and related matters.

R990-200-2. Authority.

Section 35A-8-2104 requires the Private Activity Bond Review Board (Board of Review) to make rules for the allocation of volume cap for private activity bonds.

R990-200-3. Definitions.

Terms used in these rules are defined in Section 35A-8-2102. Terms not defined in that Section or in these rules shall be defined as used and characterized in the Private Activity Bonds Application, Scoring Criteria and other Board of Review authorized documents. In addition:

(1) "Affordable" means at least 20% of the residential units in the project are set aside for families whose incomes do not exceed 50% of Area Median Income (AMI), adjusted for family size; or at least 40% of the residential units in the project are set aside for families whose incomes do not exceed 60% of AMI, adjusted for family size.

(2) "Applicant" means a borrower or issuing authority submitting an application for an allocation of volume cap or a project sponsor submitting an application on behalf of an issuing authority for an allocation of volume cap.

(3) "Available Volume Cap" means the unencumbered volume cap.

(4) "Application" means:

(a) the electronic state of Utah Federal Low-Income Housing Credit Consolidated Application for multi-family applicants;

(b) the Private Activity Bond Authority Manufacturing Facility Application for the manufacturing, redevelopment or exempt facility applicants; or

(c) the Private Activity Bond Authority Application for Single Family or Student Loan applicants.

(5) "Closed" or "close" means the time at which bonds are exchanged for funds.

(6) "Good standing" means the applicant or recipient has, for the immediately preceding five years:

(a) timely remitted any required fees and payments due,

(b) timely submitted any required reports,

(c) has not failed to close, and

(d) has not misrepresented an application or a previous or current project to the Board of Review.

(e) In addition, for multi-family projects, the applicant or recipient, for the immediately preceding five years:

(i) has not exceeded rent or income limits,

(ii) has not converted any affordable unit into a market rate unit, and

(iii) has rented designated affordable units only to qualified Low and Moderate Income tenants.

(7) "Project" means the applicant's plan for which the private activity bonds are being sought.

(8) "Recipient" means a borrower or issuing authority that has been awarded an allocation of volume cap.

(9) "Low and Moderate Income" means a household whose income upon initial occupancy does not exceed 140% of AMI adjusted for family size.

(10) "Market Rate" means housing units that are not affordable.

R990-200-4. Applicant Qualifications.

(1) An application will be presented to the Board of Review only if each project applicant, owner, developer, and manager:

(a) is in good standing;

(b) has not been disbarred by any state or federal agency within the previous ten years;

(c) has not been in bankruptcy within the previous ten years;

(d) has not been in default or breach of any mortgage or project-related contract within the previous five years; and

(e) is not subject to a pending fair housing or civil rights investigation or, within the previous ten years, a negative fair housing or civil rights determination.

(2) An application shall include documentation executed by each applicant, owner, developer, and manager certifying that each signatory meets each requirement identified in R990-200-4(1).

(a) An application shall include documentation supporting and verifying the accuracy of each certification.

(3) Each applicant shall provide any necessary and required materials and supporting documents not less than 30 nor greater than 120 calendar days before the Board of Review meeting when the application will be considered.

(4) Application forms and materials are available on the Department of Workforce Services Housing and Community Development website.

(5) An application will not be considered until any necessary and required materials are provided and complete.

(6) An incomplete application will be returned to the applicant without further action.

(7) No new, additional, or replacement documentation will be accepted after the application submission deadline specified in R990-200-4(3).

R990-200-5. Criteria for Allocating Volume Cap.

(1) Private activity bond volume cap allocations are made each calendar year based upon available volume cap.

(a) The decision whether to allocate volume cap to an applicant shall be determined by the Board of Review, in its sole discretion.

(b) Allocations are not made on a first-come-first-served basis.

(c) Each complete application submitted before the deadline will be evaluated and scored in comparison with other applications for the same type of project use. The weight each evaluation criteria is given is as identified on the score sheet approved by the Board of Review.

(d) The Private Activity Bond program staff and consultants under contract with the Board of Review will evaluate and score each application. In the event demand for funding exceeds the available volume cap, applications will be numerically ranked for the purpose of allocation.

(e) When considering multiple applications at a meeting, the Board of Review may choose to award each applicant an equal share, pro rata share, priority for multi-family housing or other classification, or other division of available volume cap.

(2) When deciding to allocate volume cap to an applicant, the Board of Review shall consider the criteria outlined in Section 35A-8-2105 and the following additional criteria:

(a) timely submission of completed application;

(b) timely payment of applicable fees;

(c) applicant's experience in successfully completing projects utilizing private activity bonds;

(d) project financing, including executed letters of intent for debt and equity funding;

(e) project readiness, including required public entity approvals, site ownership, and architect and construction contracts;

(f) timely response to any questions raised by the Board of Review and Private Activity Bond program staff;

(g) status of project's financing at time of application;

(h) appointment of bond counsel;

(i) letter from bond counsel opining the project qualifies for private activity bonds;

(j) appointment of investment banker or, if private placement, buyer of the bonds;

(k) detailed commitment letters from financial entities involved;

(l) ability to cause bonds to be issued within 12 months of allocation;

(m) past history of forfeited allocation commitments;

(n) length of tax-exempt bond amortization; and

(o) other factors considered appropriate by the Board of Review.

(3) Multi-Family Housing applicants must meet the criteria of the Low-Income Housing Tax Credit Program administered by the Utah Housing Corporation. In addition to the criteria in R990-200-5(2), the Board of Review shall consider the following criteria when deciding to allocate volume cap to Multi-Family Housing applicants:

(a) bond amount per unit;

(b) bond amount per affordable unit;

(c) the percentage, in relation to the group of applications currently being evaluated, of the private activity bond allocation being requested;

(d) percentage of public financing, including the value of grants, loans, fee waivers, and concessions, but excluding housing tax credits;

(e) total cost per unit and per unit square footage;

(f) percentage of developer fee contributed to project;

(g) percentage of affordable units;

(h) percentage of special needs units;

(i) cash flow per unit;

(j) percentage of taxable bonds;

(k) location, with preference for projects located in:

(i) underserved areas,

(ii) communities without the same type of projects, and

(iii) difficult to develop areas as defined by HUD;

(l) project characteristics, including:

(i) day care,

(ii) education center,

(iii) mixed income projects, with both affordable and market rate units, and

(iv) size of proposed project;

(m) mitigation of environmental issues, including installing radon gas extraction fans or removing the source of radon; and

(n) acquisition, rehabilitation, and remediation of buildings with Utah or federal historic designation, including removal of hazards and including appraisals and a relocation plan for current residents.

(4) In addition to the criteria in R990-200-5(2), the Board of Review shall consider the following criteria when deciding to allocate volume cap to Manufacturing Facility, Redevelopment and Exempt Facilities applicants:

(a) new full-time-equivalent job creation, including a list of new positions and wages, and excluding construction and other temporary jobs;

(b) retention of jobs;

(c) training and education of employees;

(d) bond amount to permanent full-time-equivalent jobs ratio;

(e) permanent full-time-equivalent jobs created or retained that provide above average wages when compared to other applicants' average wages and the community average wage;

(f) demonstrated need for tax-exempt financing, including:

(i) projected cash flow for the first three years of operation, including supporting documentation, and

(ii) explanation for selecting variable or fixed rates;

(g) community support, including:

(i) financial support,

(ii) zoning approval,

(iii) tax increment financing, and

(iv) deferral of fees;

(h) competitive costs for construction and equipment related expenses; and

(i) ready-to-go status, including:

(i) manufacturing facility zoned for use,

(ii) proximity of infrastructure to site,

(iii) need for special infrastructure,

(iv) environmental study, if required by lender.

- (v) current title report and site plan of project, and
- (vi) building description.

(5) Prior to considering an application, a Board of Review member shall disclose the substance of any communication the member has had outside of a public meeting with an applicant or other interested party regarding the project.

(6) The allocation certificate issued for Multi-Family Housing volume cap shall restrict the occupancy of market rate rental units to families whose incomes do not exceed 150% of Area Median Income (AMI), adjusted for family size, for at least 51 years from the date on which at least 50% of the residential units in the project are first occupied.

(a) Recipients and owners shall comply with any terms of the Certificate of Allocation, including any Additional Conditions approved by the Board of Review.

(b) Recipients and owners shall submit documentation to Private Activity Bond program staff within 15 days after the issuance of bonds, and at other times upon request, to verify compliance with the terms of the Certificate of Allocation.

(7) A recipient may not be awarded additional volume cap for a previously funded project. A recipient may relinquish allocated volume cap and submit a new application for the total amount requested.

R990-200-6. Fees.

(1) An application fee shall be submitted together with the application.

(2) An extension fee shall be submitted together with the extension request.

(3) A certificate fee shall be submitted upon award of allocation and before issuance of a certificate.

(4) An application, extension request, or other action may not be processed or added to the Board of Review agenda until required fees are paid.

- (5) Fees are non-refundable.

R990-200-7. Extensions.

(1) A recipient that has not closed its volume cap allocation within 95 calendar days of the date of Board of Review approval may request an extension from the Board of Review.

(a) Manufacturing projects, qualified redevelopment projects, and exempt facility projects are not eligible to carry forward their volume cap allocation beyond the end of the calendar year in which they received the allocation. The bonds must close by the third Saturday in December in the same year the recipient received the allocation. Any volume cap not issued by this date is automatically relinquished back to the Board of Review.

(b) The Board of Review makes no representation as to whether an issuer will allow the allocation to be transferred to another project if the previously approved transaction fails.

(2) A recipient requesting an extension of a previously approved and current volume cap allocation shall submit a completed extension form to the Private Activity Bond program staff no later than 21 calendar days before the Board of Review meeting.

(3) An extension request will not be presented to the Board of Review if the request for an extension is received more than 20 months after the initial allocation.

(4) An extension request will not be presented to the Board of Review unless the recipient's account is in good standing.

(5) An extension request for a second or more extension will be evaluated, scored, and considered by the Board of Review, subject to the provisions of R990-200-7(8).

(6) An extension approval may not exceed ninety-five (95) calendar days or until the date of the next Board of Review meeting, whichever is sooner.

(7) A recipient requesting a second or more extension shall submit a completed extension request status report and extension fee, no later than 21 calendar days before the Board of Review meeting, on the form provided on the website of the Board of Review, together with each request.

(a) Private Activity Bond program staff shall perform a comprehensive progress review before the Board of Review meeting where an extension will be considered, and shall prepare a recommendation.

(b) The applicant may be required to reapply after the third extension review if there is no substantial evidence of being able to close the bonds.

(8) A recipient may not receive more than five extensions. A request for a sixth or more extension will not be presented to the Board of Review, and the previously allocated volume cap shall be revoked.

(9) A recipient requesting an extension shall attend the Board of Review meeting, prepared to update the Board of Review on the progress of the development and answer any questions

(10) A City or County issuer may submit a request for a Carryforward Certificate no later than 21 calendar days before the December Board of Review meeting.

(11) A City or County issued a Carryforward Certificate shall comply with the extension request requirements for each three month period after an allocation has been made to a project, including but not limited to:

(a) attendance at each Board of Review meeting, prepared to update the Board of Review on the progress of the development and answer any questions, and

(b) submission of a complete comprehensive progress report.

(12) Allocations to the Utah Housing Corporation, a municipality, a county, or a public university may be extended for no more than three years.

(a) Allocations that are not issued in the same calendar year may be carried forward but may not be extended.

(13) The Board of Review reserves the right to approve or reject an extension or Carryforward certificate in accordance with the criteria established by this Rule.

(14) In the event an extension or Carryforward Certificate request is untimely, denied by the Board of Review in its sole discretion, or otherwise not presented to the Board of Review in accordance with these Rules, the allocation shall be revoked.

R990-200-8. Revocation of Private Activity Bond Allocation.

(1) The Board of Review reserves the right to revoke a recipient's allocation and authority to issue the bonds if there is credible information that a material misrepresentation was presented to the Board of Review or any of its members.

(2) The Board of Review reserves the right to revoke a recipient's allocation if:

(a) the project's affordable units are reduced by 10% or more;

(b) the project's total number of units are reduced by 15% or more;

(c) the site location of the project is changed;

(d) total costs per unit are increased by 15% or more;

(e) total project costs are increased by 20% or more; or

(f) the Board of Review determines there is no substantial evidence the recipient will be able to close the bonds.

(3) A recipient in good standing may submit a new application with updated information for a volume cap allocation.

KEY: allocation, private activity bond, volume cap

Date of Enactment or Last Substantive Amendment: 2019

Authorizing, Implemented, or Interpreted Law: 35A-8-2104

End of the Notices of Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at <https://rules.utah.gov/>. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

REVIEWS are governed by Section 63G-3-305.

Administrative Services, Administration **R13-2** Management of Records and Access to Records

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 43744
FILED: 05/29/2019

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 63A-12-104(2) permits the Department of Administrative Services (Department) to make a rule that specifies at what level the requirements of Title 63A, Chapter 12, will be undertaken. Subsection 63G-2-204(2)(d) permits the Department to make a rule to indicate where and to whom requests for access to records shall be directed. Finally, Subsection 63A-12-104(1) allows the executive director of the Department, with the recommendation of the state archivist, to implement provisions of Title 63G, Chapter 2, Government Records Access and Management Act (GRAMA), dealing with procedures for access to records.

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 supporting or opposing this rule. One comment was received on 02/22/2019, notifying the Department that a provision of this rule, related to the place where GRAMA appeals are directed, required updating.

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 makes the Department's processes associated with management of, and access to, records more transparent. It is in the best interest of the public to inform them in advance where to direct requests for records, and at what level the Department manages its records. This rule also provides for access to permanent and historical records in custody of the Division of Archives and Records Service. Therefore, this rule should be continued. The Department intends to file an amendment within the coming months.

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

ADMINISTRATIVE SERVICES
ADMINISTRATION
ROOM 3120 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:

◆ Kenneth Hansen by phone at 801-538-3010, or by Internet E-mail at khansen@utah.gov

AUTHORIZED BY: Tani Downing, Executive Director

EFFECTIVE: 05/29/2019

Education, Administration **R277-462** Comprehensive Counseling and Guidance Program

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 43739
FILED: 05/23/2019

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 authorized by Utah Constitution Article X, Section 3, which vests general control and authority over public education in the Utah State Board of Education (Board), by Subsection 53E-2-304(2)(b) which directs local boards to develop policies for the implementation of a Student Education Occupational Plan (SEOP)/Plan for College and Career Readiness, and by Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule continues to be necessary because the rule establishes standards and procedures for entities applying for funds appropriated for Comprehensive Counseling and Guidance Programs administered by the Board, establishes counselor to student ratios as a requirement for all secondary schools, establishes provisions for local education agencies (LEAs) not meeting the minimum counselor to student ratios, and directs that LEA and building level policies and practices shall free licensed school counselors for appropriate identified activities with secondary students. Therefore, this rule should be continued.

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

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

AUTHORIZED BY: Angela Stallings, Deputy Superintendent of Policy

EFFECTIVE: 05/23/2019

Governor, Economic Development

R357-7

Utah Capital Investment Board

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 43734
FILED: 05/22/2019

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: Sections 63N-6-203, 63N-6-401, 63N-6-406, and 63N-6-408 require the Office of Economic Development to make rules to: establish the manner by which it allocates, issues, calculates, certifies, and provides for the application for, or transfer and redemption of, contingent tax credits; establish criteria and procedures for assessing the likelihood of future certificate redemptions by designated investors; and set a target rate of return or range of returns for the investment portfolio of the Utah Fund of Funds.

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 Governor's Office of Economic Development (GOED) has not received comments on this rule during 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: This rule is required under Sections 63N-6-203, 63N-6-401, 63N-6-406, and 63N-6-408. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
GOVERNOR
ECONOMIC DEVELOPMENT
60 E SOUTH TEMPLE 3RD FLR
SALT LAKE CITY, UT 84111
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Dane Ishihara by phone at 801-538-8865, or by Internet E-mail at dishihara@utah.gov

AUTHORIZED BY: Val Hale, Executive Director

EFFECTIVE: 05/22/2019

Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-7A
Medicaid Certification of New Nursing
Facilities

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 43740
FILED: 05/24/2019

**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 26-18-504 requires the Department of Health (Department) to make rules to administer Medicaid certification of nursing care facilities. Additionally, Section 26-1-5 grants the Department the authority to adopt, amend, or rescind rules as necessary to implement the Medicaid program.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department did not receive any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department will continue this rule because it implements the adjudicative process to administer Medicaid certification of new nursing facilities.

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

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 05/24/2019

Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-31
Inpatient Psychiatric Services for
Individuals Under Age 21

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 43751
FILED: 05/31/2019

**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: 42 U.S.C. 1396d(h) authorizes the provision of inpatient psychiatric services for individuals who are under 21 years of age and reside in a psychiatric hospital. In addition, Section 26-1-5 grants the Department of Health (Department) the authority to adopt rules as necessary to implement the Medicaid program, and Section 26-18-3 requires the Department to implement the Medicaid program through administrative rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department did not receive any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department will continue this rule because it allows individuals who are under 21 years of age and reside in the Utah State Hospital to receive psychiatric care.

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

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 05/31/2019

**Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-49
Dental, Oral and Maxillofacial Surgeons
and Orthodontia**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 43749
FILED: 05/31/2019

**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 26-1-5 grants the Department of Health (Department) the authority to adopt rules as necessary to implement the Medicaid program, and Section 26-18-3 requires the Department to implement the Medicaid program through administrative rules. Additionally, 42 CFR 440.100 authorizes services provided by, or under the supervision of, a dentist.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department did not receive any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department will continue this rule because it defines the scope of dental services available under the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) program. It will also continue this rule because it expands the scope of dental services available to segments of the population that include pregnant members, blind or disabled members, Targeted Adult Medicaid members, and members who are eligible for emergency dental services.

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

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

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 05/31/2019

**Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-502
Nursing Facility Levels of Care**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 43750
FILED: 05/31/2019

**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: 42 CFR 409.31 specifies level of care requirements for nursing facilities. Additionally, Section 26-1-5 grants the Department of Health (Department) the authority to adopt rules as necessary to implement the Medicaid program, and Section 26-18-3 requires the Department to implement the Medicaid program through administrative rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department did not receive any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department will continue this rule because it defines the levels of care that nursing facilities may provide for Medicaid members.

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

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 05/31/2019

**Health, Health Care Financing,
Coverage and Reimbursement Policy
R414-503
Preadmission Screening and Resident
Review**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 43748
FILED: 05/31/2019

**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: 42 U.S.C. 1396r(b) and (e) require preadmission screening and resident review (PASRR) of nursing facility residents with serious mental illness or intellectual disability. Additionally, Section 26-1-5 grants the Department of Health (Department) the authority to adopt rules as necessary to implement the Medicaid program, and Section 26-18-3 requires the Department to implement the Medicaid program through administrative rules.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department did not receive any written or oral comments regarding this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department will continue this rule because it implements PASRR requirements to evaluate nursing facility residents who need treatment for serious mental illness or intellectual disability.

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

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 05/31/2019

**Human Services, Recovery Services
R527-450
Federal Tax Refund Intercept**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 43727
FILED: 05/20/2019

**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 62A-11-107 gives the Office of Recovery Services (ORS) the authority to adopt, amend, and enforce rules necessary to carry out its responsibilities under state law. 42 USC 664 authorizes the Secretary of Treasury to determine whether any past-due child support amounts are payable to an individual upon receiving a notice from the state agency administering a plan for collecting child support. 45 CFR 303.72 outlines federal requirements for requesting collection of past-due support by federal tax refund intercept, and how collections received by ORS shall be distributed. As authorized under these laws, this rule provides the certification criteria for federal tax intercept, the notice requirements, the conditions under which an earned income credit may be refunded, the requirement for distribution of funds collected through this process, and when ORS is required to delete or modify a previously certified debt.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments received since the last five-year review of this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule provides the information necessary for certifying a child support debt for federal tax refund intercept, for making necessary refunds and adjustments, and

for distributing collected amounts. The federal statutory provisions upon which this rule is based are still in effect. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 HUMAN SERVICES
 RECOVERY SERVICES
 515 E 100 S
 SALT LAKE CITY, UT 84102-4211
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Casey Cole by phone at 801-741-7523, by FAX at 801-536-8509, or by Internet E-mail at cacole@utah.gov
 ♦ Jonah Shaw by phone at 801-538-4219, by FAX at 801-538-3942, or by Internet E-mail at jshaw@utah.gov
 ♦ Scott Weight by phone at 801-741-7435, by FAX at 801-536-8509, or by Internet E-mail at sweigh2@utah.gov

AUTHORIZED BY: Liesa Stockdale, Director

EFFECTIVE: 05/20/2019

Insurance, Administration
R590-171
Surplus Lines Procedures Rule

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE NO.: 43737
 FILED: 05/23/2019

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 31A-2-201 authorizes the Insurance Commissioner to promulgate rules to implement the provisions of the Insurance Code, Title 31A. Subsection 31A-15-103(3) prescribes how a surplus lines producer may advertise surplus lines services, and make or seek remuneration for insurance placed by a surplus lines producer; this is done in Section R590-171-7. Subsection 31A-15-103(11) authorizes the Insurance Commissioner to establish an organization to examine surplus lines policies to ensure they comply with the requirements of the law and payment of taxes; this is done in Section R590-171-4. Section 31A-15-111 authorizes the Insurance Commissioner to require that surplus lines brokers be members of an advisory organization under this section of the law; this is done in Subsection R590-171-4(B) of this rule.

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 of Insurance 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 defines the authority of the Surplus Lines Association, outlines the conditions for placing insurance with surplus lines insurers, and provides examination requirements for the Surplus Lines Association. This rule is necessary to provide a measure of accountability for the Surplus Lines Association and how this line of insurance is sold in Utah. Therefore, this rule should be continued.

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

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

AUTHORIZED BY: Steve Gooch, Information Specialist

EFFECTIVE: 05/23/2019

Insurance, Administration
R590-230
Suitability in Annuity Transactions

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE NO.: 43738
 FILED: 05/23/2019

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-2-201(3)(a) authorizes the Insurance Commissioner to write rules to implement the provisions of the Insurance Code, Title 31A. Section 31A-22-425 authorizes the Insurance Commissioner to write rules dealing with definitions, disclosures, exclusions, or limitations in annuity contracts. This rule includes a definitions section, a section that sets forth the duties of producers and insurers in an annuity contract transaction,

and a section that sets forth the Insurance Commissioner's authority to order corrective actions and penalties when there is a violation of this law and rule.

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 of Insurance 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: It is critical that this rule continue to be in force so producers and insurers may have standards and procedures to follow when making financial recommendations to consumers who are considering the purchase of an annuity product. These recommendations require that the insurance needs and financial objectives of the consumer must be taken into account at the time of the transaction. Therefore, this rule should be continued.

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

INSURANCE
ADMINISTRATION
ROOM 3110 STATE OFFICE BLDG
450 N MAIN ST
SALT LAKE CITY, UT 84114-1201
or at the Office of Administrative Rules.

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

AUTHORIZED BY: Steve Gooch, Information Specialist

EFFECTIVE: 05/23/2019

Natural Resources, Wildlife Resources **R657-46**

The Use of Game Birds in Dog Field Trials and Training

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 43726
FILED: 05/20/2019

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: Under Sections 23-14-18, 23-14-19, and 23-17-9, the Wildlife Board is authorized and required to regulate and prescribe the means for the use of protected or privately-owned wildlife for the training of dogs.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments supporting or opposing Rule R657-46 were received since May 2014, when the rule was last reviewed.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R657-46 provides the requirements, standards, and application procedures for the use of game birds in dog field trials and training. The procedures adopted in this rule have provided an effective and efficient process. Continuation of this rule is necessary for continued success for the use of game birds in dog field trials and training.

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

NATURAL RESOURCES
WILDLIFE RESOURCES
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: Mike Fowlks, Director

EFFECTIVE: 05/20/2019

Transportation, Motor Carrier **R909-2** Utah Size and Weight Rule

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 43735
FILED: 05/22/2019

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: The following sections of the Utah Code grant the Department of Transportation (Department) authority to promulgate and enforce Rule R909-2: Sections

41-1a-231, 41-1a-1206, 72-1-201, 72-7-402, 72-7-404, 72-7-406, 72-7-407, 72-9-301, and 72-9-502.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any written comments during and since the last five-year review of this rule from interested persons supporting or opposing this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R909-2 is integral to the Department's duty to regulate the Motor Carrier industries in Utah. Without this rule, the Department cannot fulfill its responsibilities delegated by the Motor Carrier Safety Act and the Federal Motor Carrier Safety Regulations. Therefore, this rule should be continued.

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

MOTOR CARRIER
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY, UT 84119-5998
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at cwnewman@utah.gov
- ◆ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at jimpalmer@utah.gov
- ◆ Josh Dangel by phone at 269-217-7091, or by Internet E-mail at jdangel@utah.gov
- ◆ Linda Hull by phone at 801-965-4253, or by Internet E-mail at lhull@utah.gov

AUTHORIZED BY: Carlos Braceras, Executive Director

EFFECTIVE: 05/22/2019

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

Education

Administration

No. 43609 (REP): R277-102. Adjudicative Proceedings

Published: 04/15/2019

Effective: 05/23/2019

No. 43610 (REP): R277-105. Recognizing Constitutional Freedoms in the Schools

Published: 04/15/2019

Effective: 05/23/2019

No. 43619 (NEW): R277-115. LEA Supervision and Monitoring Requirements of Third Party Providers and Contracts

Published: 04/15/2019

Effective: 05/23/2019

No. 43618 (REP): R277-119. Discretionary Funds

Published: 04/15/2019

Effective: 05/23/2019

No. 43624 (NEW): R277-304. Teacher Preparation Programs

Published: 04/15/2019

Effective: 05/23/2019

No. 43623 (AMD): R277-552. Charter School Timelines and Approval Processes

Published: 04/15/2019

Effective: 05/23/2019

No. 43621 (AMD): R277-700. The Elementary and Secondary School General Core

Published: 04/15/2019

Effective: 05/23/2019

No. 43622 (NEW): R277-720. Reimbursement Program for Early Graduation from Competency-Based Education

Published: 04/15/2019

Effective: 05/23/2019

No. 43620 (AMD): R277-726. Statewide Online Education Program

Published: 04/15/2019

Effective: 05/23/2019

Health

Family Health and Preparedness, Emergency Medical Services

No. 43608 (AMD): R426-8. Emergency Medical Services Ground Ambulance Rates and Charges

Published: 04/15/2019

Effective: 07/01/2019

Insurance

Administration

No. 43615 (AMD): R590-225-3. Documents Incorporated by Reference

Published: 04/15/2019

Effective: 05/22/2019

Public Service Commission

Administration

No. 43603 (AMD): R746-310. Uniform Rules Governing Electricity Service by Electric Utilities

Published: 04/15/2019

Effective: 05/22/2019

NOTICES OF RULE EFFECTIVE DATES

Regents (Board of)

University of Utah, Administration
No. 43566 (AMD): R805-3. Overnight Camping and
Campfires on University of Utah Property
Published: 04/01/2019
Effective: 05/22/2019

No. 43616 (R&R): R850-21. Oil, Gas and Hydrocarbon
Resources
Published: 04/15/2019
Effective: 06/01/2019

School and Institutional Trust Lands

Administration
No. 43613 (AMD): R850-5-300. Royalties
Published: 04/15/2019
Effective: 06/01/2019

Transportation

Preconstruction
No. 43602 (AMD): R930-6. Access Management
Published: 04/15/2019
Effective: 05/22/2019

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 May 31, 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>Administration</u>					
R13-2	Management of Records and Access to Records	43744	5YR	05/29/2019	Not Printed
<u>Facilities Construction and Management</u>					
R23-3	Planning, Programming, Request for Capital Development Projects and Operation and Maintenance Reporting for State Owned Facilities	43524	NSC	03/01/2019	Not Printed
R23-3	Planning, Programming, Request for Capital Development Projects and Operation and Maintenance Reporting for State Owned Facilities	43569	5YR	03/06/2019	2019-7/59
R23-23	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	43642	5YR	04/11/2019	2019-9/79
R23-29	Delegation of Project Management	43525	NSC	03/01/2019	Not Printed
R23-29	Delegation of Project Management	43567	5YR	03/06/2019	2019-7/60
R23-33	Rules for the Prioritization and Scoring of Capital Improvements by the Utah State Building Board	43568	5YR	03/06/2019	2019-7/60
<u>Finance</u>					
R25-10	State Entities' Posting of Financial Information to the Utah Public Finance Website	43404	AMD	01/23/2019	2018-24/6
R25-11	Utah Transparency Advisory Board, Procedures for Electronic Meetings	43471	5YR	01/07/2019	2019-3/43
<u>Risk Management</u>					
R37-4	Adjusted Utah Governmental Immunity Act Limitations on Judgments	43235	AMD	01/18/2019	2018-21/2
AGRICULTURE AND FOOD					
<u>Animal Industry</u>					
R58-20	Domesticated Elk Hunting Parks	43469	5YR	01/07/2019	2019-3/43
<u>Conservation Commission</u>					
R64-3	Utah Environmental Stewardship Certification Program (UESCP), a.k.a Agriculture Certification of Environmental Stewardship (ACES)	43685	5YR	04/30/2019	2019-10/115
<u>Marketing and Development</u>					
R65-1	Utah Apple Marketing Order	43546	NSC	03/13/2019	Not Printed

R65-5	Utah Red Tart and Sour Cherry Marketing Order	43547	NSC	03/13/2019	Not Printed
R65-8	Management of the Junior Livestock Show Appropriation	43545	NSC	03/13/2019	Not Printed
R65-11	Utah Sheep Marketing Order	43548	NSC	03/13/2019	Not Printed
R65-12	Utah Small Grains and Oilseeds Marketing Order	43549	NSC	03/13/2019	Not Printed
R65-12	Utah Small Grains and Oilseeds Marketing Order	43641	5YR	04/11/2019	2019-9/79
<u>Plant Industry</u>					
R68-25	Industrial Hemp Research Pilot Program for Processors	43571	NSC	03/21/2019	Not Printed
R68-27	Cannabis Cultivation	43686	EMR	05/03/2019	2019-10/107
CAPITOL PRESERVATION BOARD (STATE)					
<u>Administration</u>					
R131-13	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	43662	5YR	04/17/2019	2019-10/115
COMMERCE					
<u>Consumer Protection</u>					
R152-34a	Utah Postsecondary School State Authorization Act Rule	43612	5YR	04/01/2019	2019-8/101
<u>Occupational and Professional Licensing</u>					
R156-15A	State Construction Code Administration and Adoption of Approved State Construction Code Rule	43522	AMD	04/08/2019	2019-5/8
R156-20a (Changed to R156-20b)	Environmental Health Scientist Act Rule	43466	NSC	01/11/2019	Not Printed
R156-28	Veterinary Practice Act Rule	43189	AMD	03/25/2019	2018-19/7
R156-28	Veterinary Practice Act Rule	43189	CPR	03/25/2019	2019-4/40
R156-55e	Elevator Mechanics Licensing Rule	43542	AMD	04/22/2019	2019-6/4
R156-60	Mental Health Professional Practice Act Rule	43543	5YR	02/26/2019	2019-6/41
R156-63a	Security Personnel Licensing Act Contract Security Rule	43318	AMD	05/13/2019	2018-22/89
R156-63a	Security Personnel Licensing Act Contract Security Rule	43318	CPR	05/13/2019	2019-7/48
R156-63a	Security Personnel Licensing Act Contract Security Rule	43577	NSC	05/14/2019	Not Printed
R156-63b	Security Personnel Licensing Act Armored Car Rule	43319	AMD	05/13/2019	2018-22/96
R156-63b	Security Personnel Licensing Act Armored Car Rule	43319	CPR	05/13/2019	2019-7/53
R156-63b	Security Personnel Licensing Act Armored Car Rule	43578	NSC	05/14/2019	Not Printed
R156-80a	Medical Language Interpreter Act Rule	43465	5YR	01/02/2019	2019-2/19
<u>Real Estate</u>					
R162-2f	Real Estate Licensing and Practices Rules	43407	AMD	01/23/2019	2018-24/8
CORRECTIONS					
<u>Administration</u>					
R251-105	Applicant Qualifications for Employment with Department of Corrections	43218	AMD	02/11/2019	2018-20/12
R251-111	Government Records Access and Management	43596	5YR	03/19/2019	2019-8/102
EDUCATION					
<u>Administration</u>					
R277-100	Definitions for Utah State Board of Education (Board) Rules	43479	AMD	03/13/2019	2019-3/2
R277-102	Adjudicative Proceedings	43609	REP	05/23/2019	2019-8/4

RULES INDEX

R277-105	Recognizing Constitutional Freedoms in the Schools	43610	REP	05/23/2019	2019-8/6
R277-115	LEA Supervision and Monitoring Requirements of Third Party Providers and Contracts	43619	NEW	05/23/2019	2019-8/10
R277-117	Utah State Board of Education Protected Documents	43511	REP	04/08/2019	2019-5/19
R277-119	Discretionary Funds	43618	REP	05/23/2019	2019-8/12
R277-122	Board of Education Procurement	43441	AMD	02/07/2019	2019-1/17
R277-304	Teacher Preparation Programs	43624	NEW	05/23/2019	2019-8/13
R277-308	New Educator Induction and Mentoring	43442	NEW	02/07/2019	2019-1/22
R277-400	School Facility Emergency and Safety	43507	5YR	02/08/2019	2019-5/95
R277-400	School Facility Emergency and Safety	43512	AMD	04/08/2019	2019-5/21
R277-404	Requirements for Assessments of Student Achievement	43450	AMD	02/22/2019	2019-2/6
R277-407	School Fees	43532	AMD	04/08/2019	2019-5/25
R277-419	Pupil Accounting	43475	NSC	01/15/2019	Not Printed
R277-437	Student Enrollment Options	43397	AMD	01/09/2019	2018-23/6
R277-462	Comprehensive Counseling and Guidance Program	43739	5YR	05/23/2019	Not Printed
R277-463	Class Size Average and Pupil-Teacher Ratio Reporting	43636	5YR	04/08/2019	2019-9/80
R277-470	Charter Schools - General Provisions	43374	REP	01/09/2019	2018-23/9
R277-472	Charter School Student Enrollment and Transfers and School District Capacity Information	43637	5YR	04/08/2019	2019-9/81
R277-480	Charter School Revolving Account	43712	5YR	05/13/2019	2019-11/41
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
R277-483	LEA Reporting and Accounting Requirements	43515	NEW	04/08/2019	2019-5/36
R277-486	Professional Staff Cost Program	43508	5YR	02/08/2019	2019-5/95
R277-486	Professional Staff Cost Program	43516	AMD	04/08/2019	2019-5/39
R277-487	Public School Data Confidentiality and Disclosure	43476	AMD	03/13/2019	2019-3/4
R277-493	Kindergarten Supplemental Enrichment Program	43638	5YR	04/08/2019	2019-9/81
R277-494-4	Charter or Online School Student Participation in Co-Curricular Activities	43506	NSC	02/20/2019	Not Printed
R277-495	Required Policies for Electronic Devices in Public Schools	43531	AMD	04/08/2019	2019-5/42
R277-502	Educator Licensing and Data Retention	43664	NSC	05/14/2019	Not Printed
R277-502-4	License Levels, Procedures, and Periods of Validity	43600	NSC	04/01/2019	Not Printed
R277-509	Licensure of Student Teachers and Interns	43373	AMD	01/09/2019	2018-23/19
R277-524	Paraprofessional/Paraeducator Programs, Assignments, and Qualifications	43583	5YR	03/14/2019	2019-7/61
R277-528	Use of Public Education Job Enhancement Program (PEJEP) Funds	43509	5YR	02/08/2019	2019-5/96
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
R277-551	Charter Schools - General Provisions	43478	AMD	03/13/2019	2019-3/10
R277-552	Charter School Timelines and Approval Processes	43394	NEW	01/09/2019	2018-23/26
R277-552	Charter School Timelines and Approval Processes	43623	AMD	05/23/2019	2019-8/19
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
R277-601	Standards for Utah School Buses and Operations	43611	5YR	03/29/2019	2019-8/102

R277-700	The Elementary and Secondary School General Core	43621	AMD	05/23/2019	2019-8/23
R277-704	Financial and Economic Literacy: Integration into Core Curriculum and Financial and Economic Literacy Student Passports	43519	AMD	04/08/2019	2019-5/46
R277-720	Reimbursement Program for Early Graduation from Competency-Based Education	43622	NEW	05/23/2019	2019-8/30
R277-724	Criteria for Sponsors Recruiting Day Care Facilities in the Child and Adult Care Food Program	43579	5YR	03/13/2019	2019-7/61
R277-726	Statewide Online Education Program	43620	AMD	05/23/2019	2019-8/32
R277-910	Underage Drinking Prevention Program	43448	NEW	02/07/2019	2019-1/24
R277-912	Law Enforcement Related Incident Reporting	43439	NEW	02/07/2019	2019-1/26
R277-922	Digital Teaching and Learning Grant Program	43398	AMD	01/09/2019	2018-23/45
R277-922	Digital Teaching and Learning Grant Program	43713	NSC	05/24/2019	Not Printed

ENVIRONMENTAL QUALITY

Air Quality

R307-101-2	Definitions	43372	AMD	02/07/2019	2018-23/49
R307-110-10	Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter	43212	AMD	03/05/2019	2018-19/31
R307-110-10	Section IX, Control Measures for Area and Point Sources, Part A, Fine Particulate Matter	43212	CPR	03/05/2019	2019-3/40
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
R307-511	Oil and Gas Industry: Associated Gas Flaring	43211	NEW	03/05/2019	2018-19/32
R307-511	Oil and Gas Industry: Associated Gas Flaring	43211	CPR	03/05/2019	2019-3/41

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
R313-28-31	General and Administrative Requirements	43530	AMD	04/15/2019	2019-5/50

Waste Management and Radiation Control, Waste Management

R315-15-14	DIYer Reimbursement	43529	AMD	04/15/2019	2019-5/54
R315-260	Hazardous Waste Management System	43526	AMD	04/15/2019	2019-5/56
R315-261	General Requirements -- Identification and Listing of Hazardous Waste	43527	AMD	04/15/2019	2019-5/67
R315-262	Hazardous Waste Generator Requirements	43528	AMD	04/15/2019	2019-5/83
R315-273	Standards for Universal Waste Management	43252	AMD	01/14/2019	2018-21/55

Water Quality

R317-401	Graywater Systems	43633	5YR	04/08/2019	2019-9/82
----------	-------------------	-------	-----	------------	-----------

GOVERNOR

Economic Development

R357-7	Utah Capital Investment Board	43488	EXT	01/24/2019	2019-4/47
R357-7	Utah Capital Investment Board	43734	5YR	05/22/2019	Not Printed

RULES INDEX

Energy Development (Office of)

R362-4	High Cost Infrastructure Development Tax Credit Act	43223	AMD	02/05/2019	2018-20/18
R362-5	Commercial Property Assessed Clean Energy (C-PACE) Administrative Rules	43419	NEW	01/23/2019	2018-24/15

HEALTH

Administration

R380-70	Standards for Electronic Exchange of Clinical Health Information	43487	5YR	01/24/2019	2019-4/43
---------	--	-------	-----	------------	-----------

Center for Health Data, Health Care Statistics

R428-1	Health Data Plan and Incorporated Documents	43544	AMD	05/01/2019	2019-6/12
--------	---	-------	-----	------------	-----------

Center for Health Data, Vital Records and Statistics

R436-19	Abortion Reporting	43462	NEW	05/08/2019	2019-2/10
---------	--------------------	-------	-----	------------	-----------

Disease Control and Prevention, Environmental Services

R392-303	Public Geothermal Pools and Bathing Places	43502	5YR	02/05/2019	2019-5/96
----------	--	-------	-----	------------	-----------

Disease Control and Prevention, Epidemiology

R386-900	Special Measures for the Operation of Syringe Exchange Programs	43468	AMD	05/15/2019	2019-3/16
----------	---	-------	-----	------------	-----------

Disease Control and Prevention, Health Promotion

R384-100	Cancer Reporting Rule	43540	5YR	02/25/2019	2019-6/41
R384-200	Cancer Control Program	43539	5YR	02/25/2019	2019-6/42
R384-203	Prescription Drug Database Access	43537	5YR	02/25/2019	2019-6/42

Disease Control and Prevention, Medical Examiner

R448-10	Unattended Death and Reporting Requirements	43631	5YR	04/05/2019	2019-9/83
R448-20	Access to Medical Examiner Reports	43632	5YR	04/05/2019	2019-9/84

Family Health and Preparedness, Child Care Licensing

R430-8	Exemptions From Child Care Licensing	43661	5YR	04/17/2019	2019-10/116
--------	--------------------------------------	-------	-----	------------	-------------

Family Health and Preparedness, Children with Special Health Care Needs

R398-5	Birth Defects Reporting	43472	AMD	03/11/2019	2019-3/18
R398-10	Autism Spectrum Disorders and Intellectual Disability Reporting	43538	5YR	02/25/2019	2019-6/43

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
R426-2-400	Emergency Medical Service Dispatch Center Minimum Designation Requirements	43260	NSC	01/11/2019	Not Printed
R426-9	Trauma and EMS System Facility Designations	43321	AMD	01/18/2019	2018-22/114

Family Health and Preparedness, Licensing

R432-7	Specialty Hospital - Psychiatric Hospital Construction	43553	5YR	02/27/2019	2019-6/43
R432-8	Specialty Hospital – Chemical Dependency/Substance Abuse Construction	43559	5YR	02/28/2019	2019-6/44
R432-9	Specialty Hospital – Rehabilitation Construction Rule	43560	5YR	02/28/2019	2019-6/44
R432-10	Specialty Hospital – Long-Term Acute Care Construction Rule	43563	5YR	03/04/2019	2019-7/62
R432-11	Orthopedic Hospital Construction	43564	5YR	03/04/2019	2019-7/62
R432-12	Small Health Care Facility (Four to Sixteen Beds) Construction Rule	43565	5YR	03/04/2019	2019-7/63
R432-13	Freestanding Ambulatory Surgical Center Construction Rule	43598	5YR	03/21/2019	2019-8/103

R432-14	Birthing Center Construction Rule	43599	5YR	03/21/2019	2019-8/103
R432-30	Adjudicative Procedure	43597	5YR	03/21/2019	2019-8/104
R432-32	Licensing Exemption for Non-Profit Volunteer End-of-Life Care	43614	5YR	04/01/2019	2019-8/104
R432-45	Nurse Aide Training and Competency Evaluation Program	43630	5YR	04/05/2019	2019-9/83
R432-270	Assisted Living Facilities	43533	5YR	02/20/2019	2019-6/45
<u>Family Health and Preparedness, Maternal and Child Health</u>					
R433-200	Family Planning Access Act	43402	NEW	03/06/2019	2018-24/18
<u>Family Health and Preparedness, Primary Care and Rural Health</u>					
R434-40	Utah Health Care Workforce Financial Assistance Program Rules	43709	5YR	05/08/2019	2019-11/41
<u>Health Care Financing, Coverage and Reimbursement Policy</u>					
R414-7A	Medicaid Certification of New Nursing Facilities	43635	NSC	04/24/2019	Not Printed
R414-7A	Medicaid Certification of New Nursing Facilities	43740	5YR	05/24/2019	Not Printed
R414-14A	Hospice Care	43634	5YR	04/08/2019	2019-9/82
R414-31	Inpatient Psychiatric Services for Individuals Under Age 21	43751	5YR	05/31/2019	Not Printed
R414-49	Dental, Oral and Maxillofacial Surgeons and Orthodontia	43536	AMD	04/22/2019	2019-6/7
R414-49	Dental, Oral and Maxillofacial Surgeons and Orthodontia	43749	5YR	05/31/2019	Not Printed
R414-61-2	Incorporation by Reference	43425	AMD	02/15/2019	2019-1/28
R414-303	Coverage Groups	43706	EMR	05/07/2019	2019-11/25
R414-311-6	Household Composition and Income Provisions	43707	EMR	05/07/2019	2019-11/27
R414-312	Adult Expansion Medicaid	43708	EMR	05/07/2019	2019-11/28
R414-502	Nursing Facility Levels of Care	43750	5YR	05/31/2019	Not Printed
R414-503	Preadmission Screening and Resident Review	43748	5YR	05/31/2019	Not Printed
R414-515	Long Term Acute Care	43473	AMD	03/21/2019	2019-3/21
R414-516	Nursing Facility Non-State Government-Owned Upper Payment Limit Quality Improvement Program	43483	AMD	03/21/2019	2019-3/23
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
HERITAGE AND ARTS					
<u>History</u>					
R455-11	Historic Preservation Tax Credit	43716	5YR	05/14/2019	2019-11/42
R455-11	Historic Preservation Tax Credit	43721	NSC	05/24/2019	Not Printed
R455-14	Procedures for Electronic Meetings	43714	5YR	05/14/2019	2019-11/43
R455-15	Procedures for Emergency Meetings	43715	5YR	05/14/2019	2019-11/43
HUMAN RESOURCE MANAGEMENT					
<u>Administration</u>					
R477-101	Administrative Law Judge Conduct Committee	43470	5YR	01/07/2019	2019-3/44
HUMAN SERVICES					
<u>Administration</u>					
R495-882	Termination of Parental Rights	43496	5YR	02/01/2019	2019-4/43
R495-885	Employee Background Screenings	43719	EMR	05/14/2019	2019-11/30
<u>Administration, Administrative Services, Licensing</u>					
R501-1	General Provisions for Licensing	43330	AMD	01/17/2019	2018-22/119
R501-7	Child Placing Adoption Agencies	43356	AMD	02/12/2019	2018-23/105
R501-8	Outdoor Youth Programs	43234	AMD	01/17/2019	2018-21/89
R501-14	Human Service Program Background Screening	43718	EMR	05/14/2019	2019-11/33
R501-21	Outpatient Treatment Programs	43237	AMD	02/12/2019	2018-21/91

RULES INDEX

Child and Family Services

R512-43	Adoption Assistance	43518	AMD	04/08/2019	2019-5/85
R512-305	Out-of-Home Services, Transition to Adult Living Services	43358	AMD	01/09/2019	2018-23/115

Recovery Services

R527-10	Disclosure of Information to the Office of Recovery Services	43700	5YR	05/03/2019	2019-11/44
R527-332	Unreimbursed Assistance Calculation	43699	5YR	05/03/2019	2019-11/44
R527-394	Posting Bond or Security	43682	5YR	04/29/2019	2019-10/116
R527-450	Federal Tax Refund Intercept	43727	5YR	05/20/2019	Not Printed

Substance Abuse and Mental Health

R523-2-9	Distribution of Fee-On-Fine (DUI) Funds	43505	AMD	04/17/2019	2019-5/92
R523-5	Peer Support Specialist Training and Certification	43141	AMD	01/29/2019	2018-17/60
R523-5	Peer Support Specialist Training and Certification	43141	CPR	01/29/2019	2018-24/38
R523-17	Behavioral Health Crisis Response Systems Standards	43555	AMD	04/22/2019	2019-6/14
R523-18	Mobile Crisis Outreach Teams Certification Standards	43554	AMD	04/22/2019	2019-6/21
R523-19	Community Mental Health Crisis and Suicide Prevention Training Grant Standards	43355	NEW	01/29/2019	2018-23/118

INSURANCE

Administration

R590-93	Replacement of Life Insurance and Annuities	43627	5YR	04/03/2019	2019-9/84
R590-98	Unfair Practice in Payment of Life Insurance and Annuity Policy Values	43628	5YR	04/03/2019	2019-9/85
R590-102	Insurance Department Fee Payment Rule	43604	NSC	04/01/2019	Not Printed
R590-102-21	Dedicated Fees	43485	AMD	03/26/2019	2019-4/4
R590-126-2	Purpose and Scope	43428	AMD	05/01/2019	2019-1/30
R590-166	Home Protection Service Contract Rule	43626	5YR	04/03/2019	2019-9/85
R590-170	Fiduciary and Trust Account Obligations	43514	5YR	02/11/2019	2019-5/97
R590-171	Surplus Lines Procedures Rule	43737	5YR	05/23/2019	Not Printed
R590-186-5	Company License Renewal	43429	AMD	02/07/2019	2019-1/31
R590-190	Unfair Property, Liability and Title Claims Settlement Practices Rule	43625	5YR	04/03/2019	2019-9/86
R590-191	Unfair Life Insurance Claims Settlement Practices Rule	43629	5YR	04/03/2019	2019-9/86
R590-220	Submission of Accident and Health Insurance Filings	43520	5YR	02/13/2019	2019-5/98
R590-225	Submission of Property and Casualty Rate and Form Filings	43521	5YR	02/13/2019	2019-5/98
R590-225-3	Documents Incorporated by Reference	43615	AMD	05/22/2019	2019-8/47
R590-226	Submission of Life Insurance Filings	43580	5YR	03/14/2019	2019-7/63
R590-227	Submission of Annuity Filings	43581	5YR	03/14/2019	2019-7/64
R590-228	Submission of Credit Life and Credit Accident and Health Insurance Form and Rate Filings	43582	5YR	03/14/2019	2019-7/64
R590-230	Suitability in Annuity Transactions	43738	5YR	05/23/2019	Not Printed
R590-252	Use of Senior-Specific Certifications and Professional Designations	43513	5YR	02/11/2019	2019-5/99
R590-268	Small Employer Stop-Loss Insurance	43570	5YR	03/07/2019	2019-7/65
R590-269	Individual Open Enrollment Period	43474	5YR	01/11/2019	2019-3/44
R590-280	Counting Short-Term Funds	43561	NEW	04/23/2019	2019-6/25

JUDICIAL PERFORMANCE EVALUATION COMMISSION

Administration

R597-1	General Provisions	43501	5YR	02/05/2019	2019-5/100
R597-3	Judicial Performance Evaluations	43500	5YR	02/05/2019	2019-5/100
R597-4	Justice Courts	43601	5YR	03/22/2019	2019-8/105

LABOR COMMISSION

Adjudication

R602-2-1 Pleadings and Discovery 43574 AMD 05/08/2019 2019-7/30

Boiler, Elevator and Coal Mine Safety

R616-2-3 Safety Codes and Rules for Boilers and Pressure Vessels 43572 AMD 05/08/2019 2019-7/35
 R616-2-3 Safety Codes and Rules for Boilers and Pressure Vessels 43710 EMR 05/09/2019 2019-11/39
 R616-2-8 Inspection of Boilers and Pressure Vessels 43573 AMD 05/08/2019 2019-7/36

LIEUTENANT GOVERNOR

Administration

R622-2 Use of the Great Seal of the State of Utah 43595 5YR 03/19/2019 2019-8/105

Elections

R623-1 Lieutenant Governor's Procedure for Regulation of Lobbyist Activities 43493 5YR 01/28/2019 2019-4/44
 R623-2 Uniform Ballot Counting Standards 43494 5YR 01/28/2019 2019-4/44
 R623-3 Utah State Plan on Election Reform 43495 5YR 01/28/2019 2019-4/45
 R623-5 Municipal Alternate Voting Methods Pilot Project 43275 NEW 03/01/2019 2018-21/96

MONEY MANAGEMENT COUNCIL

Administration

R628-19 Requirements for the Use of Investment Advisers by Public Treasurers 43503 EXT 02/05/2019 2019-5/103
 R628-19 Requirements for the Use of Investment Advisers by Public Treasurers 43645 5YR 04/12/2019 2019-9/87
 R628-20 Foreign Deposits for Higher Education Institutions 43504 EXT 02/05/2019 2019-5/103
 R628-20 Foreign Deposits for Higher Education Institutions 43646 5YR 04/12/2019 2019-9/88
 R628-21 Conditions and Procedures for the Use of Reciprocal Deposits 43644 5YR 04/12/2019 2019-9/88

NATURAL RESOURCES

Forestry, Fire and State Lands

R652-70 Sovereign Lands 43480 AMD 03/25/2019 2019-3/28

Parks and Recreation

R651-206 Carrying Passengers for Hire 43497 AMD 03/25/2019 2019-4/7
 R651-214 Temporary Registration 43464 AMD 02/21/2019 2019-2/12
 R651-301 State Recreation Fiscal Assistance Programs 43416 AMD 01/24/2019 2018-24/20
 R651-406 Off-Highway Vehicle Registration Fees 43415 AMD 01/24/2019 2018-24/23

Wildlife Resources

R657-5 Taking Big Game 43431 AMD 02/07/2019 2019-1/37
 R657-9 Taking Waterfowl, Wilson's Snipe and Coot 43430 AMD 02/07/2019 2019-1/41
 R657-11 Taking Furbearers and Trapping 43414 AMD 01/24/2019 2018-24/25
 R657-13 Taking Fish and Crayfish 43420 AMD 01/24/2019 2018-24/27
 R657-22 Commercial Hunting Areas 43491 AMD 03/25/2019 2019-4/22
 R657-33 Taking Bear 43492 AMD 03/25/2019 2019-4/27
 R657-38 Dedicated Hunter Program 43432 AMD 02/07/2019 2019-1/44
 R657-46 The Use of Game Birds in Dog Field Trials and Training 43726 5YR 05/20/2019 Not Printed
 R657-62 Drawing Application Procedures 43639 5YR 04/09/2019 2019-9/89
 R657-67 Utah Hunter Mentoring Program 43498 5YR 02/04/2019 2019-5/101

RULES INDEX

PUBLIC SAFETY

Administration

R698-4	Certification of the Law Enforcement Agency of a Private College or University	43523	5YR	02/14/2019	2019-5/101
R698-5	State Hazardous Chemical Emergency Response Commission Advisory Committee	43418	AMD	02/20/2019	2018-24/29

Criminal Investigations and Technical Services, Criminal Identification

R722-920	Cold Case Database	43435	NEW	02/20/2019	2019-1/49
----------	--------------------	-------	-----	------------	-----------

Driver License

R708-10	Driver License Restrictions	43590	5YR	03/15/2019	2019-7/65
R708-22	Commercial Driver License Administrative Proceedings	43606	5YR	03/28/2019	2019-8/106
R708-24	Renewal of a Commercial Driver License (CDL)	43607	5YR	03/28/2019	2019-8/106
R708-26	Learner Permit Rule	43591	5YR	03/15/2019	2019-7/66
R708-31	Ignition Interlock Systems	43592	5YR	03/15/2019	2019-7/66

Fire Marshal

R710-12	Hazardous Materials Training and Certification	43455	NEW	04/09/2019	2019-2/14
R710-15	Seizure and Disposal of Fireworks, Class A Explosives, and Class B Explosives	43354	NEW	01/14/2019	2018-22/155

Peace Officer Standards and Training

R728-502	Procedure for POST Instructor Certification	43534	5YR	02/21/2019	2019-6/45
----------	---	-------	-----	------------	-----------

PUBLIC SERVICE COMMISSION

Administration

R746-8-301	Calculation and Application of UUSF Surcharge	43550	AMD	04/30/2019	2019-6/27
R746-310	Uniform Rules Governing Electricity Service by Electric Utilities	43603	AMD	05/22/2019	2019-8/49

REGENTS (BOARD OF)

Administration

R765-615	Talent Development Incentive Loan Program	43405	NEW	03/14/2019	2018-24/33
----------	---	-------	-----	------------	------------

Salt Lake Community College

R784-1	Government Records Access and Management Act Rules	43594	5YR	03/17/2019	2019-8/107
--------	--	-------	-----	------------	------------

University of Utah, Administration

R805-3	Overnight Camping and Campfires on University of Utah Property	43541	5YR	02/25/2019	2019-6/46
R805-3	Overnight Camping and Campfires on University of Utah Property	43566	AMD	05/22/2019	2019-7/38
R805-6	University of Utah Shooting Range Access and Use Requirements	43499	5YR	02/04/2019	2019-5/102

University of Utah, Museum of Natural History (Utah)

R807-1	Curation of Collections from State Lands	43535	5YR	02/22/2019	2019-6/47
--------	--	-------	-----	------------	-----------

TAX COMMISSION

Property Tax

R884-24P-19	Appraiser Designation Program Pursuant to Utah Code Ann. Sections 59-2-701 and 59-2-702	43437	AMD	03/28/2019	2019-1/51
R884-24P-19	Appraiser Designation Program Pursuant to Utah Code Ann. Sections 59-2-701 and 59-2-702	43640	NSC	04/24/2019	Not Printed
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

R884-24P-62	Valuation of State Assessed Unitary Properties Pursuant to Utah Code Ann. Section 59-2-201	43698	NSC	05/17/2019	Not Printed
R884-24P-74	Changes to Jurisdiction of Mining Claims Pursuant to Utah Code Ann. Section 59-2-201	43438	AMD	03/28/2019	2019-1/54

TECHNOLOGY SERVICES

Administration

R895-7	Acceptable Use of Information Technology Resources	43467	5YR	01/03/2019	2019-3/45
R895-9	Utah Geographic Information Systems Advisory Council	43697	5YR	05/02/2019	2019-11/45

TRANSPORTATION

Administration

R907-66	Incorporation and Use of Federal Acquisition Regulations on Federal-Aid and State-Financed Transportation Projects	43490	R&R	03/26/2019	2019-4/31
---------	--	-------	-----	------------	-----------

Motor Carrier

R909-2	Utah Size and Weight Rule	43735	5YR	05/22/2019	Not Printed
R909-19	Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation, and Certification	43443	AMD	02/07/2019	2019-1/56

Operations, Maintenance

R918-4	Using Volunteer Groups and Third Party Contractors for the Adopt-a-Highway and Sponsor-a-Highway Litter Pickup Programs	43489	AMD	03/26/2019	2019-4/36
--------	---	-------	-----	------------	-----------

Operations, Traffic and Safety

R920-50	Ropeway Operation Safety	43444	AMD	02/07/2019	2019-1/63
---------	--------------------------	-------	-----	------------	-----------

Preconstruction

R930-6	Access Management	43602	AMD	05/22/2019	2019-8/67
--------	-------------------	-------	-----	------------	-----------

Program Development

R926-16	Unsolicited Proposals for Transportation Infrastructure Public-Private Partnerships	43584	NEW	05/08/2019	2019-7/40
---------	---	-------	-----	------------	-----------

WORKFORCE SERVICES

Unemployment Insurance

R994-403	Claim for Benefits	43557	AMD	05/01/2019	2019-6/38
R994-403-109b	Profiled Claimants	43365	AMD	03/31/2019	2018-23/122

RULES INDEX - BY KEYWORD (SUBJECT)

ABBREVIATIONS

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

RULES INDEX

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>abortions</u> Health, Center for Health Data, Vital Records and Statistics	43462	R436-19	NEW	05/08/2019	2019-2/10
<u>acceptable use</u> Technology Services, Administration	43467	R895-7	5YR	01/03/2019	2019-3/45
<u>access control</u> Transportation, Preconstruction	43602	R930-6	AMD	05/22/2019	2019-8/67
<u>access to information</u> Administrative Services, Administration	43744	R13-2	5YR	05/29/2019	Not Printed
<u>accounting</u> Education, Administration	43515	R277-483	NEW	04/08/2019	2019-5/36
<u>activities</u> Education, Administration	43506	R277-494-4	NSC	02/20/2019	Not Printed
<u>administrative law judges</u> Human Resource Management, Administration	43470	R477-101	5YR	01/07/2019	2019-3/44
<u>administrative procedures</u> Education, Administration	43609	R277-102	REP	05/23/2019	2019-8/4
Environmental Quality, Drinking Water	43378	R309-100-9	AMD	01/15/2019	2018-23/57
Heritage and Arts, History	43714	R455-14	5YR	05/14/2019	2019-11/43
	43715	R455-15	5YR	05/14/2019	2019-11/43
Labor Commission, Adjudication	43574	R602-2-1	AMD	05/08/2019	2019-7/30
Natural Resources, Forestry, Fire and State Lands	43480	R652-70	AMD	03/25/2019	2019-3/28
<u>administrative proceedings</u> Public Safety, Driver License	43606	R708-22	5YR	03/28/2019	2019-8/106
<u>adopt-a-highway</u> Transportation, Operations, Maintenance	43489	R918-4	AMD	03/26/2019	2019-4/36
<u>adoption</u> Human Services, Child and Family Services	43518	R512-43	AMD	04/08/2019	2019-5/85
<u>adult expansion</u> Health, Health Care Financing, Coverage and Reimbursement Policy	43708	R414-312	EMR	05/07/2019	2019-11/28
<u>air pollution</u> Environmental Quality, Air Quality	43372	R307-101-2	AMD	02/07/2019	2018-23/49
	43212	R307-110-10	AMD	03/05/2019	2018-19/31
	43212	R307-110-10	CPR	03/05/2019	2019-3/40
	42976	R307-110-17	AMD	01/03/2019	2018-13/35
	42976	R307-110-17	CPR	01/03/2019	2018-21/134
<u>air quality</u> Environmental Quality, Air Quality	43211	R307-511	NEW	03/05/2019	2018-19/32
	43211	R307-511	CPR	03/05/2019	2019-3/41
<u>alcohol</u> Education, Administration	43448	R277-910	NEW	02/07/2019	2019-1/24
<u>alimony</u> Human Services, Recovery Services	43727	R527-450	5YR	05/20/2019	Not Printed
<u>annuity insurance filings</u> Insurance, Administration	43581	R590-227	5YR	03/14/2019	2019-7/64

<u>APCD</u>						
Health, Center for Health Data, Health Care Statistics	43544	R428-1	AMD	05/01/2019	2019-6/12	
<u>appeals</u>						
Education, Administration	43399	R277-481	REP	01/09/2019	2018-23/12	
	43401	R277-553	NEW	01/09/2019	2018-23/31	
<u>application requirements</u>						
Commerce, Consumer Protection	43612	R152-34a	5YR	04/01/2019	2019-8/101	
<u>appraisals</u>						
Tax Commission, Property Tax	43437	R884-24P-19	AMD	03/28/2019	2019-1/51	
	43640	R884-24P-19	NSC	04/24/2019	Not Printed	
	43371	R884-24P-27	AMD	01/10/2019	2018-23/119	
	43698	R884-24P-62	NSC	05/17/2019	Not Printed	
	43438	R884-24P-74	AMD	03/28/2019	2019-1/54	
<u>archaeological</u>						
Regents (Board of), University of Utah, Museum of Natural History (Utah)	43535	R807-1	5YR	02/22/2019	2019-6/47	
<u>armored car company</u>						
Commerce, Occupational and Professional Licensing	43319	R156-63b	AMD	05/13/2019	2018-22/96	
	43319	R156-63b	CPR	05/13/2019	2019-7/53	
	43578	R156-63b	NSC	05/14/2019	Not Printed	
<u>armored car security officers</u>						
Commerce, Occupational and Professional Licensing	43319	R156-63b	AMD	05/13/2019	2018-22/96	
	43319	R156-63b	CPR	05/13/2019	2019-7/53	
	43578	R156-63b	NSC	05/14/2019	Not Printed	
<u>assessment</u>						
Governor, Energy Development (Office of)	43419	R362-5	NEW	01/23/2019	2018-24/15	
<u>assessments</u>						
Education, Administration	43450	R277-404	AMD	02/22/2019	2019-2/6	
<u>assistance</u>						
Human Services, Recovery Services	43699	R527-332	5YR	05/03/2019	2019-11/44	
Natural Resources, Parks and Recreation	43416	R651-301	AMD	01/24/2019	2018-24/20	
<u>assistive devices and technology</u>						
Public Service Commission, Administration	43550	R746-8-301	AMD	04/30/2019	2019-6/27	
<u>autism spectrum</u>						
Health, Family Health and Preparedness, Children with Special Health Care Needs	43538	R398-10	5YR	02/25/2019	2019-6/43	
<u>awards</u>						
Education, Administration	43509	R277-528	5YR	02/08/2019	2019-5/96	
<u>background</u>						
Human Services, Administration	43719	R495-885	EMR	05/14/2019	2019-11/30	
<u>background screening</u>						
Human Services, Administration, Administrative Services, Licensing	43718	R501-14	EMR	05/14/2019	2019-11/33	
<u>ballots</u>						
Lieutenant Governor, Elections	43494	R623-2	5YR	01/28/2019	2019-4/44	
<u>basic training</u>						
Public Safety, Peace Officer Standards and Training	43534	R728-502	5YR	02/21/2019	2019-6/45	
<u>beam limitation</u>						
Environmental Quality, Waste Management and Radiation Control, Radiation	43253	R313-28-31	AMD	01/14/2019	2018-21/52	

RULES INDEX

	43530	R313-28-31	AMD	04/15/2019	2019-5/50
<u>bear</u>					
Natural Resources, Wildlife Resources	43492	R657-33	AMD	03/25/2019	2019-4/27
<u>bed allocations</u>					
Human Services, Substance Abuse and Mental Health	43505	R523-2-9	AMD	04/17/2019	2019-5/92
<u>big game seasons</u>					
Natural Resources, Wildlife Resources	43431	R657-5	AMD	02/07/2019	2019-1/37
<u>birds</u>					
Natural Resources, Wildlife Resources	43430	R657-9	AMD	02/07/2019	2019-1/41
	43726	R657-46	5YR	05/20/2019	Not Printed
<u>birth control</u>					
Health, Family Health and Preparedness, Maternal and Child Health	43402	R433-200	NEW	03/06/2019	2018-24/18
<u>birth defect reporting</u>					
Health, Family Health and Preparedness, Children with Special Health Care Needs	43472	R398-5	AMD	03/11/2019	2019-3/18
<u>birth defects</u>					
Health, Family Health and Preparedness, Children with Special Health Care Needs	43472	R398-5	AMD	03/11/2019	2019-3/18
<u>Board of Education</u>					
Education, Administration	43479	R277-100	AMD	03/13/2019	2019-3/2
<u>boating</u>					
Natural Resources, Parks and Recreation	43497	R651-206	AMD	03/25/2019	2019-4/7
	43464	R651-214	AMD	02/21/2019	2019-2/12
<u>boilers</u>					
Labor Commission, Boiler, Elevator and Coal Mine Safety	43572	R616-2-3	AMD	05/08/2019	2019-7/35
	43710	R616-2-3	EMR	05/09/2019	2019-11/39
	43573	R616-2-8	AMD	05/08/2019	2019-7/36
<u>bonding requirements</u>					
Human Services, Recovery Services	43682	R527-394	5YR	04/29/2019	2019-10/116
<u>breast and cervical cancer screening</u>					
Health, Disease Control and Prevention, Health Promotion	43539	R384-200	5YR	02/25/2019	2019-6/42
<u>building board</u>					
Administrative Services, Facilities Construction and Management	43568	R23-33	5YR	03/06/2019	2019-7/60
<u>building codes</u>					
Commerce, Occupational and Professional Licensing	43522	R156-15A	AMD	04/08/2019	2019-5/8
<u>building inspections</u>					
Commerce, Occupational and Professional Licensing	43522	R156-15A	AMD	04/08/2019	2019-5/8
<u>buildings</u>					
Administrative Services, Facilities Construction and Management	43525	R23-29	NSC	03/01/2019	Not Printed
	43567	R23-29	5YR	03/06/2019	2019-7/60
<u>camp</u>					
Regents (Board of), University of Utah, Administration	43541	R805-3	5YR	02/25/2019	2019-6/46
	43566	R805-3	AMD	05/22/2019	2019-7/38

<u>campfire</u>					
Regents (Board of), University of Utah, Administration	43541	R805-3	5YR	02/25/2019	2019-6/46
	43566	R805-3	AMD	05/22/2019	2019-7/38
<u>camping</u>					
Regents (Board of), University of Utah, Administration	43541	R805-3	5YR	02/25/2019	2019-6/46
	43566	R805-3	AMD	05/22/2019	2019-7/38
<u>cancer</u>					
Health, Disease Control and Prevention, Health Promotion	43540	R384-100	5YR	02/25/2019	2019-6/41
<u>cannabidiol</u>					
Agriculture and Food, Plant Industry	43571	R68-25	NSC	03/21/2019	Not Printed
<u>cannabis cultivation facility</u>					
Agriculture and Food, Plant Industry	43686	R68-27	EMR	05/03/2019	2019-10/107
<u>capital improvements</u>					
Administrative Services, Facilities Construction and Management	43568	R23-33	5YR	03/06/2019	2019-7/60
<u>capital investments</u>					
Governor, Economic Development	43488	R357-7	EXT	01/24/2019	2019-4/47
	43734	R357-7	5YR	05/22/2019	Not Printed
<u>carbon monoxide detectors</u>					
Education, Administration	43507	R277-400	5YR	02/08/2019	2019-5/95
	43512	R277-400	AMD	04/08/2019	2019-5/21
<u>CCHD screening</u>					
Health, Family Health and Preparedness, Children with Special Health Care Needs	43472	R398-5	AMD	03/11/2019	2019-3/18
<u>certificate of state authorization</u>					
Commerce, Consumer Protection	43612	R152-34a	5YR	04/01/2019	2019-8/101
<u>certification</u>					
Labor Commission, Boiler, Elevator and Coal Mine Safety	43572	R616-2-3	AMD	05/08/2019	2019-7/35
	43710	R616-2-3	EMR	05/09/2019	2019-11/39
	43573	R616-2-8	AMD	05/08/2019	2019-7/36
<u>certification of programs</u>					
Human Services, Substance Abuse and Mental Health	43141	R523-5	AMD	01/29/2019	2018-17/60
	43141	R523-5	CPR	01/29/2019	2018-24/38
<u>certifications</u>					
Agriculture and Food, Conservation Commission	43685	R64-3	5YR	04/30/2019	2019-10/115
Transportation, Motor Carrier	43443	R909-19	AMD	02/07/2019	2019-1/56
<u>certified medical language interpreter</u>					
Commerce, Occupational and Professional Licensing	43465	R156-80a	5YR	01/02/2019	2019-2/19
<u>charter schools</u>					
Education, Administration	43374	R277-470	REP	01/09/2019	2018-23/9
	43637	R277-472	5YR	04/08/2019	2019-9/81
	43712	R277-480	5YR	05/13/2019	2019-11/41
	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
	43478	R277-551	AMD	03/13/2019	2019-3/10
	43401	R277-553	NEW	01/09/2019	2018-23/31

RULES INDEX

	43395	R277-554	NEW	01/09/2019	2018-23/34
	43396	R277-555	NEW	01/09/2019	2018-23/38
<u>child care facilities</u>					
Health, Family Health and Preparedness, Child Care Licensing	43661	R430-8	5YR	04/17/2019	2019-10/116
<u>child placing</u>					
Human Services, Administration, Administrative Services, Licensing	43356	R501-7	AMD	02/12/2019	2018-23/105
<u>child support</u>					
Human Services, Recovery Services	43700	R527-10	5YR	05/03/2019	2019-11/44
	43699	R527-332	5YR	05/03/2019	2019-11/44
	43682	R527-394	5YR	04/29/2019	2019-10/116
	43727	R527-450	5YR	05/20/2019	Not Printed
<u>child welfare</u>					
Human Services, Child and Family Services	43518	R512-43	AMD	04/08/2019	2019-5/85
	43358	R512-305	AMD	01/09/2019	2018-23/115
<u>class size average reporting</u>					
Education, Administration	43636	R277-463	5YR	04/08/2019	2019-9/80
<u>clinical health information exchange</u>					
Health, Administration	43487	R380-70	5YR	01/24/2019	2019-4/43
<u>co-curricular</u>					
Education, Administration	43506	R277-494-4	NSC	02/20/2019	Not Printed
<u>cold case database</u>					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	43435	R722-920	NEW	02/20/2019	2019-1/49
<u>cold cases</u>					
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	43435	R722-920	NEW	02/20/2019	2019-1/49
<u>colleges</u>					
Public Safety, Administration	43523	R698-4	5YR	02/14/2019	2019-5/101
<u>colorectal cancer screening</u>					
Health, Disease Control and Prevention, Health Promotion	43539	R384-200	5YR	02/25/2019	2019-6/42
<u>commercial</u>					
Governor, Energy Development (Office of)	43419	R362-5	NEW	01/23/2019	2018-24/15
<u>community crisis training grant</u>					
Human Services, Substance Abuse and Mental Health	43355	R523-19	NEW	01/29/2019	2018-23/118
<u>competency-based instruction</u>					
Education, Administration	43622	R277-720	NEW	05/23/2019	2019-8/30
<u>compliance determinations</u>					
Environmental Quality, Drinking Water	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
<u>conduct committee</u>					
Human Resource Management, Administration	43470	R477-101	5YR	01/07/2019	2019-3/44
<u>confidentiality</u>					
Education, Administration	43511	R277-117	REP	04/08/2019	2019-5/19
	43476	R277-487	AMD	03/13/2019	2019-3/4

<u>consumer confidence report</u> Environmental Quality, Drinking Water	43387	R309-225-4	AMD	01/15/2019	2018-23/101
<u>consumer protection</u> Commerce, Consumer Protection	43612	R152-34a	5YR	04/01/2019	2019-8/101
<u>contraception</u> Health, Family Health and Preparedness, Maternal and Child Health	43402	R433-200	NEW	03/06/2019	2018-24/18
<u>contract requirements</u> Administrative Services, Facilities Construction and Management	43642	R23-23	5YR	04/11/2019	2019-9/79
<u>contractors</u> Administrative Services, Facilities Construction and Management	43642	R23-23	5YR	04/11/2019	2019-9/79
Capitol Preservation Board (State), Administration	43662	R131-13	5YR	04/17/2019	2019-10/115
Commerce, Occupational and Professional Licensing	43522	R156-15A	AMD	04/08/2019	2019-5/8
<u>contracts</u> Administrative Services, Facilities Construction and Management	43642	R23-23	5YR	04/11/2019	2019-9/79
Capitol Preservation Board (State), Administration	43662	R131-13	5YR	04/17/2019	2019-10/115
Education, Administration	43619	R277-115	NEW	05/23/2019	2019-8/10
<u>controlled substances</u> Health, Disease Control and Prevention, Health Promotion	43537	R384-203	5YR	02/25/2019	2019-6/42
<u>corrections</u> Corrections, Administration	43218	R251-105	AMD	02/11/2019	2018-20/12
<u>corrective action</u> Education, Administration	43396	R277-555	NEW	01/09/2019	2018-23/38
<u>counselors</u> Education, Administration	43739	R277-462	5YR	05/23/2019	Not Printed
<u>counting</u> Lieutenant Governor, Elections	43275	R623-5	NEW	03/01/2019	2018-21/96
<u>coverage groups</u> Health, Health Care Financing, Coverage and Reimbursement Policy	43706	R414-303	EMR	05/07/2019	2019-11/25
<u>credit insurance filings</u> Insurance, Administration	43582	R590-228	5YR	03/14/2019	2019-7/64
<u>crisis response services</u> Human Services, Substance Abuse and Mental Health	43555	R523-17	AMD	04/22/2019	2019-6/14
<u>crisis training grant</u> Human Services, Substance Abuse and Mental Health	43355	R523-19	NEW	01/29/2019	2018-23/118
<u>crisis worker certification</u> Human Services, Substance Abuse and Mental Health	43555	R523-17	AMD	04/22/2019	2019-6/14
<u>critical congenital heart disease (CCHD)</u> Health, Family Health and Preparedness, Children with Special Health Care Needs	43472	R398-5	AMD	03/11/2019	2019-3/18

RULES INDEX

curation

Regents (Board of), University of Utah, Museum of Natural History (Utah) 43535 R807-1 5YR 02/22/2019 2019-6/47

database

Public Safety, Criminal Investigations and Technical Services, Criminal Identification 43435 R722-920 NEW 02/20/2019 2019-1/49

definitions

Education, Administration 43479 R277-100 AMD 03/13/2019 2019-3/2
 Environmental Quality, Air Quality 43372 R307-101-2 AMD 02/07/2019 2018-23/49
 Environmental Quality, Drinking Water 43380 R309-110-4 AMD 01/15/2019 2018-23/60

delegation

Administrative Services, Facilities Construction and Management 43525 R23-29 NSC 03/01/2019 Not Printed
 43567 R23-29 5YR 03/06/2019 2019-7/60

dental

Environmental Quality, Waste Management and Radiation Control, Radiation 43253 R313-28-31 AMD 01/14/2019 2018-21/52
 43530 R313-28-31 AMD 04/15/2019 2019-5/50

design

Administrative Services, Facilities Construction and Management 43524 R23-3 NSC 03/01/2019 Not Printed
 43569 R23-3 5YR 03/06/2019 2019-7/59

design and engineering services

Transportation, Administration 43490 R907-66 R&R 03/26/2019 2019-4/31

digital teaching and learning

Education, Administration 43398 R277-922 AMD 01/09/2019 2018-23/45
 43713 R277-922 NSC 05/24/2019 Not Printed

disasters

Education, Administration 43507 R277-400 5YR 02/08/2019 2019-5/95
 43512 R277-400 AMD 04/08/2019 2019-5/21

discretionary funds

Education, Administration 43618 R277-119 REP 05/23/2019 2019-8/12

disinfection monitoring

Environmental Quality, Drinking Water 43384 R309-215-10 AMD 01/15/2019 2018-23/91
 43385 R309-215-16 AMD 01/15/2019 2018-23/93

disposal of fireworks

Public Safety, Fire Marshal 43354 R710-15 NEW 01/14/2019 2018-22/155

distribution system monitoring

Environmental Quality, Drinking Water 43382 R309-210-8 AMD 01/15/2019 2018-23/80
 43383 R309-211 AMD 01/15/2019 2018-23/85

dogs

Natural Resources, Wildlife Resources 43726 R657-46 5YR 05/20/2019 Not Printed

drinking water

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

<u>drip irrigation</u>					
Environmental Quality, Water Quality	43633	R317-401	5YR	04/08/2019	2019-9/82
<u>driver license restrictions</u>					
Public Safety, Driver License	43590	R708-10	5YR	03/15/2019	2019-7/65
<u>early graduation</u>					
Education, Administration	43622	R277-720	NEW	05/23/2019	2019-8/30
<u>economic development</u>					
Governor, Economic Development	43488	R357-7	EXT	01/24/2019	2019-4/47
	43734	R357-7	5YR	05/22/2019	Not Printed
<u>economics</u>					
Education, Administration	43519	R277-704	AMD	04/08/2019	2019-5/46
<u>education</u>					
Education, Administration	43532	R277-407	AMD	04/08/2019	2019-5/25
	43374	R277-470	REP	01/09/2019	2018-23/9
	43400	R277-550	NEW	01/09/2019	2018-23/21
	43393	R277-551	NEW	01/09/2019	2018-23/24
	43478	R277-551	AMD	03/13/2019	2019-3/10
<u>education finance</u>					
Education, Administration	43475	R277-419	NSC	01/15/2019	Not Printed
<u>educator licensing</u>					
Education, Administration	43664	R277-502	NSC	05/14/2019	Not Printed
	43600	R277-502-4	NSC	04/01/2019	Not Printed
<u>educators</u>					
Education, Administration	43624	R277-304	NEW	05/23/2019	2019-8/13
	43509	R277-528	5YR	02/08/2019	2019-5/96
<u>efficiency</u>					
Education, Administration	43441	R277-122	AMD	02/07/2019	2019-1/17
<u>elections</u>					
Lieutenant Governor, Elections	43494	R623-2	5YR	01/28/2019	2019-4/44
	43495	R623-3	5YR	01/28/2019	2019-4/45
<u>electric safety codes</u>					
Public Service Commission, Administration	43603	R746-310	AMD	05/22/2019	2019-8/49
<u>electric utility industries</u>					
Public Service Commission, Administration	43603	R746-310	AMD	05/22/2019	2019-8/49
<u>electronic devices</u>					
Education, Administration	43531	R277-495	AMD	04/08/2019	2019-5/42
<u>electronic meetings</u>					
Administrative Services, Finance	43471	R25-11	5YR	01/07/2019	2019-3/43
<u>elevator mechanics</u>					
Commerce, Occupational and Professional Licensing	43542	R156-55e	AMD	04/22/2019	2019-6/4
<u>eligibility</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	43707	R414-311-6	EMR	05/07/2019	2019-11/27
	43708	R414-312	EMR	05/07/2019	2019-11/28
<u>elk</u>					
Agriculture and Food, Animal Industry	43469	R58-20	5YR	01/07/2019	2019-3/43

RULES INDEX

emergency medical services

Health, Family Health and Preparedness, Emergency Medical Services	43177	R426-1	AMD	01/11/2019	2018-18/15
	43178	R426-2	AMD	01/11/2019	2018-18/19
	43260	R426-2-400	NSC	01/11/2019	Not Printed
	43321	R426-9	AMD	01/18/2019	2018-22/114

emergency preparedness

Education, Administration	43507	R277-400	5YR	02/08/2019	2019-5/95
	43512	R277-400	AMD	04/08/2019	2019-5/21

employees

Human Services, Administration	43719	R495-885	EMR	05/14/2019	2019-11/30
--------------------------------	-------	----------	-----	------------	------------

employment

Corrections, Administration	43218	R251-105	AMD	02/11/2019	2018-20/12
-----------------------------	-------	----------	-----	------------	------------

energy

Governor, Energy Development (Office of)	43419	R362-5	NEW	01/23/2019	2018-24/15
--	-------	--------	-----	------------	------------

enrichments

Education, Administration	43638	R277-493	5YR	04/08/2019	2019-9/81
---------------------------	-------	----------	-----	------------	-----------

enrollment options

Education, Administration	43397	R277-437	AMD	01/09/2019	2018-23/6
---------------------------	-------	----------	-----	------------	-----------

enrollment reporting

Education, Administration	43636	R277-463	5YR	04/08/2019	2019-9/80
---------------------------	-------	----------	-----	------------	-----------

environment

Agriculture and Food, Conservation Commission	43685	R64-3	5YR	04/30/2019	2019-10/115
---	-------	-------	-----	------------	-------------

environmental health scientist

Commerce, Occupational and Professional Licensing	43466	R156-20a	NSC	01/11/2019	Not Printed
---	-------	----------	-----	------------	-------------

environmental health scientist-in-training

Commerce, Occupational and Professional Licensing	43466	R156-20a	NSC	01/11/2019	Not Printed
---	-------	----------	-----	------------	-------------

environmental protection

Environmental Quality, Drinking Water	43378	R309-100-9	AMD	01/15/2019	2018-23/57
---------------------------------------	-------	------------	-----	------------	------------

ESSA

Education, Administration	43515	R277-483	NEW	04/08/2019	2019-5/36
---------------------------	-------	----------	-----	------------	-----------

evaluation cycles

Judicial Performance Evaluation Commission, Administration	43500	R597-3	5YR	02/05/2019	2019-5/100
--	-------	--------	-----	------------	------------

exhibitions

Agriculture and Food, Marketing and Development	43545	R65-8	NSC	03/13/2019	Not Printed
---	-------	-------	-----	------------	-------------

expansion

Education, Administration	43392	R277-482	REP	01/09/2019	2018-23/15
	43394	R277-552	NEW	01/09/2019	2018-23/26
	43623	R277-552	AMD	05/23/2019	2019-8/19

extracurricular

Education, Administration	43506	R277-494-4	NSC	02/20/2019	Not Printed
---------------------------	-------	------------	-----	------------	-------------

facilities

Education, Administration	43579	R277-724	5YR	03/13/2019	2019-7/61
---------------------------	-------	----------	-----	------------	-----------

family planning

Health, Family Health and Preparedness, Maternal and Child Health	43402	R433-200	NEW	03/06/2019	2018-24/18
---	-------	----------	-----	------------	------------

<u>federal election reform</u>					
Lieutenant Governor, Elections	43495	R623-3	5YR	01/28/2019	2019-4/45
<u>filing deadlines</u>					
Workforce Services, Unemployment Insurance	43557	R994-403	AMD	05/01/2019	2019-6/38
	43365	R994-403-109b	AMD	03/31/2019	2018-23/122
<u>finance</u>					
Administrative Services, Finance	43404	R25-10	AMD	01/23/2019	2018-24/6
<u>financial</u>					
Education, Administration	43519	R277-704	AMD	04/08/2019	2019-5/46
<u>financial information</u>					
Human Services, Recovery Services	43700	R527-10	5YR	05/03/2019	2019-11/44
<u>financing</u>					
Governor, Energy Development (Office of)	43419	R362-5	NEW	01/23/2019	2018-24/15
<u>fingerprinting</u>					
Human Services, Administration, Administrative Services, Licensing	43718	R501-14	EMR	05/14/2019	2019-11/33
<u>fire</u>					
Regents (Board of), University of Utah, Administration	43541	R805-3	5YR	02/25/2019	2019-6/46
	43566	R805-3	AMD	05/22/2019	2019-7/38
<u>fiscal</u>					
Natural Resources, Parks and Recreation	43416	R651-301	AMD	01/24/2019	2018-24/20
<u>fish</u>					
Natural Resources, Wildlife Resources	43420	R657-13	AMD	01/24/2019	2018-24/27
<u>fishing</u>					
Natural Resources, Wildlife Resources	43420	R657-13	AMD	01/24/2019	2018-24/27
<u>food programs</u>					
Education, Administration	43579	R277-724	5YR	03/13/2019	2019-7/61
<u>foreign deposits</u>					
Money Management Council, Administration	43504	R628-20	EXT	02/05/2019	2019-5/103
	43646	R628-20	5YR	04/12/2019	2019-9/88
<u>former foster care youth</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	43706	R414-303	EMR	05/07/2019	2019-11/25
<u>foster care</u>					
Human Services, Child and Family Services	43518	R512-43	AMD	04/08/2019	2019-5/85
<u>freedom of religion</u>					
Education, Administration	43610	R277-105	REP	05/23/2019	2019-8/6
<u>funding formula</u>					
Human Services, Substance Abuse and Mental Health	43505	R523-2-9	AMD	04/17/2019	2019-5/92
<u>furbearers</u>					
Natural Resources, Wildlife Resources	43414	R657-11	AMD	01/24/2019	2018-24/25
<u>game birds</u>					
Natural Resources, Wildlife Resources	43491	R657-22	AMD	03/25/2019	2019-4/22
<u>game laws</u>					
Natural Resources, Wildlife Resources	43431	R657-5	AMD	02/07/2019	2019-1/37
	43414	R657-11	AMD	01/24/2019	2018-24/25

RULES INDEX

	43492	R657-33	AMD	03/25/2019	2019-4/27
	43498	R657-67	5YR	02/04/2019	2019-5/101
<u>generators</u>					
Environmental Quality, Waste Management and Radiation Control, Waste Management	43528	R315-262	AMD	04/15/2019	2019-5/83
<u>geothermal natural bathing places</u>					
Health, Disease Control and Prevention, Environmental Services	43502	R392-303	5YR	02/05/2019	2019-5/96
<u>geothermal pools</u>					
Health, Disease Control and Prevention, Environmental Services	43502	R392-303	5YR	02/05/2019	2019-5/96
<u>geothermal spas</u>					
Health, Disease Control and Prevention, Environmental Services	43502	R392-303	5YR	02/05/2019	2019-5/96
<u>Governmental Immunity Act caps</u>					
Administrative Services, Risk Management	43235	R37-4	AMD	01/18/2019	2018-21/2
<u>graduation requirements</u>					
Education, Administration	43621	R277-700	AMD	05/23/2019	2019-8/23
<u>GRAMA</u>					
Corrections, Administration	43596	R251-111	5YR	03/19/2019	2019-8/102
Regents (Board of), Salt Lake Community College	43594	R784-1	5YR	03/17/2019	2019-8/107
<u>GRAMA appeals</u>					
Administrative Services, Administration	43744	R13-2	5YR	05/29/2019	Not Printed
<u>GRAMA requests</u>					
Administrative Services, Administration	43744	R13-2	5YR	05/29/2019	Not Printed
<u>grant programs</u>					
Education, Administration	43398	R277-922	AMD	01/09/2019	2018-23/45
	43713	R277-922	NSC	05/24/2019	Not Printed
<u>grants</u>					
Education, Administration	43511	R277-117	REP	04/08/2019	2019-5/19
Environmental Quality, Waste Management and Radiation Control, Waste Management	43529	R315-15-14	AMD	04/15/2019	2019-5/54
Health, Family Health and Preparedness, Primary Care and Rural Health	43709	R434-40	5YR	05/08/2019	2019-11/41
<u>graywater</u>					
Environmental Quality, Water Quality	43633	R317-401	5YR	04/08/2019	2019-9/82
<u>great seal</u>					
Lieutenant Governor, Administration	43595	R622-2	5YR	03/19/2019	2019-8/105
<u>hazardous materials</u>					
Public Safety, Administration	43418	R698-5	AMD	02/20/2019	2018-24/29
Public Safety, Fire Marshal	43455	R710-12	NEW	04/09/2019	2019-2/14
<u>hazardous waste</u>					
Environmental Quality, Waste Management and Radiation Control, Waste Management	43526	R315-260	AMD	04/15/2019	2019-5/56
	43527	R315-261	AMD	04/15/2019	2019-5/67
	43528	R315-262	AMD	04/15/2019	2019-5/83
	43252	R315-273	AMD	01/14/2019	2018-21/55
<u>health</u>					
Health, Center for Health Data, Health Care Statistics	43544	R428-1	AMD	05/01/2019	2019-6/12

<u>health care facilities</u>						
Health, Family Health and Preparedness, Licensing	43553	R432-7	5YR	02/27/2019	2019-6/43	
	43559	R432-8	5YR	02/28/2019	2019-6/44	
	43560	R432-9	5YR	02/28/2019	2019-6/44	
	43563	R432-10	5YR	03/04/2019	2019-7/62	
	43564	R432-11	5YR	03/04/2019	2019-7/62	
	43565	R432-12	5YR	03/04/2019	2019-7/63	
	43598	R432-13	5YR	03/21/2019	2019-8/103	
	43599	R432-14	5YR	03/21/2019	2019-8/103	
	43597	R432-30	5YR	03/21/2019	2019-8/104	
	43614	R432-32	5YR	04/01/2019	2019-8/104	
	43630	R432-45	5YR	04/05/2019	2019-9/83	
	43533	R432-270	5YR	02/20/2019	2019-6/45	
<u>health effects</u>						
Environmental Quality, Drinking Water	43386	R309-220-4	AMD	01/15/2019	2018-23/99	
<u>health insurance</u>						
Administrative Services, Facilities Construction and Management	43642	R23-23	5YR	04/11/2019	2019-9/79	
Capitol Preservation Board (State), Administration	43662	R131-13	5YR	04/17/2019	2019-10/115	
Human Services, Recovery Services	43700	R527-10	5YR	05/03/2019	2019-11/44	
Insurance, Administration	43428	R590-126-2	AMD	05/01/2019	2019-1/30	
<u>health insurance filings</u>						
Insurance, Administration	43520	R590-220	5YR	02/13/2019	2019-5/98	
<u>health planning</u>						
Health, Center for Health Data, Health Care Statistics	43544	R428-1	AMD	05/01/2019	2019-6/12	
<u>health policy</u>						
Health, Center for Health Data, Health Care Statistics	43544	R428-1	AMD	05/01/2019	2019-6/12	
<u>hearings</u>						
Labor Commission, Adjudication	43574	R602-2-1	AMD	05/08/2019	2019-7/30	
<u>Help America Vote Act</u>						
Lieutenant Governor, Elections	43494	R623-2	5YR	01/28/2019	2019-4/44	
<u>hemp extraction</u>						
Agriculture and Food, Plant Industry	43571	R68-25	NSC	03/21/2019	Not Printed	
<u>hemp oil</u>						
Agriculture and Food, Plant Industry	43571	R68-25	NSC	03/21/2019	Not Printed	
<u>hemp products</u>						
Agriculture and Food, Plant Industry	43571	R68-25	NSC	03/21/2019	Not Printed	
<u>higher education</u>						
Money Management Council, Administration	43504	R628-20	EXT	02/05/2019	2019-5/103	
	43646	R628-20	5YR	04/12/2019	2019-9/88	
Regents (Board of), Administration	43405	R765-615	NEW	03/14/2019	2018-24/33	
<u>highways</u>						
Transportation, Program Development	43584	R926-16	NEW	05/08/2019	2019-7/40	
<u>hormonal contraception</u>						
Health, Family Health and Preparedness, Maternal and Child Health	43402	R433-200	NEW	03/06/2019	2018-24/18	
<u>hot springs</u>						
Health, Disease Control and Prevention, Environmental Services	43502	R392-303	5YR	02/05/2019	2019-5/96	
<u>housing</u>						
Heritage and Arts, History	43716	R455-11	5YR	05/14/2019	2019-11/42	
	43721	R455-11	NSC	05/24/2019	Not Printed	

RULES INDEX

<u>human services</u>					
Human Services, Administration	43719	R495-885	EMR	05/14/2019	2019-11/30
Human Services, Administration, Administrative Services, Licensing	43330	R501-1	AMD	01/17/2019	2018-22/119
	43356	R501-7	AMD	02/12/2019	2018-23/105
	43234	R501-8	AMD	01/17/2019	2018-21/89
	43718	R501-14	EMR	05/14/2019	2019-11/33
	43237	R501-21	AMD	02/12/2019	2018-21/91
<u>hunter education</u>					
Natural Resources, Wildlife Resources	43498	R657-67	5YR	02/04/2019	2019-5/101
<u>hunting</u>					
Natural Resources, Wildlife Resources	43432	R657-38	AMD	02/07/2019	2019-1/44
<u>hunting parks</u>					
Agriculture and Food, Animal Industry	43469	R58-20	5YR	01/07/2019	2019-3/43
<u>ignition interlock systems</u>					
Public Safety, Driver License	43592	R708-31	5YR	03/15/2019	2019-7/66
<u>implementation</u>					
Education, Administration	43395	R277-554	NEW	01/09/2019	2018-23/34
<u>in-service training</u>					
Public Safety, Peace Officer Standards and Training	43534	R728-502	5YR	02/21/2019	2019-6/45
<u>incentives</u>					
Governor, Energy Development (Office of)	43223	R362-4	AMD	02/05/2019	2018-20/18
Regents (Board of), Administration	43405	R765-615	NEW	03/14/2019	2018-24/33
<u>incident reporting</u>					
Education, Administration	43439	R277-912	NEW	02/07/2019	2019-1/26
<u>individual open enrollment period</u>					
Insurance, Administration	43474	R590-269	5YR	01/11/2019	2019-3/44
<u>information technology resources</u>					
Technology Services, Administration	43467	R895-7	5YR	01/03/2019	2019-3/45
<u>inspections</u>					
Agriculture and Food, Animal Industry	43469	R58-20	5YR	01/07/2019	2019-3/43
<u>instructor certification</u>					
Public Safety, Peace Officer Standards and Training	43534	R728-502	5YR	02/21/2019	2019-6/45
<u>insurance</u>					
Insurance, Administration	43626	R590-166	5YR	04/03/2019	2019-9/85
	43514	R590-170	5YR	02/11/2019	2019-5/97
	43737	R590-171	5YR	05/23/2019	Not Printed
	43429	R590-186-5	AMD	02/07/2019	2019-1/31
	43561	R590-280	NEW	04/23/2019	2019-6/25
<u>insurance annuity suitability</u>					
Insurance, Administration	43738	R590-230	5YR	05/23/2019	Not Printed
<u>insurance fees</u>					
Insurance, Administration	43604	R590-102	NSC	04/01/2019	Not Printed
	43485	R590-102-21	AMD	03/26/2019	2019-4/4
<u>insurance law</u>					
Insurance, Administration	43628	R590-98	5YR	04/03/2019	2019-9/85
	43625	R590-190	5YR	04/03/2019	2019-9/86
	43629	R590-191	5YR	04/03/2019	2019-9/86

<u>intellectual disability</u>						
Health, Family Health and Preparedness, Children with Special Health Care Needs	43538	R398-10	5YR	02/25/2019	2019-6/43	
<u>interns</u>						
Education, Administration	43373	R277-509	AMD	01/09/2019	2018-23/19	
<u>investment advisers</u>						
Money Management Council, Administration	43503	R628-19	EXT	02/05/2019	2019-5/103	
	43645	R628-19	5YR	04/12/2019	2019-9/87	
<u>IT bid committee</u>						
Technology Services, Administration	43697	R895-9	5YR	05/02/2019	2019-11/45	
<u>IT standards council</u>						
Technology Services, Administration	43697	R895-9	5YR	05/02/2019	2019-11/45	
<u>judges</u>						
Judicial Performance Evaluation Commission, Administration	43501	R597-1	5YR	02/05/2019	2019-5/100	
	43500	R597-3	5YR	02/05/2019	2019-5/100	
<u>judicial performance evaluations</u>						
Judicial Performance Evaluation Commission, Administration	43501	R597-1	5YR	02/05/2019	2019-5/100	
	43500	R597-3	5YR	02/05/2019	2019-5/100	
<u>judiciary</u>						
Judicial Performance Evaluation Commission, Administration	43501	R597-1	5YR	02/05/2019	2019-5/100	
<u>justice court classifications</u>						
Judicial Performance Evaluation Commission, Administration	43601	R597-4	5YR	03/22/2019	2019-8/105	
<u>justice court evaluations</u>						
Judicial Performance Evaluation Commission, Administration	43601	R597-4	5YR	03/22/2019	2019-8/105	
<u>justice court multiple election years</u>						
Judicial Performance Evaluation Commission, Administration	43601	R597-4	5YR	03/22/2019	2019-8/105	
<u>justice court multiple jurisdictions</u>						
Judicial Performance Evaluation Commission, Administration	43601	R597-4	5YR	03/22/2019	2019-8/105	
<u>kindergarten</u>						
Education, Administration	43638	R277-493	5YR	04/08/2019	2019-9/81	
<u>law enforcement</u>						
Education, Administration	43439	R277-912	NEW	02/07/2019	2019-1/26	
<u>law enforcement officer certification</u>						
Public Safety, Administration	43523	R698-4	5YR	02/14/2019	2019-5/101	
<u>learner permit</u>						
Public Safety, Driver License	43591	R708-26	5YR	03/15/2019	2019-7/66	
<u>licensing</u>						
Commerce, Occupational and Professional Licensing	43522	R156-15A	AMD	04/08/2019	2019-5/8	
	43466	R156-20a	NSC	01/11/2019	Not Printed	
	43189	R156-28	AMD	03/25/2019	2018-19/7	
	43189	R156-28	CPR	03/25/2019	2019-4/40	
	43542	R156-55e	AMD	04/22/2019	2019-6/4	
	43543	R156-60	5YR	02/26/2019	2019-6/41	
	43318	R156-63a	AMD	05/13/2019	2018-22/89	

RULES INDEX

	43318	R156-63a	CPR	05/13/2019	2019-7/48
	43577	R156-63a	NSC	05/14/2019	Not Printed
	43319	R156-63b	AMD	05/13/2019	2018-22/96
	43319	R156-63b	CPR	05/13/2019	2019-7/53
	43578	R156-63b	NSC	05/14/2019	Not Printed
	43465	R156-80a	5YR	01/02/2019	2019-2/19
Human Services, Administration, Administrative Services, Licensing	43330	R501-1	AMD	01/17/2019	2018-22/119
	43356	R501-7	AMD	02/12/2019	2018-23/105
	43234	R501-8	AMD	01/17/2019	2018-21/89
	43718	R501-14	EMR	05/14/2019	2019-11/33
	43237	R501-21	AMD	02/12/2019	2018-21/91
Public Safety, Driver License	43590	R708-10	5YR	03/15/2019	2019-7/65
	43607	R708-24	5YR	03/28/2019	2019-8/106
<u>life insurance annuity replacement</u>					
Insurance, Administration	43627	R590-93	5YR	04/03/2019	2019-9/84
<u>life insurance filings</u>					
Insurance, Administration	43580	R590-226	5YR	03/14/2019	2019-7/63
<u>limitation on judgments</u>					
Administrative Services, Risk Management	43235	R37-4	AMD	01/18/2019	2018-21/2
<u>literacy</u>					
Education, Administration	43519	R277-704	AMD	04/08/2019	2019-5/46
<u>litter</u>					
Transportation, Operations, Maintenance	43489	R918-4	AMD	03/26/2019	2019-4/36
<u>livestock</u>					
Agriculture and Food, Marketing and Development	43545	R65-8	NSC	03/13/2019	Not Printed
<u>loans</u>					
Regents (Board of), Administration	43405	R765-615	NEW	03/14/2019	2018-24/33
<u>lobbyist</u>					
Lieutenant Governor, Elections	43493	R623-1	5YR	01/28/2019	2019-4/44
<u>lobbyist registration</u>					
Lieutenant Governor, Elections	43493	R623-1	5YR	01/28/2019	2019-4/44
<u>Local Mental Health Authority</u>					
Human Services, Substance Abuse and Mental Health	43505	R523-2-9	AMD	04/17/2019	2019-5/92
<u>Local Substance Abuse Authority</u>					
Human Services, Substance Abuse and Mental Health	43505	R523-2-9	AMD	04/17/2019	2019-5/92
<u>long term acute care</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	43473	R414-515	AMD	03/21/2019	2019-3/21
<u>lt. governor</u>					
Lieutenant Governor, Administration	43595	R622-2	5YR	03/19/2019	2019-8/105
<u>LTAC</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	43473	R414-515	AMD	03/21/2019	2019-3/21
<u>MAGI-based</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	43706	R414-303	EMR	05/07/2019	2019-11/25

<u>mammography</u>						
Environmental Quality, Waste Management and Radiation Control, Radiation	43253	R313-28-31	AMD	01/14/2019	2018-21/52	
	43530	R313-28-31	AMD	04/15/2019	2019-5/50	
<u>marijuana</u>						
Agriculture and Food, Plant Industry	43686	R68-27	EMR	05/03/2019	2019-10/107	
<u>MCOT standards</u>						
Human Services, Substance Abuse and Mental Health	43554	R523-18	AMD	04/22/2019	2019-6/21	
<u>Medicaid</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	43635	R414-7A	NSC	04/24/2019	Not Printed	
	43740	R414-7A	5YR	05/24/2019	Not Printed	
	43634	R414-14A	5YR	04/08/2019	2019-9/82	
	43751	R414-31	5YR	05/31/2019	Not Printed	
	43536	R414-49	AMD	04/22/2019	2019-6/7	
	43749	R414-49	5YR	05/31/2019	Not Printed	
	43425	R414-61-2	AMD	02/15/2019	2019-1/28	
	43707	R414-311-6	EMR	05/07/2019	2019-11/27	
	43708	R414-312	EMR	05/07/2019	2019-11/28	
	43750	R414-502	5YR	05/31/2019	Not Printed	
	43748	R414-503	5YR	05/31/2019	Not Printed	
	43473	R414-515	AMD	03/21/2019	2019-3/21	
	43483	R414-516	AMD	03/21/2019	2019-3/23	
	43332	R414-520	NEW	01/04/2019	2018-22/111	
	43352	R414-521	NEW	01/04/2019	2018-22/113	
<u>medical examiner</u>						
Health, Disease Control and Prevention, Medical Examiner	43631	R448-10	5YR	04/05/2019	2019-9/83	
	43632	R448-20	5YR	04/05/2019	2019-9/84	
<u>medical language interpreter</u>						
Commerce, Occupational and Professional Licensing	43465	R156-80a	5YR	01/02/2019	2019-2/19	
<u>medically underserved</u>						
Health, Family Health and Preparedness, Primary Care and Rural Health	43709	R434-40	5YR	05/08/2019	2019-11/41	
<u>mental health</u>						
Commerce, Occupational and Professional Licensing	43543	R156-60	5YR	02/26/2019	2019-6/41	
<u>mental health crisis and suicide prevention training grant</u>						
Human Services, Substance Abuse and Mental Health	43355	R523-19	NEW	01/29/2019	2018-23/118	
<u>mentoring</u>						
Education, Administration	43395	R277-554	NEW	01/09/2019	2018-23/34	
<u>mentors</u>						
Education, Administration	43442	R277-308	NEW	02/07/2019	2019-1/22	
<u>migratory birds</u>						
Natural Resources, Wildlife Resources	43430	R657-9	AMD	02/07/2019	2019-1/41	
<u>mobile crisis outreach team</u>						
Human Services, Substance Abuse and Mental Health	43554	R523-18	AMD	04/22/2019	2019-6/21	
<u>monitoring</u>						
Education, Administration	43619	R277-115	NEW	05/23/2019	2019-8/10	
	43399	R277-481	REP	01/09/2019	2018-23/12	
	43401	R277-553	NEW	01/09/2019	2018-23/31	

RULES INDEX

<u>NCLB</u>						
Education, Administration	43583	R277-524	5YR	03/14/2019	2019-7/61	
<u>needles</u>						
Health, Disease Control and Prevention, Epidemiology	43468	R386-900	AMD	05/15/2019	2019-3/16	
<u>new educators</u>						
Education, Administration	43442	R277-308	NEW	02/07/2019	2019-1/22	
<u>nonattainment</u>						
Environmental Quality, Air Quality	43211	R307-511	NEW	03/05/2019	2018-19/32	
	43211	R307-511	CPR	03/05/2019	2019-3/41	
<u>notification requirements</u>						
Commerce, Real Estate	43407	R162-2f	AMD	01/23/2019	2018-24/8	
<u>off-highway vehicles</u>						
Natural Resources, Parks and Recreation	43415	R651-406	AMD	01/24/2019	2018-24/23	
<u>offset</u>						
Environmental Quality, Air Quality	43211	R307-511	NEW	03/05/2019	2018-19/32	
	43211	R307-511	CPR	03/05/2019	2019-3/41	
<u>operational requirements</u>						
Commerce, Real Estate	43407	R162-2f	AMD	01/23/2019	2018-24/8	
<u>out-of-home care</u>						
Human Services, Child and Family Services	43358	R512-305	AMD	01/09/2019	2018-23/115	
<u>outpatient treatment programs</u>						
Human Services, Administration, Administrative Services, Licensing	43237	R501-21	AMD	02/12/2019	2018-21/91	
<u>overpayments</u>						
Human Services, Recovery Services	43699	R527-332	5YR	05/03/2019	2019-11/44	
<u>oversight</u>						
Education, Administration	43399	R277-481	REP	01/09/2019	2018-23/12	
	43401	R277-553	NEW	01/09/2019	2018-23/31	
<u>ozone</u>						
Environmental Quality, Air Quality	43212	R307-110-10	AMD	03/05/2019	2018-19/31	
	43212	R307-110-10	CPR	03/05/2019	2019-3/40	
	42976	R307-110-17	AMD	01/03/2019	2018-13/35	
	42976	R307-110-17	CPR	01/03/2019	2018-21/134	
<u>paleontological</u>						
Regents (Board of), University of Utah, Museum of Natural History (Utah)	43535	R807-1	5YR	02/22/2019	2019-6/47	
<u>paraprofessional qualifications</u>						
Education, Administration	43583	R277-524	5YR	03/14/2019	2019-7/61	
<u>parental rights</u>						
Human Services, Administration	43496	R495-882	5YR	02/01/2019	2019-4/43	
<u>peace officers</u>						
Public Safety, Peace Officer Standards and Training	43534	R728-502	5YR	02/21/2019	2019-6/45	
<u>peer support specialist</u>						
Human Services, Substance Abuse and Mental Health	43141	R523-5	AMD	01/29/2019	2018-17/60	
<u>peer support specialists</u>						
Human Services, Substance Abuse and Mental Health	43141	R523-5	CPR	01/29/2019	2018-24/38	

<u>performance evaluations</u>					
Judicial Performance Evaluation Commission, Administration	43501	R597-1	5YR	02/05/2019	2019-5/100
<u>permits</u>					
Natural Resources, Forestry, Fire and State Lands	43480	R652-70	AMD	03/25/2019	2019-3/28
Natural Resources, Wildlife Resources	43639	R657-62	5YR	04/09/2019	2019-9/89
Transportation, Motor Carrier	43735	R909-2	5YR	05/22/2019	Not Printed
Transportation, Preconstruction	43602	R930-6	AMD	05/22/2019	2019-8/67
<u>personal property</u>					
Tax Commission, Property Tax	43437	R884-24P-19	AMD	03/28/2019	2019-1/51
	43640	R884-24P-19	NSC	04/24/2019	Not Printed
	43371	R884-24P-27	AMD	01/10/2019	2018-23/119
	43698	R884-24P-62	NSC	05/17/2019	Not Printed
	43438	R884-24P-74	AMD	03/28/2019	2019-1/54
<u>planning</u>					
Administrative Services, Facilities Construction and Management	43524	R23-3	NSC	03/01/2019	Not Printed
	43569	R23-3	5YR	03/06/2019	2019-7/59
<u>PM10</u>					
Environmental Quality, Air Quality	43212	R307-110-10	AMD	03/05/2019	2018-19/31
	43212	R307-110-10	CPR	03/05/2019	2019-3/40
	42976	R307-110-17	AMD	01/03/2019	2018-13/35
	42976	R307-110-17	CPR	01/03/2019	2018-21/134
<u>PM2.5</u>					
Environmental Quality, Air Quality	43212	R307-110-10	AMD	03/05/2019	2018-19/31
	43212	R307-110-10	CPR	03/05/2019	2019-3/40
	42976	R307-110-17	AMD	01/03/2019	2018-13/35
	42976	R307-110-17	CPR	01/03/2019	2018-21/134
<u>policy</u>					
Education, Administration	43531	R277-495	AMD	04/08/2019	2019-5/42
<u>postsecondary schools</u>					
Commerce, Consumer Protection	43612	R152-34a	5YR	04/01/2019	2019-8/101
<u>prescription drug database</u>					
Health, Disease Control and Prevention, Health Promotion	43537	R384-203	5YR	02/25/2019	2019-6/42
<u>preservation</u>					
Heritage and Arts, History	43716	R455-11	5YR	05/14/2019	2019-11/42
	43721	R455-11	NSC	05/24/2019	Not Printed
<u>presumptive eligibility</u>					
Health, Health Care Financing, Coverage and Reimbursement Policy	43706	R414-303	EMR	05/07/2019	2019-11/25
<u>prioritization</u>					
Administrative Services, Facilities Construction and Management	43568	R23-33	5YR	03/06/2019	2019-7/60
<u>prisons</u>					
Corrections, Administration	43218	R251-105	AMD	02/11/2019	2018-20/12
<u>privacy</u>					
Education, Administration	43476	R277-487	AMD	03/13/2019	2019-3/4
<u>private security officers</u>					
Commerce, Occupational and Professional Licensing	43318	R156-63a	AMD	05/13/2019	2018-22/89
	43318	R156-63a	CPR	05/13/2019	2019-7/48
	43577	R156-63a	NSC	05/14/2019	Not Printed

RULES INDEX

<u>procurement</u>					
Administrative Services, Facilities Construction and Management	43524	R23-3	NSC	03/01/2019	Not Printed
	43569	R23-3	5YR	03/06/2019	2019-7/59
Education, Administration	43441	R277-122	AMD	02/07/2019	2019-1/17
Transportation, Administration	43490	R907-66	R&R	03/26/2019	2019-4/31
<u>professional competency</u>					
Education, Administration	43664	R277-502	NSC	05/14/2019	Not Printed
	43600	R277-502-4	NSC	04/01/2019	Not Printed
<u>professional staff</u>					
Education, Administration	43508	R277-486	5YR	02/08/2019	2019-5/95
	43516	R277-486	AMD	04/08/2019	2019-5/39
<u>programs</u>					
Education, Administration	43624	R277-304	NEW	05/23/2019	2019-8/13
<u>promotions</u>					
Agriculture and Food, Marketing and Development	43546	R65-1	NSC	03/13/2019	Not Printed
	43547	R65-5	NSC	03/13/2019	Not Printed
	43548	R65-11	NSC	03/13/2019	Not Printed
	43549	R65-12	NSC	03/13/2019	Not Printed
	43641	R65-12	5YR	04/11/2019	2019-9/79
<u>property casualty insurance filing</u>					
Insurance, Administration	43521	R590-225	5YR	02/13/2019	2019-5/98
	43615	R590-225-3	AMD	05/22/2019	2019-8/47
<u>property tax</u>					
Tax Commission, Property Tax	43437	R884-24P-19	AMD	03/28/2019	2019-1/51
	43640	R884-24P-19	NSC	04/24/2019	Not Printed
	43371	R884-24P-27	AMD	01/10/2019	2018-23/119
	43698	R884-24P-62	NSC	05/17/2019	Not Printed
	43438	R884-24P-74	AMD	03/28/2019	2019-1/54
<u>PSS program</u>					
Human Services, Substance Abuse and Mental Health	43141	R523-5	AMD	01/29/2019	2018-17/60
	43141	R523-5	CPR	01/29/2019	2018-24/38
<u>public buildings</u>					
Administrative Services, Facilities Construction and Management	43524	R23-3	NSC	03/01/2019	Not Printed
	43569	R23-3	5YR	03/06/2019	2019-7/59
<u>public education</u>					
Education, Administration	43610	R277-105	REP	05/23/2019	2019-8/6
	43397	R277-437	AMD	01/09/2019	2018-23/6
	43739	R277-462	5YR	05/23/2019	Not Printed
<u>public funds</u>					
Money Management Council, Administration	43503	R628-19	EXT	02/05/2019	2019-5/103
	43645	R628-19	5YR	04/12/2019	2019-9/87
	43504	R628-20	EXT	02/05/2019	2019-5/103
	43646	R628-20	5YR	04/12/2019	2019-9/88
	43644	R628-21	5YR	04/12/2019	2019-9/88
<u>public information</u>					
Administrative Services, Administration	43744	R13-2	5YR	05/29/2019	Not Printed
<u>public notification</u>					
Environmental Quality, Drinking Water	43386	R309-220-4	AMD	01/15/2019	2018-23/99
<u>public schools</u>					
Education, Administration	43636	R277-463	5YR	04/08/2019	2019-9/80

<u>public utilities</u> Public Service Commission, Administration	43603	R746-310	AMD	05/22/2019	2019-8/49
<u>public-private partnerships</u> Transportation, Program Development	43584	R926-16	NEW	05/08/2019	2019-7/40
<u>pupil accounting</u> Education, Administration	43475	R277-419	NSC	01/15/2019	Not Printed
<u>pupil-teacher ratio reporting</u> Education, Administration	43636	R277-463	5YR	04/08/2019	2019-9/80
<u>qualified depository</u> Money Management Council, Administration	43644	R628-21	5YR	04/12/2019	2019-9/88
<u>quality standards</u> Environmental Quality, Drinking Water	43381	R309-200	AMD	01/15/2019	2018-23/73
<u>real estate business</u> Commerce, Real Estate	43407	R162-2f	AMD	01/23/2019	2018-24/8
<u>reciprocal deposits</u> Money Management Council, Administration	43644	R628-21	5YR	04/12/2019	2019-9/88
<u>records</u> Education, Administration	43476	R277-487	AMD	03/13/2019	2019-3/4
Health, Disease Control and Prevention, Medical Examiner	43632	R448-20	5YR	04/05/2019	2019-9/84
<u>records access</u> Corrections, Administration	43596	R251-111	5YR	03/19/2019	2019-8/102
<u>recreation</u> Natural Resources, Parks and Recreation	43416	R651-301	AMD	01/24/2019	2018-24/20
Natural Resources, Wildlife Resources	43432	R657-38	AMD	02/07/2019	2019-1/44
<u>recycling</u> Environmental Quality, Waste Management and Radiation Control, Waste Management	43529	R315-15-14	AMD	04/15/2019	2019-5/54
<u>registration</u> Environmental Quality, Waste Management and Radiation Control, Waste Management	43529	R315-15-14	AMD	04/15/2019	2019-5/54
Workforce Services, Unemployment Insurance	43557	R994-403	AMD	05/01/2019	2019-6/38
	43365	R994-403-109b	AMD	03/31/2019	2018-23/122
<u>regulated contaminants</u> Environmental Quality, Drinking Water	43381	R309-200	AMD	01/15/2019	2018-23/73
<u>rehabilitation</u> Heritage and Arts, History	43716	R455-11	5YR	05/14/2019	2019-11/42
	43721	R455-11	NSC	05/24/2019	Not Printed
<u>reimbursements</u> Education, Administration	43622	R277-720	NEW	05/23/2019	2019-8/30
<u>reporting</u> Education, Administration	43515	R277-483	NEW	04/08/2019	2019-5/36
Health, Family Health and Preparedness, Children with Special Health Care Needs	43538	R398-10	5YR	02/25/2019	2019-6/43
Health, Family Health and Preparedness, Emergency Medical Services	43321	R426-9	AMD	01/18/2019	2018-22/114
<u>reporting death</u> Health, Disease Control and Prevention, Medical Examiner	43631	R448-10	5YR	04/05/2019	2019-9/83

RULES INDEX

<u>reporting requirements</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	43352	R414-521	NEW	01/04/2019	2018-22/113	
<u>reporting requirements and procedures</u>						
Health, Disease Control and Prevention, Health Promotion	43540	R384-100	5YR	02/25/2019	2019-6/41	
<u>repository</u>						
Technology Services, Administration	43697	R895-9	5YR	05/02/2019	2019-11/45	
<u>repurposing of fireworks</u>						
Public Safety, Fire Marshal	43354	R710-15	NEW	01/14/2019	2018-22/155	
<u>resources</u>						
Regents (Board of), University of Utah, Museum of Natural History (Utah)	43535	R807-1	5YR	02/22/2019	2019-6/47	
<u>revolving account</u>						
Education, Administration	43712	R277-480	5YR	05/13/2019	2019-11/41	
<u>RFPs</u>						
Education, Administration	43511	R277-117	REP	04/08/2019	2019-5/19	
<u>risk management</u>						
Administrative Services, Risk Management	43235	R37-4	AMD	01/18/2019	2018-21/2	
<u>ropeways</u>						
Transportation, Operations, Traffic and Safety	43444	R920-50	AMD	02/07/2019	2019-1/63	
<u>rules</u>						
Education, Administration	43479	R277-100	AMD	03/13/2019	2019-3/2	
<u>rules and procedures</u>						
Education, Administration	43609	R277-102	REP	05/23/2019	2019-8/4	
<u>runoff</u>						
Lieutenant Governor, Elections	43275	R623-5	NEW	03/01/2019	2018-21/96	
<u>safety</u>						
Labor Commission, Boiler, Elevator and Coal Mine Safety	43572	R616-2-3	AMD	05/08/2019	2019-7/35	
	43710	R616-2-3	EMR	05/09/2019	2019-11/39	
	43573	R616-2-8	AMD	05/08/2019	2019-7/36	
<u>safety education</u>						
Education, Administration	43507	R277-400	5YR	02/08/2019	2019-5/95	
	43512	R277-400	AMD	04/08/2019	2019-5/21	
<u>safety regulations</u>						
Transportation, Motor Carrier	43735	R909-2	5YR	05/22/2019	Not Printed	
	43443	R909-19	AMD	02/07/2019	2019-1/56	
<u>sanitarian</u>						
Commerce, Occupational and Professional Licensing	43466	R156-20a	NSC	01/11/2019	Not Printed	
<u>satellite</u>						
Education, Administration	43392	R277-482	REP	01/09/2019	2018-23/15	
	43394	R277-552	NEW	01/09/2019	2018-23/26	
	43623	R277-552	AMD	05/23/2019	2019-8/19	
<u>scholarships</u>						
Health, Family Health and Preparedness, Primary Care and Rural Health	43709	R434-40	5YR	05/08/2019	2019-11/41	

<u>school buses</u>					
Education, Administration	43375	R277-600	AMD	01/09/2019	2018-23/38
	43611	R277-601	5YR	03/29/2019	2019-8/102
<u>school enrollment</u>					
Education, Administration	43475	R277-419	NSC	01/15/2019	Not Printed
<u>school fees</u>					
Education, Administration	43532	R277-407	AMD	04/08/2019	2019-5/25
<u>school transportation</u>					
Education, Administration	43375	R277-600	AMD	01/09/2019	2018-23/38
	43611	R277-601	5YR	03/29/2019	2019-8/102
<u>scoring</u>					
Administrative Services, Facilities Construction and Management	43568	R23-33	5YR	03/06/2019	2019-7/60
<u>screenings</u>					
Human Services, Administration	43719	R495-885	EMR	05/14/2019	2019-11/30
<u>securities</u>					
Money Management Council, Administration	43503	R628-19	EXT	02/05/2019	2019-5/103
	43645	R628-19	5YR	04/12/2019	2019-9/87
<u>security guards</u>					
Commerce, Occupational and Professional Licensing	43318	R156-63a	AMD	05/13/2019	2018-22/89
	43318	R156-63a	CPR	05/13/2019	2019-7/48
	43577	R156-63a	NSC	05/14/2019	Not Printed
	43319	R156-63b	AMD	05/13/2019	2018-22/96
	43319	R156-63b	CPR	05/13/2019	2019-7/53
	43578	R156-63b	NSC	05/14/2019	Not Printed
<u>seizure of fireworks</u>					
Public Safety, Fire Marshal	43354	R710-15	NEW	01/14/2019	2018-22/155
<u>senior-specific insurance designations</u>					
Insurance, Administration	43513	R590-252	5YR	02/11/2019	2019-5/99
<u>SERC</u>					
Public Safety, Administration	43418	R698-5	AMD	02/20/2019	2018-24/29
<u>settlements</u>					
Labor Commission, Adjudication	43574	R602-2-1	AMD	05/08/2019	2019-7/30
<u>shooting range</u>					
Regents (Board of), University of Utah, Administration	43499	R805-6	5YR	02/04/2019	2019-5/102
<u>size and weight</u>					
Transportation, Motor Carrier	43735	R909-2	5YR	05/22/2019	Not Printed
<u>SLCC</u>					
Regents (Board of), Salt Lake Community College	43594	R784-1	5YR	03/17/2019	2019-8/107
<u>small employer stop-loss</u>					
Insurance, Administration	43570	R590-268	5YR	03/07/2019	2019-7/65
<u>small purchases</u>					
Transportation, Administration	43490	R907-66	R&R	03/26/2019	2019-4/31
<u>social services</u>					
Human Services, Child and Family Services	43358	R512-305	AMD	01/09/2019	2018-23/115
<u>sovereign lands</u>					
Natural Resources, Forestry, Fire and State Lands	43480	R652-70	AMD	03/25/2019	2019-3/28

RULES INDEX

<u>speech/hearing challenges</u>						
Public Service Commission, Administration	43550	R746-8-301	AMD	04/30/2019	2019-6/27	
<u>sponsor-a-highway</u>						
Transportation, Operations, Maintenance	43489	R918-4	AMD	03/26/2019	2019-4/36	
<u>standards</u>						
Education, Administration	43621	R277-700	AMD	05/23/2019	2019-8/23	
Health, Administration	43487	R380-70	5YR	01/24/2019	2019-4/43	
<u>startup</u>						
Education, Administration	43395	R277-554	NEW	01/09/2019	2018-23/34	
<u>State Board of Education</u>						
Education, Administration	43618	R277-119	REP	05/23/2019	2019-8/12	
<u>state custody</u>						
Human Services, Administration	43496	R495-882	5YR	02/01/2019	2019-4/43	
<u>state emergency response commission</u>						
Public Safety, Administration	43418	R698-5	AMD	02/20/2019	2018-24/29	
<u>state employees</u>						
Administrative Services, Finance	43404	R25-10	AMD	01/23/2019	2018-24/6	
<u>state flag</u>						
Lieutenant Governor, Administration	43595	R622-2	5YR	03/19/2019	2019-8/105	
<u>state plan</u>						
Lieutenant Governor, Elections	43495	R623-3	5YR	01/28/2019	2019-4/45	
<u>statewide crisis line standards</u>						
Human Services, Substance Abuse and Mental Health	43555	R523-17	AMD	04/22/2019	2019-6/14	
<u>statewide crisis response standards</u>						
Human Services, Substance Abuse and Mental Health	43554	R523-18	AMD	04/22/2019	2019-6/21	
<u>statewide online education program</u>						
Education, Administration	43620	R277-726	AMD	05/23/2019	2019-8/32	
<u>stewardships</u>						
Agriculture and Food, Conservation Commission	43685	R64-3	5YR	04/30/2019	2019-10/115	
<u>storage of fireworks</u>						
Public Safety, Fire Marshal	43354	R710-15	NEW	01/14/2019	2018-22/155	
<u>student achievements</u>						
Education, Administration	43450	R277-404	AMD	02/22/2019	2019-2/6	
<u>student eligibility</u>						
Workforce Services, Unemployment Insurance	43557	R994-403	AMD	05/01/2019	2019-6/38	
	43365	R994-403-109b	AMD	03/31/2019	2018-23/122	
<u>student participation</u>						
Education, Administration	43506	R277-494-4	NSC	02/20/2019	Not Printed	
<u>student teachers</u>						
Education, Administration	43373	R277-509	AMD	01/09/2019	2018-23/19	
<u>students</u>						
Education, Administration	43637	R277-472	5YR	04/08/2019	2019-9/81	
	43476	R277-487	AMD	03/13/2019	2019-3/4	
<u>substance abuse</u>						
Education, Administration	43448	R277-910	NEW	02/07/2019	2019-1/24	

<u>substance abuse database</u> Health, Disease Control and Prevention, Health Promotion	43537	R384-203	5YR	02/25/2019	2019-6/42
<u>substance use disorder</u> Human Services, Substance Abuse and Mental Health	43141	R523-5	AMD	01/29/2019	2018-17/60
	43141	R523-5	CPR	01/29/2019	2018-24/38
<u>suicide prevention training grant</u> Human Services, Substance Abuse and Mental Health	43355	R523-19	NEW	01/29/2019	2018-23/118
<u>supplementals</u> Education, Administration	43638	R277-493	5YR	04/08/2019	2019-9/81
<u>surcharges and disbursements</u> Public Service Commission, Administration	43550	R746-8-301	AMD	04/30/2019	2019-6/27
<u>surface water treatment plant monitoring</u> Environmental Quality, Drinking Water	43384	R309-215-10	AMD	01/15/2019	2018-23/91
	43385	R309-215-16	AMD	01/15/2019	2018-23/93
<u>surveys</u> Judicial Performance Evaluation Commission, Administration	43500	R597-3	5YR	02/05/2019	2019-5/100
<u>syringe exchange programs</u> Health, Disease Control and Prevention, Epidemiology	43468	R386-900	AMD	05/15/2019	2019-3/16
<u>syringes</u> Health, Disease Control and Prevention, Epidemiology	43468	R386-900	AMD	05/15/2019	2019-3/16
<u>talent ready</u> Regents (Board of), Administration	43405	R765-615	NEW	03/14/2019	2018-24/33
<u>Targeted Adult Medicaid</u> Health, Health Care Financing, Coverage and Reimbursement Policy	43707	R414-311-6	EMR	05/07/2019	2019-11/27
<u>tax credits</u> Governor, Economic Development	43488	R357-7	EXT	01/24/2019	2019-4/47
	43734	R357-7	5YR	05/22/2019	Not Printed
Heritage and Arts, History	43716	R455-11	5YR	05/14/2019	2019-11/42
	43721	R455-11	NSC	05/24/2019	Not Printed
<u>taxation</u> Tax Commission, Property Tax	43437	R884-24P-19	AMD	03/28/2019	2019-1/51
	43640	R884-24P-19	NSC	04/24/2019	Not Printed
	43371	R884-24P-27	AMD	01/10/2019	2018-23/119
	43698	R884-24P-62	NSC	05/17/2019	Not Printed
	43438	R884-24P-74	AMD	03/28/2019	2019-1/54
<u>teacher preparation</u> Education, Administration	43624	R277-304	NEW	05/23/2019	2019-8/13
<u>teacher preparation programs</u> Education, Administration	43373	R277-509	AMD	01/09/2019	2018-23/19
<u>technology best practices</u> Technology Services, Administration	43697	R895-9	5YR	05/02/2019	2019-11/45
<u>therapists</u> Commerce, Occupational and Professional Licensing	43543	R156-60	5YR	02/26/2019	2019-6/41

RULES INDEX

<u>third-party providers</u>					
Education, Administration	43619	R277-115	NEW	05/23/2019	2019-8/10
<u>timelines</u>					
Education, Administration	43392	R277-482	REP	01/09/2019	2018-23/15
	43394	R277-552	NEW	01/09/2019	2018-23/26
	43623	R277-552	AMD	05/23/2019	2019-8/19
<u>total coliform</u>					
Environmental Quality, Drinking Water	43383	R309-211	AMD	01/15/2019	2018-23/85
<u>tow trucks</u>					
Transportation, Motor Carrier	43443	R909-19	AMD	02/07/2019	2019-1/56
<u>towing</u>					
Transportation, Motor Carrier	43443	R909-19	AMD	02/07/2019	2019-1/56
<u>training</u>					
Education, Administration	43442	R277-308	NEW	02/07/2019	2019-1/22
	43392	R277-482	REP	01/09/2019	2018-23/15
	43394	R277-552	NEW	01/09/2019	2018-23/26
	43623	R277-552	AMD	05/23/2019	2019-8/19
Natural Resources, Wildlife Resources	43726	R657-46	5YR	05/20/2019	Not Printed
<u>tramway permits</u>					
Transportation, Operations, Traffic and Safety	43444	R920-50	AMD	02/07/2019	2019-1/63
<u>tramways</u>					
Transportation, Operations, Traffic and Safety	43444	R920-50	AMD	02/07/2019	2019-1/63
<u>transfers</u>					
Education, Administration	43637	R277-472	5YR	04/08/2019	2019-9/81
<u>Transition to Adult Living</u>					
Human Services, Child and Family Services	43358	R512-305	AMD	01/09/2019	2018-23/115
<u>transparency</u>					
Administrative Services, Finance	43404	R25-10	AMD	01/23/2019	2018-24/6
<u>transportation</u>					
Transportation, Program Development	43584	R926-16	NEW	05/08/2019	2019-7/40
<u>transportation safety</u>					
Transportation, Operations, Traffic and Safety	43444	R920-50	AMD	02/07/2019	2019-1/63
<u>trauma</u>					
Health, Family Health and Preparedness, Emergency Medical Services	43321	R426-9	AMD	01/18/2019	2018-22/114
<u>trauma center designation</u>					
Health, Family Health and Preparedness, Emergency Medical Services	43321	R426-9	AMD	01/18/2019	2018-22/114
<u>trucks</u>					
Transportation, Motor Carrier	43735	R909-2	5YR	05/22/2019	Not Printed
<u>trust account records</u>					
Commerce, Real Estate	43407	R162-2f	AMD	01/23/2019	2018-24/8
<u>unattended death</u>					
Health, Disease Control and Prevention, Medical Examiner	43631	R448-10	5YR	04/05/2019	2019-9/83
<u>underage drinking prevention</u>					
Education, Administration	43448	R277-910	NEW	02/07/2019	2019-1/24

<u>unemployment compensation</u>						
Workforce Services, Unemployment Insurance	43557	R994-403	AMD	05/01/2019	2019-6/38	
	43365	R994-403-109b	AMD	03/31/2019	2018-23/122	
<u>universal waste</u>						
Environmental Quality, Waste Management and Radiation Control, Waste Management	43252	R315-273	AMD	01/14/2019	2018-21/55	
<u>unsolicited proposals</u>						
Transportation, Program Development	43584	R926-16	NEW	05/08/2019	2019-7/40	
<u>used oil</u>						
Environmental Quality, Waste Management and Radiation Control, Waste Management	43529	R315-15-14	AMD	04/15/2019	2019-5/54	
<u>Utah Cancer Control Program</u>						
Health, Disease Control and Prevention, Health Promotion	43539	R384-200	5YR	02/25/2019	2019-6/42	
<u>Utah Capital Investment Board</u>						
Governor, Economic Development	43488	R357-7	EXT	01/24/2019	2019-4/47	
	43734	R357-7	5YR	05/22/2019	Not Printed	
<u>Utah Public Financial Website</u>						
Administrative Services, Finance	43404	R25-10	AMD	01/23/2019	2018-24/6	
<u>Utah Transparency Advisory Board</u>						
Administrative Services, Finance	43471	R25-11	5YR	01/07/2019	2019-3/43	
<u>Utah universal service fund</u>						
Public Service Commission, Administration	43550	R746-8-301	AMD	04/30/2019	2019-6/27	
<u>utility regulation</u>						
Public Service Commission, Administration	43603	R746-310	AMD	05/22/2019	2019-8/49	
<u>veterinarian</u>						
Commerce, Occupational and Professional Licensing	43189	R156-28	AMD	03/25/2019	2018-19/7	
	43189	R156-28	CPR	03/25/2019	2019-4/40	
<u>veterinary medicine</u>						
Commerce, Occupational and Professional Licensing	43189	R156-28	AMD	03/25/2019	2018-19/7	
	43189	R156-28	CPR	03/25/2019	2019-4/40	
<u>vital records</u>						
Health, Center for Health Data, Vital Records and Statistics	43462	R436-19	NEW	05/08/2019	2019-2/10	
<u>volunteer</u>						
Transportation, Operations, Maintenance	43489	R918-4	AMD	03/26/2019	2019-4/36	
<u>voting</u>						
Lieutenant Governor, Elections	43494	R623-2	5YR	01/28/2019	2019-4/44	
	43275	R623-5	NEW	03/01/2019	2018-21/96	
<u>wastewater</u>						
Environmental Quality, Water Quality	43633	R317-401	5YR	04/08/2019	2019-9/82	
<u>water quality</u>						
Environmental Quality, Drinking Water	43387	R309-225-4	AMD	01/15/2019	2018-23/101	
<u>waterfowl</u>						
Natural Resources, Wildlife Resources	43430	R657-9	AMD	02/07/2019	2019-1/41	
<u>watershed management</u>						
Environmental Quality, Drinking Water	43379	R309-105-4	AMD	01/15/2019	2018-23/58	

RULES INDEX

wildlife

Natural Resources, Wildlife Resources	43431	R657-5	AMD	02/07/2019	2019-1/37
	43430	R657-9	AMD	02/07/2019	2019-1/41
	43414	R657-11	AMD	01/24/2019	2018-24/25
	43420	R657-13	AMD	01/24/2019	2018-24/27
	43491	R657-22	AMD	03/25/2019	2019-4/22
	43492	R657-33	AMD	03/25/2019	2019-4/27
	43432	R657-38	AMD	02/07/2019	2019-1/44
	43726	R657-46	5YR	05/20/2019	Not Printed
	43639	R657-62	5YR	04/09/2019	2019-9/89
	43498	R657-67	5YR	02/04/2019	2019-5/101

wildlife conservation

Natural Resources, Wildlife Resources	43432	R657-38	AMD	02/07/2019	2019-1/44
---------------------------------------	-------	---------	-----	------------	-----------

wildlife law

Natural Resources, Wildlife Resources	43414	R657-11	AMD	01/24/2019	2018-24/25
	43420	R657-13	AMD	01/24/2019	2018-24/27
	43491	R657-22	AMD	03/25/2019	2019-4/22

workers' compensation

Labor Commission, Adjudication	43574	R602-2-1	AMD	05/08/2019	2019-7/30
--------------------------------	-------	----------	-----	------------	-----------

X-rays

Environmental Quality, Waste Management and Radiation Control, Radiation	43253	R313-28-31	AMD	01/14/2019	2018-21/52
	43530	R313-28-31	AMD	04/15/2019	2019-5/50

youth

Human Services, Administration, Administrative Services, Licensing	43234	R501-8	AMD	01/17/2019	2018-21/89
--	-------	--------	-----	------------	------------