UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT
Filed September 17, 2019, 12:00 a.m. through October 01, 2019, 11:59 p.m.

Number 2019-20
October 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

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

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SPECIAL NOTICES

Health
Health Care Financing, Coverage and Reimbursement Policy

Notice for November 2019 Medicaid Rate Changes

Effective November 1, 2019, Utah Medicaid will adjust its rates consistent with approved methodologies. Rate adjustments include new codes priced consistent with approved Medicaid methodologies as well as potential adjustments to existing codes. 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

EXECUTIVE DOCUMENTS

Under authority granted by the Utah Constitution and various federal and state statutes, the Governor periodically issues **Executive Documents**, which can be categorized as either Executive Orders, Proclamations, and Declarations. Executive Orders set policy for the executive branch; create boards and commissions; provide for the transfer of authority; or otherwise interpret, implement, or give administrative effect to a provision of the Constitution, state law or executive policy. Proclamations call special or extraordinary legislative sessions; designate classes of cities; publish states-of-emergency; promulgate other official formal public announcements or functions; or publicly avow or cause certain matters of state government to be made generally known. Declarations designate special days, weeks or other time periods; call attention to or recognize people, groups, organizations, functions, or similar actions having a public purpose; or invoke specific legislative purposes (such as the declaration of an agricultural disaster).

The Governor's Office staff files **Executive Documents** that have legal effect with the Office of Administrative Rules for publication and distribution.

Wildland Fire Management, Utah Exec. Order No. 2019-5

EXECUTIVE ORDER

Wildland Fire Management

WHEREAS, the danger from wildland fires is high throughout the State of Utah;

WHEREAS, wildfires are currently burning in some areas of the State;

WHEREAS, fire restrictions and wildfire warnings are in place across the State;

WHEREAS, extreme dry conditions have occurred and are forecasted throughout the State;

WHEREAS, some of the areas are extremely remote and inaccessible and the situation has the potential to greatly worsen if left unattended;

WHEREAS, we have seen fires that are not immediately extinguished soon after ignition have grown to large fires;

WHEREAS, immediate action will be required to suppress fires and mitigate post burn flash floods to protect public safety, property, natural resources and the environment should these dangerous conditions escalate to active wildfires;

WHEREAS, these conditions do create the potential for a disaster emergency within the scope of the Disaster Response and Recovery Act of 1981;

NOW THEREFORE, I, Gary R. Herbert, Governor of the State of Utah by virtue of the power vested in me by the constitution and the laws of the State of Utah, do hereby order that:

It is found, determined and declared that a "State of Emergency" exists Statewide due to the threat to public safety, property, critical infrastructure, natural resources and the environment, effective for the month of October 2019, requiring aid, assistance and relief available pursuant to the provisions of state statutes, and the State Emergency Operations Plan, which is hereby activated.

IN TESTIMONY, WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 1st day of October 2019.

(State Seal)

Gary R. Herbert
Governor

Attest:

Spencer J. Cox
Lieutenant Governor

2019/005/EO

End of the Executive Documents 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 September 17, 2019, 12:00 a.m., and October 01, 2019, 11:59 p.m. are included in this, the October 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 November 14, 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 February 12, 2020, the agency may notify the Office of Administrative Rules that it wants to make the **Proposed Rule** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **Change in Proposed Rule** in response to comments received. If the Office of Administrative Rules does not receive a **Notice of Effective Date** or a **Change in Proposed Rule**, the **Proposed Rule** lapses.

The public, interest groups, and governmental agencies are invited to review and comment on **Proposed Rules**. *Comment may be directed to the contact person identified on the* **Rule Analysis** *for each rule.*

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

The Proposed Rules Begin on the Following Page

Agriculture and Food, Regulatory Services
R70-440
Egg Products Inspection

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 44092
FILED: 09/20/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule establishes inspection procedures for egg inspection. Additionally, this rule establishes labeling sanitation, processing, and facility requirements.

SUMMARY OF THE RULE OR CHANGE: This rule establishes requirements for inspection of eggs and egg products. This rule establishes the certification for inspectors. Additionally, it establishes the requirement for labels and plant requirements for sanitation and processing. (EDITOR'S NOTE: A corresponding 120-day (emergency) Rule R70-440 that is effective as of 09/20/2019 is under Filing No. 44091 in this issue, October 15, 2019, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-4-102

MATERIALS INCORPORATED BY REFERENCE:

- Adds 9 CFR 592, Voluntary Inspection of Egg Products, published by Government Printing Office, 01/01/2012
- Adds 9 CFR 590, Inspection of Eggs and Egg Products (Egg Products Inspection Act), published by Government Printing Office, 01/01/2012

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: There is no anticipated cost or benefit because the Department of Agriculture and Food (Department) has previously been involved in this program. This rule is necessary to establish the Department's authority to conduct these inspects rather than that of the U.S. Department of Agriculture.

♦ LOCAL GOVERNMENTS: This proposed rule is not anticipated to result in any costs or savings with respect to any local governments.

♦ SMALL BUSINESSES: There are no anticipated cost or benefit to small businesses as the Department is adopting a preexisting rule that had to be followed on a federal level, and this rule would allow for the Department to conduct those inspections.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This proposed rule is not anticipated to have any fiscal impact on other persons as the Department is adopting a preexisting rule that had to be followed on a federal level, and this rule would allow for the Department to conduct those inspections.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This proposed rule is not anticipated to have any fiscal impact on persons as the Department is adopting a preexisting rule that had to be followed on a federal level, and this rule would allow for the Department to conduct those inspections.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule is not anticipated to have any fiscal impact on businesses as the Department is adopting a preexisting rule that had to be followed on a federal level, and this rule would allow for the Department to conduct those inspections.

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

AGRICULTURE AND FOOD
REGULATORY SERVICES
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

♦ Travis Waller by phone at 801-538-7150, by FAX at 801-538-7124, or by Internet E-mail at twaller@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2019

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2019

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
This proposed rule is not expected to have any fiscal impacts on non-small businesses' revenues or expenditures, because this rule adopts the preexisting federal rule which the producers must comply with in order to enter the stream of commerce.

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

R70. Agriculture and Food, Regulatory Services.
R70-440. Egg Products Inspection.
R70-440-1. Authority.
1) Promulgated under authority of Section 4-4-102.
2) This rule shall apply to all egg products sold, bought, processed, manufactured or distributed within the State of Utah. It is the purpose of this rule to provide egg products inspection at least equal to those imposed under the Federal Egg Products Inspection Act (21 U.S.C. 1031-1056).

R70-440-2. Adopt by Reference.
Accordingly, the division adopts the egg products inspection standards and procedures as specified in Animal and Animal Products, 9 CFR Chapter III, Sub-Chapter I, Parts 590 and 592, January 1, 2012 edition, which is incorporated by reference within this rule.

KEY: food inspection
Date of Enactment or Last Substantive Amendment: 2019
Authorizing, and Implemented or Interpreted Law: 4-4-102

Commerce, Occupational and Professional Licensing
R156-9
Funeral Service Licensing Act Rule

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 44095
FILED: 09/23/2019

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Following a review of the current rule by the Funeral Service Licensing Board (Board), the Board and the Division of Occupational and Professional Licensing (Division) are now recommending these changes. The purpose of this filing is to provide continuing education (CE) credit hours for instructors of funeral CE courses that hold a funeral service director license. The filing also updates the requirements for contract forms, and eliminates the language in a pre-need contract prohibiting a cash advance item unless it is a guaranteed product.

SUMMARY OF THE RULE OR CHANGE: Section R156-9-304 provides CE credit for licensees who teach CE courses that meet the requirements of Section R156-9-304 to receive two hours of CE credit for each hour of instruction. Section R156-9-605 makes formatting changes for clarity. Subsection R156-9-607(2) is being deleted. It eliminates the reference to type size for contract forms. Font/type size is addressed in statute and no further clarification is necessary in rule. Subsection R156-9-607(3) is being deleted. It eliminates Division approval for a contract form. Section R156-9-610 is being deleted. It eliminates the language in a pre-need contract prohibiting a cash advance item unless it is a guaranteed product. Sections R156-9-610 through R156-9-618 are being renumbered following deletion of Section R156-9-610 as explained above.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-9-504 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: These proposed amendments to Sections R156-9-304 and R156-9-605, Subsections R156-9-607(2) and (3), and Sections R156-9-610 through R156-9-618 are not expected to directly impact state government revenues or expenditures because the amendments only update the requirements for contract forms and eliminate the language in a pre-need contract prohibiting a cash advance item unless it is a guaranteed product. State government

neither enforces nor is affected by this process. The amendments also make technical, nonsubstantive changes. There will be a minimal cost to the Division of approximately $75 to print and distribute this rule once the proposed amendments are made effective. Any indirect impact cannot be estimated.

♦ LOCAL GOVERNMENTS: These proposed amendments to Sections R156-9-304 and R156-9-605, Subsections R156-9-607(2) and (3), and Sections R156-9-610 through R156-9-618 are not expected to directly impact local governments' revenues or expenditures because the amendments only update the requirements for contract forms and eliminate the language in a pre-need contract prohibiting a cash advance item unless it is a guaranteed product. Local governments neither enforce nor are affected by this process. These amendments also make technical, nonsubstantive changes. Any indirect impact cannot be estimated.

♦ SMALL BUSINESSES: These proposed amendments to Sections R156-9-304 and R156-9-605, Subsections R156-9-607(2) and (3), and Sections R156-9-610 through R156-9-618 are expected to have no fiscal benefit or cost impact to small businesses. Small businesses that provide the services of a funeral service director or funeral service establishment (BASICS 812210 – Funeral Homes and Funeral Services) will not see an increase or a decrease in service costs as a result of these proposed amendments. The Division estimates that this could result in a fiscal neutrality for the approximately 91 small business (NAICS 812210 - Funeral Homes and Funeral Services) throughout the state. Any indirect impact cannot be estimated.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: These proposed amendments to Sections R156-9-304 and R156-9-605, Subsections R156-9-607(2) and (3), and Sections R156-9-610 through R156-9-618 are expected to have no fiscal benefit or cost impact to other persons utilizing the services of individuals who hold a license in the funeral service profession. Any indirect impact cannot be estimated. These proposed amendments to Sections R156-9-304 and R156-9-605, Subsections R156-9-607(2) and (3), and Sections R156-9-610 through R156-9-618 are expected to have minimal fiscal benefit or cost to the individuals who hold a license. These proposed amendments allow CE credit to be given to a licensed funeral service director who also teaches an approved CE course. This may relieve the licensee from taking additional CE hours to renew his/her license. CE course providers charge an average of $20/hour to take the course, providing a benefit of $40 to a licensed individual who receives two hours of CE credit for teaching each one hour of CE. There is no way to determine if/how many hours may be taught by a licensee in any given renewal period. The remainder of the proposed amendments only make nonsubstantive technical changes that would have no fiscal impact on individuals. Any indirect impact cannot be estimated.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The proposed amendments to Sections R156-9-304 and R156-9-605, Subsections R156-9-607(2) and (3), and Sections R156-9-610 through R156-9-618 are expected to have no compliance costs for any affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The purpose of this filing is to provide CE credit hours for instructors of funeral CE courses that hold a funeral service director license. This filing also updates the requirements for contract forms and eliminates the language in a pre-need contract prohibiting a cash advance item unless it is a guaranteed product. Small Businesses: The proposed amendments to Sections R156-9-304 and R156-9-605, Subsections R156-9-607(2) and (3), and Sections R156-9-610 through R156-9-618 are expected to have no fiscal benefit or cost impact to small businesses. Small businesses that provide the services of a funeral service director or funeral service establishment (NAICS 812210 – Funeral Homes and Funeral Services) will not see an increase or a decrease in service costs as a result of these proposed amendments. The Division estimates that this could result in a fiscal neutrality for the approximately 91 small business (NAICS 812210 - Funeral Homes and Funeral Services) throughout the state. Any indirect impacts cannot be estimated. Non-Small Businesses: The proposed amendments to Sections R156-9-304 and R156-9-605, Subsections R156-9-607(2) and (3), and Sections R156-9-610 through R156-9-618 have no fiscal impact to non-small businesses. Non-small businesses (NAICS 812210 – Funeral Homes and Funeral Services) will not see an increase or a decrease in service costs as a result of these proposed amendments. The Division estimates that this could result in a fiscal neutrality for the approximately two non-small businesses (NAICS 812210 - Funeral Homes and Funeral Services) which employ more than 50 employees within the state of Utah. Any indirect impact cannot be estimated.

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:

♦ Robyn Barkdull by phone at 801-530-6727, by FAX at 801-530-6511, or by Internet E-mail at rbarkdull@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2019

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 10/22/2019 01:00 PM, Heber Wells Bldg, 160 E 300 S, Conference Room 464 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2019

AUTHORIZED BY: Mark Steinagel, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	$75	$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:	**$75**	**$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:	**$75**	**$0**	**$0**

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

Appendix 2: Regulatory Impact to Non-Small Businesses

These proposed amendments to Sections R156-9-304, R156-9-605, and R156-9-610 through R156-9-618, and Subsections R156-9-607(2) and R156-9-607(3) have no fiscal impact to non-small businesses. Non-small businesses (NAICS 812210-Funeral Homes and Funeral Services) will not see an increase or a decrease in service costs as a result of these proposed amendments. The Division estimates that this could result in a fiscal neutrality for the approximately two non-small businesses (NAICS 812210-Funeral Homes and Funeral Services) which employ more than 50 employees within the state of Utah. Any indirect impact cannot be estimated.

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

R156. Commerce, Occupational and Professional Licensing.
R156-9. Funeral Service Licensing Act Rule.
R156-9-304. Continuing Professional Education - Funeral Service Directors.

In accordance with Subsections 58-1-203(1)(g) and 58-1-308(3)(b) and Section 58-9-304, the continuing education requirements for funeral service directors [~~is defined, clarified or~~] are established as follows:

(1) Continuing professional education ("CPE") shall consist of 20 hours of qualified continuing professional education in each preceding two-year period of licensure or expiration of licensure.

(2) If a renewal period is shortened or extended to effect a change of renewal cycle or if an initial license is granted for a period of less than two years, the [~~continuing professional education~~]CPE hours required for that period shall be increased or decreased proportionately.

(3) The standards for qualified [~~continuing professional education~~]CPE are:

(a) College classes, seminars, or workshops sponsored by professional associations in areas related to funeral service will generally qualify for [~~continuing professional education (~~]CPE[~~)~~] if the education contributes to the professional competence and knowledge of the funeral service director and if the program complies with the standards set forth under Subsection (b).

(b) CPE programs shall meet the following standards:

(i) the course shall be formally organized and be primarily instructional;

(ii) the sponsor shall prepare an outline of the course which shall be retained for a minimum of four years following the presentation;

(iii) the sponsor shall list the hour rating of the course in the course outline. One hour of CPE shall be credited for each 50 minute period of instruction;

(iv) the sponsor shall record and keep an accurate record of course attendance including the date, place, and the name of the licensed funeral service directors attending the course; and

(v) the sponsor shall issue a certificate of completion listing the time, date, place, name of licensee, number of hours of CPE completed and the course title.

(c) Formal correspondence or other individual study programs which require registration shall provide evidence of satisfactory completion including test results and meet all other requirements [~~as specified in~~]of this section[~~will qualify~~].

(d) Each semester hour of college credit shall equal 15 hours of CPE. A quarter hour shall equal ten hours of CPE.

(e) Licensees who teach qualified CPE courses shall receive two CPE hours for each hour teaching. However, no teaching credit shall be granted for participation in a panel discussion.

(f) A licensee may earn up to eight hours for volunteer service as a subject-matter expert in the review and development of funeral service licensing exams, and for volunteer service on committees or in leadership roles in any state, national, or international organization for the development and improvement of the funeral service professions.

(4) Upon written request from the licensee, the Board may waive the requirement for CPE as provided in Section R156-1-308d.

(5) The licensee is responsible to [~~insure~~]ensure that the program will qualify for CPE. Each licensee shall keep an accurate record of CPE on forms supplied by the Division. The records shall be maintained for a minimum of four years after the end of the renewal cycle for which the CPE is due.

(6) The Division in collaboration with the Board shall perform random audits to determine if the licensee is in compliance with the CPE requirements. If audited, or upon request by the Division, the licensee is responsible to submit documentation of compliance with CPE requirements.

R156-9-605. Licensure of Persons Selling Preneed Funeral Arrangements to be Funded by Proceeds from Insurance or Annuity Policy.

(1) [~~Any person who sells or represents that they will or intend to sell specific funeral goods or services, represents that goods or services will be provided by a specific funeral~~

~~establishment, represents that specified amount of money will purchase defined funeral goods or services, or represents that payment for those goods or services to be provided at some future date shall be accomplished through the purchase of a life insurance policy or annuity policy, is engaged in the sale of a preneed funeral arrangement and is required to be licensed as a funeral service establishment or sales agent.~~]The following persons are engaged in the sale of a preneed funeral arrangement and are required to be licensed as a funeral service establishment or sales agent:

(a) any person who sells or represents that they will or intend to sell specific funeral goods or services;

(b) any person who represents that goods or services will be provided by a specific funeral establishment;

(c) any person who represents that specified amount of money will purchase defined funeral goods or services; or

(d) any person who represents that payment for funeral goods or services to be provided at some future date shall be accomplished through the purchase of a life insurance policy or annuity policy.

(2) Any person who sells or represents that they will or intend to sell an insurance or annuity policy which will provide a certain benefit at time of death, represents that such benefit will be available to pay for funeral arrangements and no reference is made to specific funeral goods or services, to the cost of specific funeral goods or services, or to the services of a specific funeral service establishment, is not engaged in the sale of a preneed funeral arrangement and is not required to be licensed as a funeral service establishment or preneed sales agent.

(3) Nothing in this section shall be interpreted to affect or modify any requirement under state law regarding licensure of persons engaged in the sale of insurance or annuity policies.

R156-9-607. Contract Forms - Division Model.

[~~(1)~~]In accordance with Subsection 58-9-302(3)(e), a funeral service establishment shall ensure that if any amendments are made to[~~;~~] any form of contract or agreement that is filed with its application for licensure, the amendments meet the requirements of Section 58-9-701 before that contract or agreement is used in any marketing or sale of preneed funeral arrangements.[

~~(2) In accordance with the provisions of Subsection 58-9-701(2)(a), easy-to-read type size is defined to be of a type size large enough to accommodate no more than six lines per vertical inch and no more than 15 characters per horizontal inch.~~

~~(3) After April 30, 2007, a new preneed contract form is not required to contain a clause indicating that the Division has approved the contract. Preneed contract forms approved prior to April 30, 2007, shall continue to contain a clause indicating approval by the Division.~~

~~**R156-9-610. Cash Advance Item Prohibited Unless a Guaranteed Product.**~~

~~A cash advance item as defined in 16 CFR Part 453, Funeral Industry Practices Trade Regulation Rule, of the Federal Trade Commission is prohibited in a preneed funeral arrangement contract unless the item is a guaranteed product permitting the contract to meet the requirements of Subsection 58-9-701(2)(d).~~]

R156-9-[~~611~~]610. Use of Funds in Trust Account to Purchase Insurance or Annuity Policy.

A funeral service establishment may convert a contract funded by monies held in trust with a contract funded by the proceeds from an insurance or annuity policy provided:

(1) the buyer consents in writing to the conversion after full disclosure of the consequences of the transaction in writing by the funeral service establishment;

(2) the buyer's consent is given without coercion, threat, concealment of material fact, undue influence, or other prejudicial influence inconsistent with the buyer's best interest;

(3) the funeral service establishment uses all monies held in the individual trust account, including interest, as premium for the purchase of the life insurance or annuity policy, unless otherwise directed in writing by the buyer;

(4) the new preneed funeral arrangement contract must be in writing and must provide for goods and services which at least equal to those required of the funeral service establishment under the original contract, and

(5) the new contract meets all requirements of Title 58, Chapter 9, and this rule.

R156-9-[~~612~~]611. Conversion of Trust Accounts Under Prior Law Prohibited.

Conversion of funds held in trust which was established under any prior law regulating preneed funeral arrangements, may not be converted to a trust under the provisions of current statute and rules, but shall continue to be held in trust under the terms and conditions of the predecessor law. However, the funeral service establishment is required to file reports with the Division as required under this rule.

R156-9-[~~613~~]612. Prohibition Against Provider Accepting Payment in a Form Other Than Cash, Cash Equivalents, or Negotiable Instruments.

A funeral service establishment may accept in payment for a preneed funeral arrangement contract only cash, cash equivalents, or negotiable instruments which are readily convertible to cash.

R156-9-[~~614~~]613. Funeral Service Establishment Expenditure of Earnings from Trust Account.

(1) In accordance with Subsection 58-9-704(1), earnings of a preneed funeral arrangement trust account shall be available to the funeral service establishment for expenditure toward reasonable trustee expenses of administering a trust account, not to exceed the lesser of the earnings remaining in the trust account or 1% of the entire trust account, plus any amounts necessary to pay taxes incurred on the entire trust account's earnings.

(2) In accordance with Subsection 58-9-704(2), earnings of an individual account within the trust shall be available to the funeral service establishment for expenditure toward other authorized reasonable funeral service establishment expenses incurred against the individual account, not to exceed earnings totaling 30% of the sales amount of the respective preneed funeral arrangement contract.

(3) Remaining earnings of individual accounts within the trust shall, except as provided in Subsection 58-9-704(3), remain in each individual account within the trust to pay by account, the costs of providing the goods and services required under respective preneed funeral arrangement contracts.

R156-9-[~~615~~]614. Maximum Life Insurance Proceeds Payable to Funeral Service Establishment.

(1) Preneed life insurance proceeds payable to a funeral service provider shall not exceed the funeral service establishment's insurable interest in the recipient of goods and services which, by definition, shall not exceed the funeral service establishment's current retail price for the goods and services provided, as determined by the funeral service establishment's price list in effect at the recipient of goods and service's death.

(2) Excess preneed life insurance proceeds not paid to the funeral service establishment shall be returned to the owner of the life insurance policy or his heirs and beneficiaries unless otherwise designated by the owner or his heirs and beneficiaries.

R156-9-[~~616~~]615. Reporting Requirements.

(1) In accordance with Sections 58-9-504 and 58-9-706, each funeral service establishment shall maintain an annual report at the establishment which shall be subject to Division audit at anytime. The annual report shall be maintained in a format set forth by the Division and shall include:

(a) a statement of compliance certifying:

(i) that all payments received from the sale of contracts have been:

(A) placed in the funeral service establishment's trust account in accordance with Section 58-9-702 and administered in accordance with Sections 58-9-703 through 58-9-705 and this rule; or

(B) submitted to the insurance company whose insurance or annuity policy funds the contract;

(ii) that complete and accurate information concerning the preneed funeral arrangements by the funeral service establishment or the funeral service establishment's sales agent was furnished or made available to the independent certified public accountant who prepared the report of agreed upon procedures; and

(iii) that the annual report is complete and accurate;

(b) at least one of the following reports which reconciles balances in all trust accounts and insurance policies to those in the annual report:

(i) a report from a bank trust department;

(ii) a report from a licensed insurance company; or

(iii) an accounting report on forms available from the Division, completed by an independent certified public accountant (CPA) licensed pursuant to Title 58, Chapter 26a, which report indicates the procedures used and agreed upon by the CPA and the funeral service establishment.

(c) an exhibit listing preneed contracts sold prior to April 29, 1991, funded by money, 75% of which is required to be maintained in the name of the contract buyer in the funeral service establishment's trust account as provided in Section 58-9-703, which shall include at a minimum: the contract number, date, amount, the recipient of goods and services and buyer if different, and balance due; the individual trust account number and amount trusted; and the trust earnings, earnings used, and trust balance;

(d) an exhibit listing preneed contracts sold after April 28, 1991, funded by money, 100% of which is required to be maintained in the name of the contract buyer in the funeral service establishment's trust account as provided in Section 58-9-703, which shall include at a minimum the information required under subsection (c);

(e) an exhibit listing preneed contracts funded by money placed in trust which were serviced, revoked, rescinded, or amended since the last reporting period, which shall include at a minimum: the contract number, date, amount, the recipient of goods and services and buyer if different; the individual trust account number and trust balance at the recipient of goods and service's death; the date the contract was closed; and an explanation regarding any preneed contract closed but not serviced;

(f) an exhibit listing preneed contracts sold after April 28, 1991, funded in whole or in part by insurance, which shall include at a minimum: the contract number, date, amount, recipient of goods and services and buyer if different; the insurance company; the policy number, policy holder, and face amount; and

(g) an exhibit listing preneed contracts funded by insurance which were serviced, revoked, rescinded, or otherwise amended since the last reporting period, which shall include at a minimum: the contract number, date, amount, the recipient of goods and services, and buyer if different; the insurance company; the policy number and policy holder; the policy proceeds; the date the contract was closed; and an explanation regarding any preneed contract closed but not serviced.

R156-9-[~~617~~]616. Maximum Revocation Fee.

If a buyer revokes or defaults under a guaranteed preneed funeral arrangement contract, the funeral service establishment may retain a revocation fee from the trust corpus, not to exceed 25% of the amount received from the sale of the contract and trust earnings thereupon, provided the revocation fee is clearly identified in the contract.

R156-9-[~~618~~]617. Goods and Services Not Provided - Refund.

If goods or services selected in the preneed contract are not provided at the time of need, the amount paid for those goods and services and any unexpended earnings thereupon will be distributed to the preneed contract buyer or the buyer's representative or in their absence, the buyer's heirs and beneficiaries.

KEY: funeral industries, licensing, funeral service directors, preneed funeral arrangements
Date of Enactment or Last Substantive Amendment: [~~September 10, 2018~~]2019
Notice of Continuation: April 26, 2016
Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-9-504

Commerce, Occupational and Professional Licensing
R156-17b
Pharmacy Practice Act Rule

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 44108
FILED: 09/30/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: In accordance with S.B. 170, passed during the 2019 General Session, this rule filing establishes the scope of practice for pharmacy technicians in rule, and expands their scope to include administering immunizations and emergency medications pursuant to delegation by a pharmacist. Also, in accordance with S.B. 170 (2019), this filing clarifies the requirements and operating standards for the practice of telepharmacy through a remote dispensing pharmacy. This filing also proposes amendments recommended by the Division of Occupational and Professional Licensing (Division) in collaboration with the Pharmacy Licensing Board (Board), including creation of an Advisory Pharmacy Compounding Education Committee, and clarification of various requirements, including operating standards for a third party logistics provider, required licensee training and education, and required continuing education topics. Various updates and nonsubstantive formatting changes are also made throughout the rule.

SUMMARY OF THE RULE OR CHANGE: The proposed substantive amendments in this filing are as follows: In Section R156-17b-102, adds definitions for the terms "Area of need", "Mail service retail pharmacy", "MPJE", "Remote Dispensing Pharmacist in Charge"/"RDPIC", "Remote dispensing pharmacy", "Retail Pharmacy", "Supervising pharmacy", and "Telepharmacy system". In Section R156-17b-106, clarifies the use of "shall" or "may" as used in this rule. Although these conventions are understood for Utah laws and rules, adding this special clarification to the pharmacy rule is important because there are other standards that apply in the pharmacy profession when using the terms shall and may. In Section R156-17b-203, creates an Advisory Pharmacy Compounding Education Committee (Committee). The Committee shall be composed of seven members, diversified between retail pharmacy, hospital pharmacy, and other pharmacy specialties deemed pertinent by the Division in collaboration with the Board. In Section R156-17b-302, clarifies that Class A pharmacies include retail pharmacies, mail service retail pharmacies, and remote dispensing pharmacies, and that a Class A pharmacy needs a PIC or a remote dispensing pharmacist in charge (RDPIC). In Section R156-17b-303a, clarifies that an applicant may prove current college admission by written verification from "a" dean of the college. In Section R156-17b-303c, clarifies that a pharmacist applicant will need to take the Utah MPJE exam. In Section R156-17b-304, clarifies that a temporary pharmacist will need to submit evidence of having secured employment in Utah conditioned upon issuance of the temporary license, and that the employment is under the direct, on-site supervision of a pharmacist with an active, non-temporary Utah license that includes a controlled substance license. In Section R156-17b-305, clarifies licensure by endorsement requirements for a pharmacist. In Section R156-17b-309, updates the continuing education topics and requirements for pharmacists and pharmacy technicians, including requiring two CE hours in immunizations or vaccine-related topics for pharmacy technicians who engage in the administration of immunizations or vaccines. In Section R156-17b-402, replaces all administrative penalty subsections with a fine schedule. In Section R156-17b-502, formats certain provisions to fit with the new fine schedule, and adds to the definition of unprofessional conduct "failing to comply with the operating standards for a remote dispensing pharmacy as established in Section R156-17b-614g". In Section R156-17b-601, clarifies the scope of practice for pharmacy technicians and pharmacy technician trainees. In particular, this amendment will allow pharmacy technicians to administer vaccines and emergency medications pursuant to delegation by a pharmacist under the Vaccine Administration Protocol: Standing Order to Administer Immunizations and Emergency Medications adopted March 26, 2019, if the pharmacy technician completes certain required initial training and CE, and is under direct, on-site supervision by the delegating pharmacist. In Section R156-17b-610, clarifies that patient counseling may be provided through a telepharmacy system. In Section R156-17b-612, minor wording changes were made in this section regarding prescriptions operating standards. In Section R156-17b-614a, clarifies that a remote dispensing pharmacy may dispense a prescription drug or device to a patient if a pharmacist or DMP is physically present and immediately available in the facility, or supervising through a telepharmacy system. Section R156-17b-614g is new and establishes and clarifies the qualifications and operating standards for a remote dispensing pharmacy. In Section R156-17b-615, clarifies that a Class C pharmacy may be located in the same building as a separately licensed Class A, B, D, or E third-party logistics provider. Section R156-17b-617g in new and establishes operating standards for a third party logistics provider. In Section R156-17b-621, allows pharmacy interns and pharmacy technicians to administer immunizations and emergency medications pursuant to delegation by a pharmacist under the March 26, 2019, Vaccine Administration Protocol, and establishes and clarifies the required training for pharmacists, pharmacy interns, and pharmacy technicians who will be engaging in the administration of a prescription drug or device, or engaging in the administration of vaccines. In Section R156-17b-623, clarifies the drugs that may be dispensed by a dispensing medical practitioner in accordance with Subsection 58-17b-802(1) and Section 58-17b-803.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-17b-101 and Section 58-37-1 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a) and Subsection 58-17b-601(1)

MATERIALS INCORPORATED BY REFERENCE:

- Removes Model Policy for the Use of Controlled Substances for the Treatment of Pain, published by Federation of State Medical Boards of the United States, Inc. (FSMB), May 2004

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: The Committee created in the new proposed Section R156-17b-203 will be required to meet at least once per calendar quarter, and as directed by the Board and Division. Pursuant to Section R156-1-205, the seven Committee members will serve on a volunteer basis and are not entitled to receive per diem, travel expenses, or other compensation from the state, but the Division is required to provide a Division employee to act as Committee secretary. With an estimated five 1-1/2 hour meetings per year, attended by one bureau manager at $45 per hour and one Committee secretary at $20 per hour, and anticipated additional work time of two hours per meeting for the Committee secretary at $20 per hour, the Division estimates that it will experience a fiscal cost from this proposed amendment of approximately $688 per fiscal year ongoing. The amendments to Sections R156-17b-601 and R156-17b-621 are based on the Utah Pharmacy Practice Act as amended by S.B. 170 (2019), which provides for the scope of practice for a Pharmacy Technician to be established by rule. The amendments expand the scope of practice in that they allow pharmacy interns and pharmacy technicians to engage in the administration of vaccines and emergency medications. The Division estimates that this may result in a potential increase of one additional complaint of unprofessional conduct each year, requiring one investigation consisting of approximately 20 hours. This may result in a cost to Division investigations of approximately $500 per fiscal year ongoing. The remaining amendments are not expected to have any fiscal impact to state practices and procedures beyond that anticipated by the fiscal note for S.B. 170 (2019), available at: https://le.utah.gov/~2019/bills/static/SB0170.html.

Additionally, as described below in the analysis for small businesses and non-small businesses, the Division does not expect any state agencies that may be acting as employers to experience any measurable fiscal impacts. The proposed amendments relating to the practice of telepharmacy and remote dispensing pharmacies may result in fiscal and non-fiscal benefits to any state agencies that may use such services or act as businesses in this industry, but as described below in the analysis for small businesses and non-small businesses, an exact estimate of these benefits is not possible because the relevant data is unavailable. The proposed amendments to Section R156-17b-617g providing operating standards for third party logistics providers define practices currently in place by the Drug Supply Chain Security Act (2019). The Division estimates that this may result in a potential increase of one additional complaint of unprofessional conduct each year requiring one investigation consisting of approximately 20 hours. This may result in a cost to the Division investigations of approximately $500 per fiscal year ongoing. None of the other proposed rules or amendments are expected to impact state government revenues or expenditures. They will not change existing state practices or procedures and merely update the rule to establish definitions, clarify standards, encompass current requirements and practices in the profession, and make formatting changes for clarity. No other measurable impact on state government revenues or expenditures is expected beyond a minimal cost to the Division of approximately $75 to disseminate the rule once the proposed amendments are made effective.

♦ LOCAL GOVERNMENTS: The amendments to Sections R156-17b-601 and R156-17b-621 that will allow pharmacy interns and pharmacy technicians to engage in the administration of vaccines and emergency medications are not expected to have any fiscal impact to local governments beyond that anticipated by the fiscal note for S.B. 170 (2019), and as described below in the analysis for small businesses and non-small businesses, the Division does not expect any local governments that may be acting as employers to experience any measurable fiscal impacts. The proposed amendments relating to the practice of telepharmacy and remote dispensing pharmacies may result in fiscal and non-fiscal benefits to local governments that may use such services or act as businesses in this industry, but as described below in the analysis for small businesses and non-small businesses, an exact estimate of these benefits is not possible because the relevant data is unavailable. None of the other proposed rules or amendments are expected to impact local governments' revenues or expenditures because they only update the rule to establish definitions, clarify standards, encompass current requirements and practices in the profession, and make formatting changes for clarity.

♦ SMALL BUSINESSES: The amendments to Sections R156-17b-601 and R156-17b-621 allowing pharmacy interns and pharmacy technicians to engage in the administration of vaccines and emergency medications are expected to create a fiscal benefit for the approximately 508 Class A retail pharmacies, 284 Class B pharmacies, and 1,188 Class C pharmacies licensed in Utah that are small businesses (NAICS 446110). The amended rule will allow these non-small businesses to offer more services and thereby increase their revenue. The precise fiscal benefit is inestimable because the data necessary to determine how many small business pharmacies will elect to hire pharmacy interns and pharmacy technicians to provide vaccination services is not available, and because any increase in revenue will vary depending on the characteristics of each small business and on the licensees that the business chooses to employ. The proposed amendments relating to the practice of telepharmacy and remote dispensing pharmacies may impact the approximately 508 Class A retail pharmacies and 284 Class B pharmacies licensed in Utah that are small businesses (NAICS 446110). These amendments are expected to decrease operating costs and increase revenues for Class A pharmacies or Class B pharmacies that choose to serve as supervising pharmacies or are designated as remote dispensing pharmacies, because these pharmacies will be able to provide services to customers at the remote dispensing pharmacy's location in the area of need, and the remote dispensing pharmacist in charge and supervising pharmacist will not need to be on site at the location. An exact estimate of these benefits is not possible because the resulting benefits will vary widely depending on the characteristics of each supervising pharmacy and each remote dispensing pharmacy, on the number of licensees that these small businesses will employ, and on the approved

location for each remote dispensing pharmacy. Additionally, the data necessary to determine how many remote dispensing pharmacies will be designated by the Division and where those remote dispensing pharmacies might be located is unavailable. Corresponding amendments that define as unprofessional conduct the failure to comply with remote dispensing pharmacy operating standards are not expected to impose any measurable costs for these small businesses. The goal of these provisions is to provide a deterrent such that there is $0 net impact on all parties involved, and the practices of most businesses are expected to be consistent with practice guidelines. Therefore, any impact from non-compliance will never be uniformly felt across the industry and most small businesses will never be impacted. Further, although a small business disciplined for unprofessional conduct may face financial costs, it is impossible to estimate what those might be both because any such violations are unforeseeable, and because any costs will vary depending on the unique characteristics of the business and the circumstances of the violation. This relevant data is unavailable. None of the remaining proposed changes are expected to impact small businesses' revenues or expenditures because the changes will not alter the price or quantity of any exchanges between any parties, or merely update the rule to establish definitions, clarify standards, encompass current requirements and practices in the profession, and make formatting changes for clarity.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: First, the proposed amendments that provide operating standards for licensed pharmacists, pharmacy interns, and pharmacy technicians working in a supervising pharmacy or in a remote dispensing pharmacy may affect any of the 4,093 licensed pharmacists, 783 licensed pharmacy interns, and 6,274 licensed pharmacy technicians in Utah. These persons may receive an indirect benefit from potentially increased employment, but this benefit is inestimable because of the unavailability of data. The amendments are also not expected to have any measurable fiscal costs to these persons because they are based on extensive collaboration with the Board, so as to incorporate generally accepted professional standards common in the industry. Second, the proposed amendments allowing pharmacy interns and pharmacy technicians to engage in the administration of vaccines or emergency medications will potentially affect any of the 783 licensed pharmacy interns and 6,274 licensed pharmacy technicians in Utah who choose to provide those services, and these persons may also receive an indirect benefit from potentially increased employment. However, this benefit is inestimable because of the unavailability of data and high cost of conducting research to determine the estimates. Third, the newly added administrative penalty for failure to comply with remote dispensing pharmacy standards is not expected to create a measurable fiscal impact for any licensees because the goal of this rule is to provide a deterrent such that there is a $0 net impact, so for the typical licensee this fine will have no impact. Inestimable fiscal impacts include any money a person who is adjudicated as having violated the rule might have to pay in the form of an administrative penalty. This amount is inestimable because it applies only in cases of unforeseeable violations and because any penalty will vary depending on the circumstances of the violation. Finally, pharmacy customers are expected to receive an indirect fiscal benefit from these amendments, resulting from their potentially increased access to pharmacy services and to vaccinations. Customers residing in rural areas and other areas of need within Utah are especially likely to experience a fiscal benefit. However, the precise benefit to these other persons cannot be estimated because of the unavailability of data and the high cost of conducting research to determine the estimates. In sum, although a fiscal benefit to other persons is expected from these amendments from a potential increase in revenue or decrease in costs, the exact impact to other persons is inestimable as it will vary substantially depending on individual characteristics and choices, and the relevant data is unavailable. None of the remaining proposed amendments are expected to impact other persons because they will not alter the price or quantity of any exchanges between any parties, or they merely update the rule to establish definitions, clarify standards, encompass current requirements and practices in the profession, and make formatting changes for clarity.

COMPLIANCE COSTS FOR AFFECTED PERSONS: None of these proposed amendments are expected to impose any compliance costs for any affected persons because the changes will largely save time and money for all parties, and are expected to result in positive fiscal impact or no measurable fiscal impact.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: In accordance with S.B. 170 (2019), this rule filing establishes the scope of practice for pharmacy technicians, and expands their scope to include administering immunizations and emergency medications pursuant to delegation by a pharmacist. Also, in accordance with S.B. 170 (2019), this filing clarifies the requirements and operating standards for the practice of telepharmacy through a remote dispensing pharmacy. This filing also proposes amendments recommended by the Division in collaboration with the Board, including creation of a Committee and clarification of various requirements, including operating standards for a third party logistics provider, required licensee training and education, and required continuing education topics. Various updates and nonsubstantive formatting changes are also made throughout this rule. Small Businesses (less than 50 employees): The amendments to Sections R156-17b-601 and R156-17b-621, allowing pharmacy interns and pharmacy technicians to engage in the administration of vaccines and emergency medications are expected to create a fiscal benefit for the approximately 508 Class A retail pharmacies, 284 Class B pharmacies, and 1,188 Class C pharmacies licensed in Utah that are small businesses (NAICS 446110). The precise fiscal benefit is inestimable because the data necessary to determine how many small business pharmacies will elect to hire pharmacy interns and pharmacy

technicians to provide vaccination services is not available, and because any increase in revenue will vary depending on the characteristics of each small business and on the licensees that the business chooses to employ. The proposed amendments relating to the practice of telepharmacy and remote dispensing pharmacies may impact the approximately 508 Class A retail pharmacies and 284 Class B pharmacies licensed in Utah that are small businesses (NAICS 446110). These amendments are expected to decrease operating costs and increase revenues for Class A pharmacies or Class B pharmacies that choose to serve as supervising pharmacies or are designated as remote dispensing pharmacies. An exact estimate of these benefits is not possible because the resulting benefits will vary widely depending on the characteristics of each supervising pharmacy and each remote dispensing pharmacy, on the number of licensees that these small businesses will employ, and on the approved location for each remote dispensing pharmacy. Additionally, the data necessary to determine how many remote dispensing pharmacies will be designated by the Division and where those remote dispensing pharmacies might be located is unavailable. Amendments that define as unprofessional conduct the failure to comply with remote dispensing pharmacy operating standards are not expected to impose any measurable costs for these small businesses. The goal of these provisions is to provide a deterrent such that there is zero dollar net impact on all parties involved, and the practices of most businesses are expected to be consistent with practice guidelines. Therefore, any impact from non-compliance will never be uniformly felt across the industry and most small businesses will never be impacted. None of the remaining proposed changes are expected to impact small businesses' revenues or expenditures because the changes will not alter the price or quantity of any exchanges between any parties, or the changes merely update the rule to establish definitions, clarify standards, encompass current requirements and practices in the profession, and make formatting changes for clarity. Non-Small Businesses (50 or more employees): The fiscal impact for the approximately 512 Class A retail pharmacies, 286 Class B pharmacies, and 1,188 Class C pharmacies licensed in Utah that are non-small businesses (NAICS 446110) are the same as described above for small businesses. They are either inestimable, for the reasons stated, or there is no fiscal impact.

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:
♦ Jennifer Zaelit by phone at 801-530-7632, or by Internet E-mail at jzaelit@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2019

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 10/22/2019 01:30 PM, Heber Wells Bldg, 160 E 300 S, North Conference Room (first floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2019

AUTHORIZED BY: Mark Steinagel, Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	$763	$688	$688
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0
Total Fiscal Costs:	**$763**	**$688**	**$688**
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:	**($763)**	**($688)**	**($688)**

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

Appendix 2: Regulatory Impact to Non-Small Businesses

The amendments to Sections R156-17b-601 and R156-17b-621 allowing pharmacy interns and pharmacy technicians to engage in the administration of vaccines and emergency medications are expected to create a fiscal benefit for the approximately 512 Class A retail pharmacies, 286 Class B pharmacies, and 1,188 Class C pharmacies licensed in Utah that are non-small businesses (NAICS 446110). The amended rule will allow these non-small businesses to offer more services and thereby increase their revenue. The precise fiscal benefit is inestimable because the data necessary to determine how many non-small business pharmacies will elect to hire pharmacy interns and pharmacy technicians to provide vaccination services is not available, and because any increase in revenue will vary depending on the characteristics of each non-small businesses and on the licensees that the business chooses to employ.

The proposed amendments relating to the practice of telepharmacy and remote dispensing pharmacies may impact the approximately 512 Class A retail pharmacies and 286 Class B pharmacies licensed in Utah that are non-small businesses (NAICS 446110). These amendments are expected to decrease operating costs and increase revenues for Class A pharmacies or Class B pharmacies that choose to serve as supervising pharmacies or are designated as remote dispensing pharmacies, because these pharmacies will be able to provide services to customers at the remote dispensing pharmacy's location in the area of need, and the remote dispensing pharmacist in charge and supervising pharmacist will not

need to be on site at the location. An exact estimate of these benefits is not possible because the resulting benefits will vary widely depending on the characteristics of each supervising pharmacy and each remote dispensing pharmacy, on the number of licensees that these non-small businesses will employ, and on the approved location for each remote dispensing pharmacy. Additionally, the data necessary to determine how many remote dispensing pharmacies will be designated by the Division and where those remote dispensing pharmacies might be located is unavailable. Corresponding amendments that define as unprofessional conduct the failure to comply with remote dispensing pharmacy operating standards are not expected to impose any measurable costs for these non-small businesses. The goal of these provisions is to provide a deterrent such that there is $0 net impact on all parties involved, and the practices of most businesses are expected to be consistent with practice guidelines. Therefore, any impact from non-compliance will never be uniformly felt across the industry and most non-small businesses will never be impacted. Further, although a non-small business disciplined for unprofessional conduct may face financial costs, it is impossible to estimate what those might be both because any such violations are unforeseeable, and because any costs will vary depending on the unique characteristics of the business and the circumstances of the violation. This relevant data is unavailable.

None of the remaining proposed changes are expected to impact non-small businesses' revenues or expenditures because the changes will not alter the price or quantity of any exchanges between any parties, or they merely update the rule to establish definitions, clarify standards, encompass current requirements and practices in the profession, and make formatting changes for clarity.

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

R156. Commerce, Occupational and Professional Licensing.
R156-17b. Pharmacy Practice Act Rule.
R156-17b-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 17b, as used in Title 58, Chapters 1 and 17b or this rule:

(1) "Accredited by ASHP" means a program that:

(a) was accredited by the ASHP on the day the applicant for licensure completed the program; or

(b) was in ASHP candidate status on the day the applicant for licensure completed the program.

(2) "ACPE" means the American Council on Pharmaceutical Education or Accreditation Council for Pharmacy Education.

(3) "Analytical laboratory":

(a) means a facility in possession of prescription drugs for the purpose of analysis; and

(b) does not include a laboratory possessing prescription drugs used as standards and controls in performing drug monitoring or drug screening analysis if the prescription drugs are pre-diluted in a human or animal body fluid, human or animal body fluid components, organic solvents, or inorganic buffers at a concentration not exceeding one milligram per milliliter when labeled or otherwise designated as being for in-vitro diagnostic use.

(4) "Area of need" as used in Subsection 58-17b-612(1)(b)(i) means:

(a) a remote-rural hospital, as defined in Section 26-21-13.6;

(b) a county of the fourth, fifth, or sixth class, as classified in Section 17-50-501; or

(c) any area where a demonstration of need is approved by the Division in collaboration with the Board, based on any factors affecting the access of persons in that area to pharmacy resources.

([~~4~~]5) "ASHP" means the American Society of Health System Pharmacists.

([~~5~~]6) "Authorized distributor of record" means a pharmaceutical wholesaler with whom a manufacturer has established an ongoing relationship to distribute the manufacturer's prescription drugs. An ongoing relationship is deemed to exist between such pharmaceutical wholesaler and a manufacturer, as defined in Section 1504 of the Internal Revenue Code, when the pharmaceutical wholesaler has a written agreement currently in effect with the manufacturer evidencing such ongoing relationship, and the pharmaceutical wholesaler is listed on the manufacturer's current list of authorized distributors of record.

([~~6~~]7) "Authorized personnel" means any person who is a part of the pharmacy staff who participates in the operational processes of the pharmacy and contributes to the natural flow of pharmaceutical care.

([~~7~~]8) "Chain pharmacy warehouse" means a physical location for prescription drugs that acts as a central warehouse and performs intracompany sales or transfers of the prescription drugs to a group of chain pharmacies that have the same common ownership and control.

([~~8~~]9) "Clinic" as used in Subsection 58-17b-625(3)(b) means a class B pharmacy, or a facility which provides out-patient health care services whose primary practice includes the therapeutic use of drugs related to a specific patient for the purpose of:

(a) curing or preventing the patient's disease;

(b) eliminating or reducing the patient's disease;

(c) arresting or slowing a disease process.

([~~9~~]10) "Co-licensed partner" means a person that has the right to engage in the manufacturing or marketing of a co-licensed product.

([~~10~~]11) "Co-licensed product" means a device or prescription drug for which two or more persons have the right to engage in the manufacturing, marketing, or both consistent with FDA's implementation of the Prescription Drug Marketing Act as applicable.

([~~11~~]12) "Community pharmacy" as used in Subsection 58-17b-625(3)(b) means a class A pharmacy as defined in Subsection 58-17b-102(10).

([~~12~~]13) "Cooperative pharmacy warehouse" means a physical location for drugs that acts as a central warehouse and is owned, operated or affiliated with a group purchasing organization (GPO) or pharmacy buying cooperative and distributes those drugs exclusively to its members.

([~~13~~]14) "Counterfeit prescription drug" has the meaning given that term in 21 USC 321(g)(2), including any amendments thereto.

([~~14~~]15) "Counterfeiting" means engaging in activities that create a counterfeit prescription drug.

([~~15~~]16) "Dispense", as defined in Subsection 58-17b-102(22), does not include transferring medications for a patient from a legally dispensed prescription for that particular patient into a daily or weekly drug container to facilitate the patient taking the correct medication.

([~~16~~]17) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, or other similar or related article, including any component part or accessory, which is

required under Federal law to bear the label, "Caution: Federal or State law requires dispensing by or on the order of a physician."

([~~17~~]18) "DMP" means a dispensing medical practitioner licensed under [~~Section 58-~~]Title 58, Chapter 17b, Part 8.

([~~18~~]19) "DMP designee" means an individual, acting under the direction of a DMP, who:

(a)(i) holds an active health care professional license under one of the following chapters:

(A) Chapter 67, Utah Medical Practice Act;

(B) Chapter 68, Utah Osteopathic Medical Practice Act;

(C) Chapter 70a, Physician Assistant Act;

(D) Chapter 31b, Nurse Practice Act;

(E) Chapter 16a, Utah Optometry Practice Act;

(F) Chapter 44a, Nurse Midwife Practice Act; or

(G) Chapter 17b, Pharmacy Practice Act; or

(ii) is a medical assistant as defined in Subsection 58-67-102 ([~~9~~]12);

(b) meets requirements established in Subsection 58-17b-803 (4)(c); and

(c) can document successful completion of a formal or on-the-job dispensing training program that meets standards established in Section R156-17b-622.

([~~19~~]20) "DMPIC" means a dispensing medical practitioner licensed under [~~Section 58-~~]Title 58, Chapter 17b, Part 8 who is designated by a dispensing medical practitioner clinic pharmacy to be responsible for activities of the pharmacy.

([~~20~~]21) "Drop shipment" means the sale of a prescription drug to a pharmaceutical wholesaler by the manufacturer of the drug; by the manufacturer's co-licensed product partner, third party logistics provider, or exclusive distributor; or by an authorized distributor of record that purchased the product directly from the manufacturer or from one of these entities; whereby:

(a) the pharmaceutical wholesale distributor takes title to but not physical possession of such prescription drug;

(b) the pharmaceutical wholesale distributor invoices the pharmacy, pharmacy warehouse, or other person authorized by law to dispense to administer such drug; and

(c) the pharmacy, pharmacy warehouse, or other person authorized by law to dispense or administer such drug receives delivery of the prescription drug directly from the manufacturer; from the co-licensed product partner, third party logistics provider, or exclusive distributor; or from an authorized distributor of record that purchases the product directly from the manufacturer or from one of these entities.

([~~21~~]22) "Drug therapy management" means the review of a drug therapy regimen of a patient by one or more pharmacists for the purpose of evaluating and rendering advice to one or more practitioners regarding adjustment of the regimen.

([~~22~~]23) "Drugs", as used in this rule, means drugs or devices.

([~~23~~]24) "Durable medical equipment" or "DME" means equipment that:

(a) can withstand repeated use;

(b) is primarily and customarily used to serve a medical purpose;

(c) generally is not useful to a person in the absence of an illness or injury;

(d) is suitable for use in a health care facility or in the home; and

(e) may include devices and medical supplies.

([~~24~~]25) "Entities under common administrative control" means an entity holds the power, actual as well as legal to influence the management, direction, or functioning of a business or organization.

([~~25~~]26) "Entities under common ownership" means entity assets are held indivisibly rather than in the names of individual members.

([~~26~~]27) "ExCPT", as used in this rule, means the Exam for the Certification of Pharmacy Technicians.

([~~27~~]28) "FDA" means the United States Food and Drug Administration and any successor agency.

([~~28~~]29) "FDA-approved" means the federal Food, Drug, and Cosmetic Act, 21 U.S.C.A. Section 301 et seq. and regulations promulgated thereunder permit the subject drug or device to be lawfully manufactured, marketed, distributed, and sold.

([~~29~~]30) "High-risk, medium-risk, and low-risk drugs" refers to the risk to a patient's health from compounding sterile preparations, as referred to in USP-NF Chapter 797, for details of determining risk level.

([~~30~~]31) "Hospice facility pharmacy" means a pharmacy that supplies drugs to patients in a licensed healthcare facility for terminal patients.

([~~31~~]32) "Hospital clinic pharmacy" means a pharmacy that is located in an outpatient treatment area where a pharmacist or pharmacy intern is compounding, admixing, or dispensing prescription drugs, and where:

(a) prescription drugs or devices are under the control of the pharmacist, or the facility for administration to patients of that facility;

(b) prescription drugs or devices are dispensed by the pharmacist or pharmacy intern; or

(c) prescription drugs are administered in accordance with the order of a practitioner by an employee or agent of the facility.

([~~32~~]33) "Legend drug" or "prescription drug" means any drug or device that has been determined to be unsafe for self-medication or any drug or device that bears or is required to bear the legend:

(a) "Caution: federal law prohibits dispensing without prescription";

(b) "Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian"; or

(c) "Rx only".

([~~33~~]34) "Long-term care facility" as used in Section 58-17b-610.7 means the same as the term is defined in Section 58-31b-102.

([~~34~~]35) "Maintenance medications" means medications the patient takes on an ongoing basis.

(36) "Mail service retail pharmacy" means a retail pharmacy located in Utah that dispenses primarily through mailing or shipping.

([~~35~~]37) "Manufacturer's exclusive distributor" means an entity that contracts with a manufacturer to provide or coordinate warehousing, distribution, or other services on behalf of a manufacturer and who takes title to that manufacturer's prescription

drug, but who does not have general responsibility to direct the drug's sale or disposition. Such manufacturer's exclusive distributor shall be licensed as a pharmaceutical wholesaler under this chapter and be an "authorized distributor of record" to be considered part of the "normal distribution channel".

([~~36~~]38) "Medical supplies" means items for medical use that are suitable for use in a health care facility or in the home and that are disposable or semi-disposable and are non-reusable.

([~~37~~]39) "MPJE" means the Multistate Jurisprudence Examination.

([~~38~~]40) "NABP" means the National Association of Boards of Pharmacy.

([~~39~~]41) "NAPLEX" means North American Pharmacy Licensing Examination.

([~~40~~]42) "Non drug or device handling central prescription processing pharmacy" means a central prescription processing pharmacy that does not engage in compounding, packaging, labeling, dispensing, or administering of drugs or devices.

([~~41~~]43) "Normal distribution channel" means a chain of custody for a prescription drug that goes directly, by drop shipment as defined in Subsection ([~~19~~]20), or via intracompany transfer from a manufacturer; or from the manufacturer's co-licensed partner, third-party logistics provider, or the exclusive distributor to:

(a) a pharmacy or other designated persons authorized under this chapter to dispense or administer prescription drugs to a patient;

(b) a chain pharmacy warehouse that performs intracompany sales or transfers of such drugs to a group of pharmacies under common ownership and control;

(c) a cooperative pharmacy warehouse to a pharmacy that is a member of the pharmacy buying cooperative or GPO to a patient;

(d) an authorized distributor of record, and then to either a pharmacy or other designated persons authorized under this chapter to dispense or administer such drug for use by a patient;

(e) an authorized distributor of record, and then to a chain pharmacy warehouse that performs intracompany sales or transfers of such drugs to a group of pharmacies under common ownership and control; or

(f) an authorized distributor of record to another authorized distributor of record to a licensed pharmaceutical facility or a licensed healthcare practitioner authorized under this chapter to dispense or administer such drug for use by a patient.

([~~42~~]44) "Other health care facilities" means any entity as defined in Utah Code Subsection 26-21-2(13)(a) or Utah Administrative Code R432-1-3(55).

([~~43~~]45) "Parenteral" means a method of drug delivery injected into body tissues but not via the gastrointestinal tract.

([~~44~~]46) "Patient's agent" means a:

(a) relative, friend or other authorized designee of the patient involved in the patient's care; or

(b) if requested by the patient or the individual under Subsection (40)(a), one of the following facilities:

(i) an office of a licensed prescribing practitioner in Utah;

(ii) a long-term care facility where the patient resides; or

(iii) a hospital, office, clinic or other medical facility that provides health care services.

([~~45~~]47) "Pedigree" means a document or electronic file containing information that records each distribution of any given prescription drug.

([~~46~~]48) "PIC", as used in this rule, means the pharmacist-in-charge.

([~~47~~]49) "Prepackaged" or "Prepackaging" means the act of transferring a drug, manually or by use of an automated pharmacy system, from a manufacturer's or distributor's original container to another container in advance of receiving a prescription drug order or for a patient's immediate need for dispensing by a pharmacy or practitioner authorized to dispense in the establishment where the prepackaging occurred.

([~~48~~]50) "Prescription files" means all hard-copy and electronic prescriptions that includes pharmacist notes or technician notes, clarifications or information written or attached that is pertinent to the prescription.

([~~49~~]51) "Professional entry degree", as used in Subsection 58-17b-303(1)(f), means the professional entry degree offered by the applicant's ACPE-accredited school or college of pharmacy in the applicant's year of graduation, either a baccalaureate in pharmacy (BSPharm) or a doctorate in pharmacy (PharmD).

([~~50~~]52) "PTCB" means the Pharmacy Technician Certification Board.

([~~51~~]53) "Qualified continuing education", as used in this rule, means continuing education that meets the standards set forth in Section R156-17b-309.

([~~52~~]54) "Refill" means to fill again.

(55) "Remote dispensing pharmacist-in-charge" or "RDPIC" means the PIC of a remote dispensing pharmacy. The RDPIC shall be the PIC of the remote dispensing pharmacy's supervising pharmacy.

(56) "Remote dispensing pharmacy" means a Class A or Class B pharmacy located in Utah that serves as the originating site where a patient receiving services through a telepharmacy system is physically located and the practice of telepharmacy occurs, pursuant to Section R156-17b-614g.

([~~53~~]57) "Repackage" means repackaging or otherwise changing the container, wrapper, or labeling to further the distribution of a prescription drug, excluding that completed by the pharmacist or DMP responsible for dispensing the product to a patient.

([~~54~~]58) "Research facility" means a facility where research takes place that has policies and procedures describing such research.

(59) "Retail pharmacy" as defined in Subsection 58-17b-102(67), is further clarified to mean a pharmaceutical facility that dispenses primarily to walk-in customers, and if applicable may deliver.

([~~55~~]60) "Reverse distributor" means a person or company that retrieves unusable or outdated drugs from a pharmacy for the purpose of removing those drugs from stock and destroying them.

([~~56~~]61) "Self-administered hormonal contraceptive" means the same as defined in Subsection 26-62-102(9).

([~~57~~]62) "Sterile products preparation facility" means any facility, or portion of the facility, that compounds sterile products using aseptic technique.

(63) "Supervising pharmacy" means the Class A or Class B pharmacy responsible for overseeing the operation of a remote dispensing pharmacy, and whose PIC is the RDPIC for the remote dispensing pharmacy, pursuant to Section R156-17b-614g.

([~~58~~]64) "Supervisor" means a licensed pharmacist or DMP in good standing with the Division.

(65) "Telepharmacy system" means a telecommunications and information technologies system that monitors the preparation and dispensing of prescription drugs and provides for related drug review and HIPAA-compliant patient counseling services using:

(a) asynchronous store and forward transfer as defined in Subsection 26-60-102(1);

(b) synchronous interaction as defined in Subsection 26-60-102(6); or

(c) still image capture.

([~~59~~]66) "Third party logistics provider" means anyone who contracts with a prescription drug manufacturer to provide or coordinate warehousing, distribution, or other similar services on behalf of a manufacturer, but does not take title to the prescription drug or have any authoritative control over the prescription drug's sale.

([~~60~~]67) "Unauthorized personnel" means any person who is not participating in the operational processes of the pharmacy who in some way would interrupt the natural flow of pharmaceutical care.

([~~61~~]68) "Unit dose" means the ordered amount of a drug in a dosage form prepared for a one-time administration to an individual and indicates the name, strength, lot number and beyond use date for the drug.

([~~62~~]69) "Unprofessional conduct", as defined in Title 58, Chapters 1 and 17b, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-17b-502.

([~~63~~]70) The "Utah Hormonal Contraceptive Self-screening Risk Assessment Questionnaire", adopted September 18, 2018, by the Division in collaboration with the Utah State Board of Pharmacy and Physicians Licensing Board, as posted on the Division's website, is the self-screening risk assessment questionnaire approved by the Division pursuant to Section 26-62-106.

([~~64~~]71) "USP-NF" means the United States Pharmacopeia-National Formulary (USP 41-NF 36), either First Supplement, dated August 1, 2018, or Second Supplement, dated December 1, 2018, which is hereby adopted and incorporated by reference.

([~~65~~]72) "Wholesaler" means a wholesale distributor who supplies or distributes drugs or medical devices that are restricted by federal law to sales based on the order of a physician to a person other than the consumer or patient.

([~~66~~]73) "Wholesale distribution" means the distribution of drugs to persons other than consumers or patients, but does not include:

(a) intracompany sales or transfers;

(b) the sale, purchase, distribution, trade, or other transfer of a prescription drug for emergency medical reasons, as defined under 21 CFR 203.3(m), including any amendments thereto;

(c) the sale, purchase, or trade of a drug pursuant to a prescription;

(d) the distribution of drug samples;

(e) the return or transfer of prescription drugs to the original manufacturer, original wholesale distributor, reverse distributor, or a third party returns processor;

(f) the sale, purchase, distribution, trade, or transfer of a prescription drug from one authorized distributor of record to one additional authorized distributor of record during a time period for which there is documentation from the manufacturer that the manufacturer is able to supply a prescription drug and the supplying authorized distributor of record states in writing that the prescription drug being supplied had until that time been exclusively in the normal distribution channel;

(g) the sale, purchase or exchange of blood or blood components for transfusions;

(h) the sale, transfer, merger or consolidation of all or part of the business of a pharmacy;

(i) delivery of a prescription drug by a common carrier; or

(j) other transactions excluded from the definition of "wholesale distribution" under 21 CFR 203.3 (cc), including any amendments thereto.

R156-17b-105. Licensure - Administrative Inspection.

In accordance with Subsection 58-17b-103(3)(f), the procedure for disposing of any drugs or devices seized by the Division during an administrative inspection shall be handled as follows:

(1) Any legal drugs or devices found and temporarily seized by the Division that are found to be in compliance with this chapter shall be returned to the PIC, RDPIC, or DMPIC of the pharmacy involved at the conclusion of any investigative or adjudicative proceedings and appeals.

(2) Any drugs or devices that are temporarily seized by the Division that are found to be unlawfully possessed, adulterated, misbranded, outdated, or otherwise in violation of this rule shall be destroyed by Division personnel at the conclusion of any investigative or adjudicative proceedings and appeals. The destruction of any seized controlled substance drugs shall be witnessed by two Division individuals. A controlled substance destruction form shall be completed and retained by the Division.

(3) An investigator may, upon determination that the violations observed are of a nature that pose an imminent peril to the public health, safety and welfare, recommend to the Division Director to issue an emergency licensure action, such as cease and desist.

(4) In accordance with Subsections 58-17b-103(1) and 58-17b-601(1), a secure email address must be established by the PIC, RDPIC, or DMPIC and responsible party for the pharmacy to be used for self-audits or pharmacy alerts initiated by the Division. The PIC, RDPIC or DMPIC and responsible party shall cause the Division's Licensing Bureau to be notified on the applicable form prescribed by the Division of the secure email address or any change thereof within seven days of any email address change. Only one email address shall be used for each pharmacy.

R156-17b-106. Clarification of Use of Shall or May.

As used in Title 58, Chapters 1 and 17b or this rule, the use of "shall" and "may" is clarified as follows:

(1) "May" is permissive, and is used when granting a right, privilege, or power, or indicating any discretion to act.

(2) "Shall creates a legal duty or obligation on the part of the subject. The statute or rule is mandating that the person act as required by the statute or rule, and the person has no discretion to act differently.

(3) When used negatively:

(a) "may not" is prohibitory, and absolutely prohibits the subject of the statute or rule from performing a particular act; it annihilates discretion; and

(b) "shall not" is a construction not used in drafting Utah statute or rule.

R156-17b-203. Advisory Pharmacy Compounding Education Committee Created - Membership - Duties.

(1) In accordance with Subsection 58-1-203(1)(f) and Section R156-1-205, there is created the Advisory Pharmacy Compounding Education Committee ("Committee").

(2) The Committee shall be composed of seven members, who shall be diversified between retail pharmacy, hospital pharmacy, and other pharmacy specialties deemed pertinent by the Division in collaboration with the Board. All members shall have experience and knowledge of least one USP Chapter, USP <795>, USP <797>, or USP <800>.

(3) The Board shall nominate Committee members for appointment in accordance with R156-1-205, and if possible at least six months prior to the date of cessation of service.

(4) The Committee's duties and responsibilities shall be to address pharmacy compounding issues, including:

(a) monitoring current and proposed federal standards and USP standards for pharmacy compounding;

(b) reviewing and making recommendations regarding pharmacy compounding education and training;

(c) reviewing and making recommendations regarding pharmacy compounding laws and rules; and

(d) any other pharmacy compounding issues as assigned by the Division in collaboration with the Board.

(5) The Committee shall meet at least once per calendar quarter, and as may be directed by the Board with the concurrence of the Division.

(6)(a) The Committee shall annually designate one of its members to act as chair and another member to act as vice chair, on a calendar year basis. The Committee shall elect its chair and vice chair at a meeting conducted in the last quarter of the calendar year.

(b) The chair, vice chair, or their designee shall attend at least one Board meeting per calendar quarter to report the Committee's activities and recommendations to the Division and the Board.

R156-17b-302. Pharmacy Licensure Classifications - Pharmacist-in-Charge, Remote Dispensing Pharmacist-in-Charge, or Dispensing Medical Practitioner-In-Charge Requirements.

In accordance with S[~~ubs~~]ection 58-17b-302[~~(4)~~], the classification of pharmacies [~~holding licenses are~~]is clarified as follows:

(1) A Class A pharmacy includes all retail operations located in Utah[~~and requires a PIC~~]. A Class A pharmacy requires a PIC or RDPIC. Examples of Class A pharmacies include:

(a) retail pharmacies;

(b) mail service retail pharmacies; and

(c) remote dispensing pharmacies.

(2) A Class B pharmacy includes an institutional pharmacy that provides services to a target population unique to the needs of the healthcare services required by the patient. All Class B pharmacies require a PIC, RDPIC, or DMPIC, except for pharmaceutical administration facilities and narcotic treatment program pharmacies. Examples of Class B pharmacies include:

(a) closed door pharmacies;

(b) hospital clinic pharmacies;

(c) narcotic treatment program pharmacies;

(d) nuclear pharmacies;

(e) branch pharmacies;

(f) hospice facility pharmacies;

(g) pharmaceutical administration facility pharmacies;

(h) sterile product preparation facility pharmacies;[~~ and~~]

(i) dispensing medical practitioner clinic pharmacies; and

(j) remote dispensing pharmacies.

(3) A Class C pharmacy includes a pharmacy that is involved in:

(a) manufacturing;

(b) producing;

(c) wholesaling;

(d) distributing; or

(e) reverse distributing.

(4) A Class D pharmacy requires a PIC licensed in the state where the pharmacy is located and includes an out-of-state mail [~~order~~]service pharmacy. Facilities with multiple locations shall have licenses for each facility and each component part of a facility.

(5) A Class E pharmacy does not require a PIC and includes:

(a) analytical laboratory pharmacies;

(b) animal control pharmacies;

(c) durable medical equipment provider pharmacies;

(d) human clinical investigational drug research facility pharmacies;

(e) medical gas provider pharmacies;

(f) animal narcotic detection training facility pharmacies

(g) third party logistics providers;

(h) non drug or device handling central prescription processing pharmacies; and

(i) veterinarian pharmaceutical facility pharmacies.

(6) [~~All~~]The Division shall convert all pharmacy licenses [~~shall be converted~~]to the appropriate classification[~~ by the Division~~] as identified in Section 58-17b-302.

(7) Each Class A and each Class B pharmacy required to have a PIC or DMPIC shall have one PIC or DMPIC who is employed on a full-time basis as defined by the employer, who acts as a PIC or DMPIC for one pharmacy. However, the PIC or DMPIC:

(a) may be the PIC or DMPIC of more than one Class A or Class B pharmacy, if the additional Class A or Class B pharmacies are not open to provide pharmacy services simultaneously; and

(b) may serve as an RDPIC.

(8) A PIC, RDPIC, or DMPIC shall comply with [~~the provisions of~~]Section R156-17b-603.

R156-17b-303a. Qualifications for Licensure - Education Requirements.

(1) In accordance with Subsections 58-17b-303(2) and 58-17b-304(7)(b), the credentialing agency recognized to provide certification and evaluate equivalency of a foreign educated pharmacy graduate is the Foreign Pharmacy Graduate Examination Committee (FPGEC) of the National Association of Boards of Pharmacy Foundation.

(2) In accordance with Subsection 58-17b-304(7), an applicant for a pharmacy intern license shall demonstrate that [~~he~~]the applicant meets one of the following education criteria:

(a) current admission in a [~~C~~]college of [~~P~~]pharmacy accredited by the ACPE, by written verification from [~~the Dean~~]a dean of the [~~C~~]college;

(b) a graduate degree from a school or college of pharmacy that is accredited by the ACPE; or

(c) a graduate degree from a foreign pharmacy school as established by a certificate of equivalency from an approved credentialing agency defined in Subsection (1).

(3) In accordance with Subsection 58-17b-305(1)(f), a pharmacy technician shall complete a training program that is:

(a) accredited by ASHP; or

(b) conducted by:

(i) the National Pharmacy Technician Association;

(ii) Pharmacy Technicians University; or

(iii) a branch of the Armed Forces of the United States, and

(c) meets the following standards:

(i) completion of at least 180 hours of directly supervised practical training in a licensed pharmacy as determined appropriate by a licensed pharmacist in good standing; and

(ii) written protocols and guidelines for the teaching pharmacist outlining the utilization and supervision of pharmacy technician trainees that address:

(A) the specific manner in which supervision will be completed; and

(B) an evaluative procedure to verify the accuracy and completeness of all acts, tasks and functions performed by the pharmacy technician trainee.

(4) An individual shall complete a pharmacy technician training program and successfully pass the required examination as listed in Subsection R156-17b-303c(4) within two years after obtaining a pharmacy technician trainee license, unless otherwise approved by the Division in collaboration with the Board for good cause showing exceptional circumstances.

(a) Unless otherwise approved under Subsection (4), an individual who fails to apply for and obtain a pharmacy technician license within the two-year time frame shall repeat a pharmacy technician training program in its entirety if the individual pursues licensure as a pharmacy technician.

(5)(a) Pharmacy technician training programs that received Division approval on or before April 30, 2014 are exempt from satisfying standards established in Subsection R156-17b-303a(3) for students enrolled on or before December 31, 2018.

(b) A student in a program described in Subsection (5)(a) shall comply with the program completion deadline and testing requirements in Subsection (4), except that the license application shall be submitted to the Division no later than December 31, 2021.

(c) A program in ASHP candidate status shall notify a student prior to enrollment that if the program is denied accreditation status while the student is enrolled in the program, the student will be required to complete education in another program with no assurance of how many credits will transfer to the new program.

(d) A program in ASHP candidate status that is denied accreditation shall immediately notify the Division, enrolled students and student practice sites, of the denial. The notice shall instruct each student and practice site that:

(i) the program no longer satisfies the pharmacy technician license education requirement in Utah; and

(ii) enrollment in a different program meeting requirements established in Subsection R156-17b-303a(3) is necessary for the student to complete training and to satisfy the pharmacy technician license education requirement in Utah.

(6) An applicant from another jurisdiction seeking licensure as a pharmacy technician in Utah is deemed to have met the qualifications for licensure in Subsection 58-17b-305(1)(f) and 58-17b-305(1)(g) if the applicant:

(a) has engaged in the practice of a pharmacy technician for a minimum of 1,000 hours in that jurisdiction within the past two years or has equivalent experience as approved by the Division in collaboration with the Board; and

(b) has passed and maintained current PTCB or ExCPT certification.

R156-17b-303b. Qualifications for Licensure - Pharmacist - Pharmacy Internship Standards.

In accordance with Subsection 58-17b-303(1)(g), the following standards are established for the pharmacy internship required for licensure as a pharmacist:

(1) For graduates of all U.S. pharmacy schools:

(a) At least 1,740 hours of practice supervised by a pharmacy preceptor shall be obtained according to the Accreditation Council for Pharmacy Education (ACPE), Accreditation Standards and Key Elements for the Professional Program in Pharmacy Leading to the Doctor of Pharmacy Degree, effective July 1, 2016 ("Standards 2016"), which is hereby incorporated by reference.

(b) If a pharmacy intern is suspended or dismissed from an approved College of Pharmacy, the intern shall notify the Division within 15 days of the suspension or dismissal.

(c) If a pharmacy intern ceases to meet all requirements for intern licensure, the pharmacy intern shall surrender the pharmacy intern license to the Division within 60 days unless an extension is requested and granted by the Division in collaboration with the Board.

(2) For graduates of all foreign pharmacy schools, at least 1,440 hours of supervised pharmacy practice in the United States.

(3) Up to 500 hours towards the requirements of Subsections (1)(a) or (2) may be granted, at the discretion of the Division in collaboration with the Board, for other experience substantially related to the practice of pharmacy.

R156-17b-303c. Qualifications for Licensure - Examinations.

(1) In accordance with Subsection 58-17b-303(1)(h), the examinations that shall be successfully passed by an applicant for licensure as a pharmacist are:

(a) the NAPLEX with a passing score as established by NABP; and

(b) the Utah Multistate Pharmacy Jurisprudence Examination(MPJE) with a minimum passing score as established by NABP.

(2) An individual who has failed either examination three times shall meet with the Board to request an additional authorization to test. The Division, in collaboration with the Board, may require additional training as a condition for approval of an authorization to retest.

(3) In accordance with Subsection 58-17b-303(3)(j), an applicant applying by endorsement is required to pass the Utah MPJE.

(4) In accordance with Subsection 58-17b-305(1)(g), an applicant applying for licensure as a pharmacy technician shall pass the PTCB or ExCPT with a passing score as established by the certifying body. The certificate shall exhibit a valid date and that the certification is active.

(5) A graduate of a foreign pharmacy school shall obtain a passing score on the Foreign Pharmacy Graduate Examination Committee (FPGEC) examination.

R156-17b-304. Temporary Pharmacist Licensure - Additional Authorization to Test.

(1) In accordance with Subsection 58-1-303(1), the Division may issue a temporary pharmacist license to a person who meets all qualifications for licensure as a pharmacist in Utah except for the passing of the required examination, if the applicant:

(a) is:

(i) [~~is~~]a graduate of an ACPE accredited pharmacy school within two months immediately preceding application for licensure;

(ii) enrolled in a pharmacy graduate residency or fellowship program; or

(iii) licensed in good standing to practice pharmacy in another state or territory of the United States;

(b) submits a complete application for licensure as a pharmacist except the passing of the NAPLEX and Utah MJPE examinations;

(c) submits evidence of having secured employment in Utah conditioned upon issuance of the temporary license, and the employment is under the direct, on-site supervision of a pharmacist with an active, non-temporary Utah license that [~~may or may not~~] includes a controlled substance license; and

(d) has registered to take the required licensure examinations.

(2) A temporary pharmacist license issued under Subsection (1) expires the earlier of:

(a) six months from the date of issuance;

(b) the date upon which the Division receives notice from the examination agency that the individual has failed either examination three times; or

(c) the date upon which the Division issues the individual full licensure.

(3) An individual who has failed either examination three times shall meet with the Board to request an additional authorization to test. The Division, in collaboration with the Board, may require additional training as a condition for approval of an authorization to retest.

(4) A pharmacist temporary license issued in accordance with this section cannot be renewed, but may be extended up to six months, as approved by the Division in collaboration with the Board.

R156-17b-305. Qualifications for Licensure - Pharmacist by Endorsement.

[~~(1)~~]In accordance with Subsections 58-17b-303(3) and 58-1-301(3), an applicant for licensure as a pharmacist by endorsement shall:

(1) apply through the "Licensure Transfer Program" administered by NABP[~~.~~];

(2) [~~An applicant for licensure as a pharmacist by endorsement does not need to provide evidence of intern hours if that applicant has:~~

~~(a) lawfully practiced as a licensed pharmacist a minimum of 2,000 hours in the four years immediately preceding application in Utah;~~

~~(b) ~~]have obtained sufficient continuing education credits [~~required~~]to maintain a license to practice pharmacy in the state of practice; and

([e]3) not had a pharmacist license suspended, revoked, canceled, surrendered, or otherwise restricted for any reason in any state for ten years prior to application in Utah, unless otherwise approved by the Division in collaboration with the Board.

R156-17b-307. Qualifications for Licensure - Criminal Background Checks.

(1) An applicant for licensure as a pharmacy shall document, to the satisfaction of the Division, the owners and management of the pharmacy and the facility in which the pharmacy is located.

(2) The following individuals associated with an applicant for licensure as a pharmacy shall be subject to the criminal background check requirements set forth in Section 58-17b-307:

(a) the PIC;

(b) the PIC's immediate supervisor;

(c) the senior person in charge of the facility in which the pharmacy is located;

(d) others associated with management of the pharmacy or the facility in which the pharmacy is located as determined necessary by the Division in order to protect public health, safety and welfare; and

(e) owners of the pharmacy or the facility in which the pharmacy is located as determined necessary by the Division in order to protect public health, safety and welfare.

R156-17b-308. Term, Expiration, Renewal, and Reinstatement of License - Application Procedures. In accordance with Sections 58-1-308 and 58-17b-506:

(1) The renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 17b is established in Section R156-1-308a.

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

(3) An applicant whose license was active and in good standing at the time of expiration may apply for reinstatement

between two years and eight years after the date of expiration, in accordance with the following practice re-entry requirements:

(a) Each applicant shall:

(i) submit a reinstatement application demonstrating compliance with all requirements and conditions of license renewal;

(ii) pay all license renewal and reinstatement fees for the current renewal period; and

(iii) comply with any additional licensure requirements or conditions considered necessary by the Division in collaboration with the Board to protect the public and ensure the applicant is currently competent to engage in the profession, such as:

(A) a background check;

(B) conditional licensure;

(C) refresher or practice re-entry programs;

(D) licensure exams;

(E) supervised practice requirements;

(F) fitness for duty/competency evaluations; or

(G) any other licensure requirements or conditions determined necessary by the Division in collaboration with the Board.

(b) An applicant applying between two and five years after expiration shall also:

(i) if requested, meet with the Board for evaluation of the applicant's qualifications for licensure; and

(ii) submit evidence that the applicant has successfully completed:

(A) all continuing education for each preceding renewal period in which the license was expired; or

(B) a refresher or practice re-entry program approved by the Division in collaboration with the Board.

(c) An applicant applying five or more years after expiration shall also:

(i) meet with the Board for evaluation of the applicant's qualifications for licensure;

(ii) submit evidence that the applicant has:

(A) within five years preceding the application, passed the examinations required for licensure under Section R156-17b-303c (NA[~~B~~]PLEX and MPJE for a pharmacist, or PTCB or ExCPT for a pharmacy technician); or

(B) successfully completed a refresher or practice re-entry program approved by the Division in collaboration with the Board; and

(iii) successfully practice under conditional licensure during a period of direct supervision by a pharmacist, for a period equal to at least 40 hours of supervision for each expired year.

(4) The Division in collaboration with the Board may approve extension of an intern license upon the request of the licensee, if the intern lacks the required number of internship hours for licensure.

R156-17b-309. Continuing Education.

In accordance with Section 58-17b-310 and Subsections 58-1-203(1)(g) and 58-1-308(3)(b), the continuing education (CE) requirements for renewal or reinstatement of a pharmacist or pharmacy technician license for each two-year renewal cycle are established as follows:

(1) A pharmacist shall complete at least 30 CE hours, which shall include at minimum:

(a) 12 hours of live or technology-enabled participation in lectures, seminars, or workshops;

(b) 15 hours in one or more of the following topics:

(i) [~~of~~]disease state management/drug therapy[~~,~~];

(ii) AIDS[~~/HIV~~] therapy[~~,~~];

(iii) general pharmacy;

(iv) patient safety; or

(v) immunizations[~~ or patient safety~~];

(c) one hour of pharmacy law or ethics;

(d) if [~~providing immunization~~]engaging in the administration of immunizations or vaccines as defined in Section R156-17b-621, two hours in immunizations or vaccine-related topics, which hours may be counted as part of the 15 hours required under Subsection (1)(b);

(e) if [~~providing administration of long-acting injectable drug therapy as defined in Section R156-17b-621a, two hours in topics related to long-acting injectables~~]engaging in the administration of prescription drugs or devices as defined in Section R156-17b-621 or R156-17b-625, two hours in topics related to the administration of those prescription drugs or devices; and

(f) if dispensing a self-administered hormonal contraceptive in accordance with Title 26, Chapter 62, Family Planning Access Act as defined in R156-17b-621b, two hours in topics related to hormonal contraceptive therapy.

(2)(a) A pharmacy technician shall complete at least 20 CE hours, which shall include at minimum:

(i) six hours of live or technology-enabled participation at lectures, seminars, or workshops;[~~ and~~]

(ii) one hour of pharmacy law or ethics; and

(iii) if engaging in the administration of immunizations or vaccines as defined in Section R156-17b-621, two hours in immunizations or vaccine-related topics.

([e]b) Current PTCB or ExCPT certification shall fulfill all CE requirements for a pharmacy technician, except for immunization/vaccine-related topic hours that may be required under Subsection (2)(a)(iii).

(3)(a) If a licensee first becomes licensed during the two-year renewal cycle, the licensee's required number of CE hours shall be decreased proportionately according to the date of licensure.

(b) The Division may defer or waive CE requirements as provided in Section R156-1-308d.

(4) CE credit shall be recognized as follows:

(a) One live CE hour for attending one Utah State Board of Pharmacy meeting, up to a maximum of two CE hours during each two-year period. These hours may count as "pharmacy law or ethics" hours.

(b) Two CE hours for each hour of lecturing or instructing a CE course or teaching in the licensee's profession, up to a maximum of ten CE hours during each two-year period. The licensee shall document the course's content and intended audience (e.g., pharmacists, pharmacy technicians, pharmacy interns, physicians, nurses). Public service programs, such as presentations to schoolchildren or service clubs, are not eligible for CE credit.

(c) All CE shall be approved by, conducted by, or under the sponsorship of one of the following:

(i) institutes, seminars, lectures, conferences, workshops, various forms of mediated instruction, and programmed learning courses, presented by an ACPE-approved institution, individual, organization, association, corporation, or agency;

(ii) programs approved by health-related CE approval organizations, provided the CE is nationally recognized by a healthcare accrediting agency and is related to the practice of pharmacy;

(iii) Division training or educational presentations;

(iv) educational meetings that [~~meet~~]are ACPE [~~criteria~~]accredited and are sponsored by the Utah Pharmacy Association, the Utah Society of Health-System Pharmacists, or other professional organization or association; and

(v) for pharmacists, programs of certification by qualified individuals[~~,~~] such as certified diabetes educator credentials, board certification, [~~in advanced therapeutic disease management~~]or other certification as approved by the Division in collaboration with the Board.

(5) A licensee shall maintain documentation sufficient to prove compliance with this section, for a period of four years after the end of the renewal cycle for which the CE is due, by:

(a) maintaining registration with the NABP e-Profile CPE Monitor plan or the NABP CPE Monitor Plus plan; and

(b) maintaining a certificate of completion or other adequate documentation for any CE that cannot be tracked by the licensee's NABP plan.

R156-17b-402. Administrative Penalties.

In accordance with Subsection 58-17b-401(6) and Sections 58-17b-501 and 58-17b-502, unless otherwise ordered by the presiding officer, the following fine and citation schedule shall apply:

TABLE

FINE SCHEDULE

VIOLATION	FIRST OFFENSE	SUBSEQUENT OFFENSE
58-1-501(1)(a)	$ 500 - $ 2,000	$ 2,000 - $10,000
58-1-501(1)(b)	$ 500 - $ 2,000	$ 2,000 - $10,000
58-1-501(1)(c)	$ 500 - $ 1,000	$ 1,000 - $ 5,000
58-1-501(1)(d)	$ 500 - $ 1,000	$ 1,000 - $ 5,000
58-1-501(1)(e)	$ 100 - $ 2,000	$ 2,000 - $10,000
58-1-501(1)(f)(i)(A)	$ 500 - $ 2,000	$ 2,000 - $10,000
58-1-501(2)(m)(i)	$ 500 - $ 2,000	$ 2,000 - $10,000
58-1-501(1)(f)(i)(B)	$ 500 - $ 2,000	$ 2,000 - $10,000
58-1-501(2)(m)(ii)	$ 500 - $ 2,000	$ 2,000 - $10,000
58-1-501(2)(a)	$ 100 - $ 2,000	$ 2,000 - $10,000
58-1-501(2)(b)	$ 500 - $ 2,000	$ 2,000 - $10,000
58-1-501(2)(c)	$ 500 - $ 2,000	$ 2,000 - $10,000
58-1-501(2)(d)	$ 100 - $ 500	$ 200 - $ 1,000
58-1-501(2)(e)	$ 100 - $ 500	$ 200 - $ 1,000
58-1-501(2)(f)	$ 100 - $ 500	$ 200 - $ 1,000
58-1-501(2)(g)	$ 500 - $ 2,000	$ 2,000 - $10,000
58-1-501(2)(h)	$ 100 - $ 500	$ 200 - $ 1,000
58-1-501(2)(i)	$ 100 - $ 500	$ 200 - $ 1,000
58-1-501(2)(j)	$ 100 - $ 500	$ 200 - $ 1,000
58-1-501(2)(k)	$ 100 - $ 1,000	$ 500 - $ 2,000
58-1-501(2)(l)	$ 100 - $ 500	$ 200 - $ 1,000
58-1-501(2)(n)	$ 500 - $ 2,000	$ 2,000 - $10,000
58-1-501.5	$ 500 - $ 2,000	$ 2,000 - $10,000
R156-1-501(1)	$ 500 - $ 2,000	$ 2,500 - $10,000
R156-1-501(2)	$ 500 - $ 2,000	$ 2,500 - $10,000
R156-1-501(3)	$ 500 - $ 2,000	$ 2,500 - $10,000
R156-1-501(4)	$ 500 - $ 2,000	$ 2,500 - $10,000
R156-1-501(5)	$ 500 - $ 2,000	$ 2,500 - $10,000
R156-1-501(6)	$ 500 - $ 2,000	$ 2,500 - $10,000
58-17b-501(1)	$ 500 - $ 2,000	$ 5,000
58-17b-501(2)	$ 100 - $ 1,000	$ 500 - $ 2,000
58-17b-501(3)(a)	$ 500 - $ 2,000	$ 2,000 - $10,000
58-17b-501(3)(b)	$ 500 - $ 2,000	$ 2,000 - $10,000
58-17b-501(4)	$ 1,000 - $ 5,000	$10,000
58-17b-501(5)	$ 100 - $ 500	$ 200 - $ 1,000
58-17b-501(6)	$ 500 - $ 2,000	$ 2,000 - $10,000
58-17b-501(7)	$ 500 - $ 2,000	$ 2,000 - $10,000
58-17b-501(8)	$ 500 - $ 2,000	$ 2,500 - $10,000
58-17b-501(9)	$ 500 - $ 1,000	$ 1,500 - $ 5,000
58-17b-501(10)	$ 500 - $ 2,000	$ 2,500 - $10,000
58-17b-501(11)	$ 500 - $ 2,000	$ 2,500 - $10,000
58-17b-501(12)	$ 1,000 - $ 5,000	$10,000
58-17b-501(13)	$ 100 - $ 500	$ 1,000 - $ 2,500
58-17b-502(1)(a)	$ 500 - $ 2,000	$ 2,500 - $10,000
58-17b-502(1)(b)	$ 2,500 - $ 5,000	$ 5,500 - $10,000
58-17b-502(1)(c)	$ 1,000 - $ 5,000	$10,000
58-17b-502(1)(d)	$ 500 - $ 2,000	$ 2,500 - $10,000
58-17b-502(1)(e)	$ 1,000 - $ 5,000	$10,000
58-17b-502(1)(f)	$ 500 - $ 2,000	$ 2,500 - $10,000
58-17b-502(1)(g)	$ 500 - $ 2,000	$ 2,500 - $10,000
58-17b-502(1)(h)	$ 100 - $ 500	$ 500 - $ 1,000
58-17b-502(1)(i)	$ 500 - $ 2,000	$ 2,000 - $10,000
58-17b-502(1)(j)	$ 100 - $ 500	$ 500 - $ 1,000
58-17b-502(1)(k)	$ 100 - $ 500	$ 2,000 - $10,000
58-17b-502(1)(l)	$ 100 - $ 500	$ 500 - $ 1,000
58-17b-502(1)(m)	$ 500 - $ 1,000	$ 2,500 - $ 5,000
58-17b-502(1)(n)	$ 100 - $ 500	$ 500 - $ 1,000
58-17b-502(1)(o)	$ 100 - $ 500	$ 500 - $ 1,000
R156-17b-502(1)	$ 250 - $ 500	$ 2,000 - $10,000
R156-17b-502(2)(a)	$ 250 - $ 500	$ 500 - $ 750
R156-17b-502(2)(b)	$ 500 - $ 2,000	$ 2,500 - $10,000
R156-17b-502(3)	$ 100 - $ 500	$ 500 - $ 1,000
R156-17b-502(4)	$ 50 $ 100	$ 200 - $ 300
R156-17b-502(5)	$ 100 - $ 200	$ 200 - $ 500
R156-17b-502(6)	$ 500 - $ 1,000	$ 2,000 - $10,000
R156-17b-502(7)	$ 500 - $ 2,000	$ 2,000 - $10,000
R156-17b-502(8)	$ 100 - $ 250	$ 300 - $ 500
R156-17b-502(9)(a)	$ 50 - $ 100	$ 250 - $ 500
R156-17b-502(9)(b)	$ 250 - $ 500	$ 750- $ 1,000
R156-17b-502(10)	$ 500 - $ 2,000	$ 2,000 - $10,000
R156-17b-502(11)	$ 100 - $ 500	$ 500 - $ 1,000
R156-17b-502(12)(a)	$ 100 - $ 250	$ 500 - $ 2,500
R156-17b-502(12)(b)	$ 250 - $ 1,000	$ 500 - $ 5,000
R156-17b-502(13)(a)	$ 50 - $ 100	$ 250 - $ 500
R156-17b-502(13)(b)	$ 250 - $ 500	$ 1,000 - $ 2,000
R156-17b-502(14)(a)	$ 500 - $2,500	$ 5,000 - $10,000
R156-17b-502(14)(b)	$ 2,000 per occurrence	
R156-17b-502(15)	double original penalty, up to	$10,000
R156-17b-502(16)	$ 500 - $2,000	$ 2,000 - $10,000
R156-17b-502(17)	$ 1,000 - $5,000	$10,000
R156-17b-502(18)	$ 500 - $2,500	$ 5,000 - $10,000
R156-17b-502(19)	$ 100 - $500	$ 200 - $ 1,000
R156-17b-502(20)	$ 100 - $500	$ 200 - $ 1,000
R156-17b-502(21)	$ 100 - $500	$ 200 - $ 1,000
R156-17b-502(22)	$ 500 - $2,000	$ 2,000 - $10,000
R156-17b-502(23)(a)	$ 100 - $300	$ 500 - $ 1,000
R156-17b-502(23)(b)	$ 250 - $500	$ 500 - $ 1,250
R156-17b-502(24)	$ 100 - $500	$ 500 - $ 1,000
R156-17b-502(25)	$ 500 - $2,000	$ 2,500 - $10,000
R156-17b-502(26)	$ 500 - $2,000	$ 2,500 - $10,000
58-37-8	$ 1,000 - $5,000	$ 5,000 - $10,000
R156-37-502(1)(a)	$ 500 - $2,000	$ 2,500 - $10,000
R156-37-502(1)(b)	$ 500 - $2,000	$ 2,500 - $10,000
R156-37-502(2)	$ 500 - $2,000	$ 2,500 - $10,000
R156-37-502(3)	$ 500 - $2,000	$ 2,500 - $10,000
R156-37-502(4)	$ 500 - $2,000	$ 2,500 - $10,000
R156-37-502(5)	$ 500 - $2,000	$ 2,500 - $10,000
R156-37-502(6)	$ 500 - $2,000	$ 2,500 - $10,000
R156-37-502(7)	$ 500 - $2,000	$ 2,500 - $10,000
R156-37-502(8)	$ 500 - $2,000	$ 2,500 - $10,000
Any other conduct that constitutes Unprofessional or Unlawful conduct	$ 100 - $ 500	$ 200 - $ 1,000

[~~(1) preventing or refusing to permit any authorized agent of the Division to conduct an inspection, in violation of Subsection 58-17b-501(1):~~

~~initial offense: $500 - $2,000~~

~~subsequent offense(s): $5,000~~

~~(2) failing to deliver the license or permit or certificate to the Division upon demand, in violation Subsection 58-17b-501(2):~~

~~initial offense: $100 - $1,000~~

~~subsequent offense(s): $500 - $2,000~~

~~(3) using the title pharmacist, druggist, pharmacy intern, pharmacy technician, pharmacy technician trainee or any other term having a similar meaning or any term having similar meaning when not licensed to do so, in violation of Subsection 58-17b-501(3)(a):~~

~~initial offense: $500 - $2,000~~

~~subsequent offense(s): $2,000 - $10,000~~

~~(4) conducting or transacting business under a name that contains as part of that name the words drugstore, pharmacy, drugs, medicine store, medicines, drug shop, apothecary, prescriptions or any other term having a similar meaning or in any manner advertising otherwise describing or referring to the place of the conducted business or profession when not licensed to do so, in violation of Subsection 58-17b-501(3)(b):~~

~~initial offense: $500 - $2,000~~

~~subsequent offense(s): $2,000 - $10,000~~

~~(5) buying, selling, causing to be sold, or offering for sale any drug or device that bears the inscription sample, not for resale, investigational purposes, or experimental use only or other similar words inspection, in violation of Subsection 58-17b-501(4):~~

~~initial offense: $1,000 - $5,000~~

~~subsequent offense(s): $10,000~~

~~(6) using to the licensee's own advantage or revealing to anyone other than the Division, Board or its authorized representatives, any information acquired under the authority of this chapter concerning any method or process that is a trade secret, in violation of Subsection 58-17b-501(5):~~

~~initial offense: $100 - $500~~

~~subsequent offense(s): $200 - $1,000~~

~~(7) illegally procuring or attempting to procure any drug for the licensee or to have someone else procure or attempt to procure a drug, in violation of Subsection 58-17b-501(6):~~

~~initial offense: $500 - $2,000~~

~~subsequent offense(s): $2,000 - $10,000~~

~~(8) filling, refilling or advertising the filling or refilling of prescription drugs when not licensed do to so, in violation of Subsection 58-17b-501(7):~~

~~initial offense: $500 - $2,000~~

~~subsequent offense(s): $2,000 - $10,000~~

~~(9) requiring any employed pharmacist, pharmacy intern, pharmacy technician, pharmacy technician trainee or authorized supportive personnel to engage in any conduct in violation of this chapter, in violation of Subsection 58-17b-501(8):~~

~~initial offense: $500 - $2,000~~

~~subsequent offense(s): $2,500 - $10,000~~

~~(10) being in possession of a drug for an unlawful purpose, in violation of Subsection 58-17b-501(9):~~

~~initial offense: $500 - $1,000~~

~~subsequent offense(s): $1,500 - $5,000~~

~~(11) dispensing a prescription drug to anyone who does not have a prescription from a practitioner or to anyone who is known or should be known as attempting to obtain drugs by fraud or misrepresentation, in violation of Subsection 58-17b-501(10):~~

~~initial offense: $500 - $2,000~~

~~subsequent offense(s): $2,500 - $10,000~~

~~(12) selling, dispensing or otherwise trafficking in prescription drugs when not licensed to do so or when not exempted from licensure, in violation of Subsection 58-17b-501(11):~~

~~initial offense: $1,000 - $5,000~~

~~subsequent offense(s): $10,000~~

~~(13) using a prescription drug or controlled substance for the licensee that was not lawfully prescribed for the licensee by a practitioner, in violation of Subsection 58-17b-501(12):~~

~~initial offense: $100 - $500~~

~~subsequent offense(s): $1,000 - $2,5000~~

~~(14) willfully deceiving or attempting to deceive the Division, the Board or its authorized agents as to any relevant matter regarding compliance under this chapter, in violation of Subsection 58-17b-502(1):~~

~~initial offense: $500 - $2,000~~

~~subsequent offense(s): $2,500 - $10,000~~

~~(15) paying rebates to practitioners or any other health care provider, or entering into any agreement with a medical practitioner or any other person for the payment or acceptance of compensation for recommending the professional services of either party, in violation of Subsection 58-17b-502(2):~~

~~initial offense:$2,500 - $5,000~~

~~subsequent offense(s):$5,500 - $10,000~~

~~(16) misbranding or adulteration of any drug or device or the sale, distribution or dispensing of any outdated, misbranded, or adulterated drugs or devices, in violation of Subsection 58-17b-502(3):~~

~~initial offense: $1,000 - $5,000~~

~~subsequent offense(s): $10,000~~

~~(17) engaging in the sale or purchase of drugs that are samples or packages bearing the inscription "sample" or "not for resale" or similar words or phrases, in violation of Subsection 58-17b-502(4):~~

~~initial offense: $500 - $2,000~~

~~subsequent offense(s): $2,500 - $10,000~~

~~(18) accepting back and redistributing any unused drugs, with the exception as provided in Section 58-17b-503, in violation of Subsection 58-17b-502(5):~~

~~initial offense: $1,000 - $5,000~~

~~subsequent offense(s): $10,000~~

~~(19) engaging in an act in violation of this chapter committed by a person for any form of compensation if the act is incidental to the person's professional activities, including the activities of a pharmacist, pharmacy intern, pharmacy technician, or pharmacy technician trainee in violation of Subsection 58-17b-502(6):~~

~~initial offense: $500 - $2,000~~

~~subsequent offense(s): $2,500 - $10,000~~

~~(20) violating Federal Title II, PL 91, Controlled Substances Act or Title 58, Chapter 37, Utah Controlled Substances Act, or rules and regulations adopted under either act, in violation~~

of Subsection 58-17b-502(7):
initial offense: $500 - $2,000
subsequent offense(s): $2,500 - $10,000
(21) requiring or permitting pharmacy interns, pharmacy technicians, or pharmacy technician trainees to engage in activities outside the scope of practice for their respective license classifications, or beyond their scopes of training and ability, in violation of Subsection 58-17b-502(8):
initial offense: $100 - $500
subsequent offense(s): $500 - $1,000
(22) administering without appropriate training, guidelines, lawful order, or in conflict with a practitioner's written guidelines or protocol for administering, in violation of Subsection 58-17b-502(9):
initial offense: $500 - $2,000
subsequent offense(s): $2,000 - $10,000
(23) disclosing confidential patient information in violation of the provision of the Health Insurance Portability and Accountability Act of 1996 or other applicable law, in violation of Subsection 58-17b-502(10):
initial offense: $100 - $500
subsequent offense(s): $500 - $1,000
(24) engaging in the practice of pharmacy without a licensed pharmacist designated as the PIC, in violation of Subsection 58-17b-502(11):
initial offense: $100 - $500
subsequent offense(s): $2,000 - $10,000
(25) failing to report to the Division any adverse action taken by another licensing jurisdiction, government agency, law enforcement agency or court, in violation of Subsection 58-17b-502(12):
initial offense: $100 - $500
subsequent offense(s): $500 - $1,000
(26) preparing a prescription drug in a dosage form that is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner, in violation of Subsection 58-17b-502(13):
initial offense: $500 - $1,000
subsequent offense(s): $2,500 - $5,000
(27) failing to act in accordance with Title 26, Chapter 62, Family Planning Access Act, when dispensing a self-administered hormonal contraceptive under a standing order, in violation of Subsection 58-17b-502(14):
initial offense: $100 - $500
subsequent offense(s): $500 - $1,000
(28) violating any ethical code provision of the American Pharmaceutical Association Code of Ethics for Pharmacists, October 27, 1994, in violation of Subsection R156-17b-502(1):
initial offense: $250 - $500
subsequent offense(s): $2,000 - $10,000
(29) failing to comply with USP-NF Chapter 795 guidelines, in violation of Subsection R156-17b-502(2):
initial offense: $250 - $500
subsequent offense(s): $500 - $750
(30) failing to comply with USP-NF Chapter 797 guidelines, in violation of Subsection R156-17b-502(2):
initial offense: $500 - $2,000
subsequent offense(s): $2,500 - $10,000
(31) failing to comply with the continuing education requirements set forth in this rule, in violation of Subsection R156-17b-502(3):
initial offense: $100 - $500
subsequent offense(s): $500 - $1,000
(32) failing to provide the Division with a current mailing address within 10 days following any change of address, in violation of Subsection R156-17b-502(4):
initial offense: $50 - $100
subsequent offense(s): $200 - $300
(33) defaulting on a student loan, in violation of Subsection R156-17b-502(5):
initial offense: $100 - $200
subsequent offense(s): $200 - $500
(34) failing to abide by all applicable federal and state law regarding the practice of pharmacy, in violation of Subsection R156-17b-502(6):
initial offense: $500 - $1,000
subsequent offense(s): $2,000 - $10,000
(35) failing to comply with administrative inspections, in violation of Subsection R156-17b-502(7):
initial offense: $500 - $2,000
subsequent offense(s): $2,000 - $10,000
(36) failing to return a self-inspection report according to the deadline established by the Division, or providing false information on a self-inspection report, in violation of Subsection R156-17b-502(8):
initial offense: $100 - $250
subsequent offense(s): $300 - $500
(37) violating the laws and rules regulating operating standards in a pharmacy discovered upon inspection by the Division, in violation of Subsection R156-17b-502(9):
initial violation: $50 - $100
failure to comply within determined time: $250 - $500
subsequent violations: $250 - $500
failure to comply within established time: $750 - $1,000
(38) abandoning a pharmacy and/or leaving drugs accessible to the public, in violation of Subsection R156-17b-502(10):
initial offense: $500 - $2,000
subsequent offense(s): $2,000 - $10,000
(39) failing to identify license classification when communicating by any means, in violation of Subsection R156-17b-502(11):
initial offense: $100 - $500
subsequent offense(s): $500 - $1,000
(40) failing to maintain an appropriate ratio of personnel, in violation of Subsection R156-17b-502(12):
Pharmacist initial offense: $100 - $250
Pharmacist subsequent offense(s): $500 - $2,500
Pharmacy initial offense: $250 - $1,000
Pharmacy subsequent offense(s): $500 - $5,000
(41) allowing any unauthorized persons in the pharmacy, in violation of Subsection R156-17b-502(13):
Pharmacist initial offense: $50 - $100
Pharmacist subsequent offense(s): $250 - $500
Pharmacy initial offense: $250 - $500
Pharmacy subsequent offense(s): $1,000 - $2,000

(42) failing to offer to counsel any person receiving a prescription medication, in violation of Subsection R156-17b-502(14):

Pharmacy personnel initial offense: $500 - $2,500

Pharmacy personnel subsequent offense(s): $5,000 - $10,000

Pharmacy: $2,000 per occurrence

(43) failing to pay an administrative fine within the time designated by the Division, in violation of Subsection R156-17b-502(15):

Double the original penalty amount up to $10,000

(44) failing to comply with the PIC or DMPIC standards as established in Section R156-17b-603, in violation of Subsection R156-17b-502(16):

initial offense: $500 - $2,000

subsequent offense(s) $2,000 - $10,000

(45) failing to take appropriate steps to avoid or resolve identified drug therapy management problems as referenced in Subsection R156-17b-611(3), in violation of Subsection R156-17b-502(17):

initial offense: $500 - $2,500

subsequent offense: $5,000 - $10,000

(46) dispensing a medication that has been discontinued by the FDA, in violation of Subsection R156-17b-502(18):

initial offense: $100 - $500

subsequent offense: $200 - $1,000

(47) failing to keep or report accurate records of training hours, in violation of Subsection R156-17b-502(19):

initial offense: $100 - $500

subsequent offense: $200 - $1,000

(48) failing to provide PIC or DMPIC information to the Division within 30 days of a change in PIC or DMPIC, in violation of Subsection R156-17b-502(20):

initial offense: $100 - $500

subsequent offense: $200 - $1,000

(49) requiring a pharmacy, PIC, or any other pharmacist to operate a pharmacy with unsafe personnel ratio, in violation of Subsection R156-17b-502(21):

initial offense: $500 - $2,000

subsequent offense: $2,000 - $10,000

(50) failing to update the Division within seven calendar days of any change in the email address designated for use in self-audits or pharmacy alerts, in violation of Subsection R156-17b-502(22):

Pharmacist initial offense: $100 - $300

Pharmacist subsequent offense(s): $500 - $1,000

Pharmacy initial offense: $250 - $500

Pharmacy subsequent offense(s): $500 - $1,250

(51) practicing or attempting to practice as a pharmacist, pharmacist intern, pharmacy technician, or pharmacy technician trainee or operating a pharmacy without a license, in violation of Subsection 58-1-501(1)(a):

initial offense: $500 - $2,000

subsequent offense(s): $2,000 - $10,000

(52) impersonating a licensee or practicing under a false name, in violation of Subsection 58-1-501(1)(b):

initial offense: $500 - $2,000

subsequent offense(s): $2,000 - $10,000

(53) knowingly employing an unlicensed person, in violation of Subsection 58-1-501(1)(c):

initial offense: $500 - $1,000

subsequent offense(s): $1,000 - $5,000

(54) knowingly permitting the use of a license by another person, in violation of Subsection 58-1-501(1)(d):

initial offense: $500 - $1,000

subsequent offense(s): $1,000 - $5,000

(55) obtaining a passing score, applying for or obtaining a license or otherwise dealing with the Division or Board through the use of fraud, forgery, intentional deception, misrepresentation, misstatement, or omission, in violation of Subsection 58-1-501(1)(e):

initial offense: $100 - $2,000

subsequent offense(s): $2,000 - $10,000

(56) issuing a prescription without prescriptive authority conferred by a license or an exemption to licensure, in violation of Subsection 58-1-501(1)(f)(i)(A)and 58-1-501(2)(m)(i):

initial offense: $500 - $2,000

subsequent offense(s): $2,000 - $10,000

(57) issuing a prescription without prescriptive authority conferred by a license or an exemption to licensure without obtaining information sufficient to establish a diagnosis, identify underlying conditions and contraindications to treatment in a situation other than an emergency or an on-call cross coverage situation, in violation of Subsection 58-1-501(1)(f)(i)(B)and 58-1-501(2)(m)(ii):

initial offense: $500 - $2,000

subsequent offense(s): $2,000 - $10,000

(58) violating or aiding or abetting any other person to violate any statute, rule or order regulating pharmacy, in violation of Subsection 58-1-501(2)(a):

initial offense: $100 - $2,000

subsequent offense(s): $2,000 - $10,000

(59) violating or aiding or abetting any other person to violate any generally accepted professional or ethical standard, in violation of Subsection 58-1-501(2)(b):

initial offense: $500 - $2,000

subsequent offense(s): $2,000 - $10,000

(60) engaging in conduct that results in conviction of, or a plea of nolo contendere, or a plea of guilty or nolo contendere held in abeyance to a crime, in violation of Subsection 58-1-501(2)(c):

initial offense: $500 - $2,000

subsequent offense(s): $2,000 - $10,000

(61) engaging in conduct that results in disciplinary action by any other jurisdiction or regulatory authority, that if the conduct had occurred in this state, would constitute grounds for denial of licensure or disciplinary action, in violation of Subsection 58-1-501(2)(d):

initial offense: $100 - $500

subsequent offense(s): $200 - $1,000

(62) engaging in conduct, including the use of intoxicants, drugs, or similar chemicals, to the extent that the conduct does or may impair the ability to safely engage in practice as a pharmacist, pharmacy intern, pharmacy technician, or pharmacy technician trainee, in violation of Subsection 58-1-501(2)(e):

~~initial offense: $100 - $500~~
~~subsequent offense(s): $200 - $1,000~~
~~(63) practicing or attempting to practice as a pharmacist, pharmacy intern, pharmacy technician, or pharmacy technician trainee when physically or mentally unfit to do so, in violation of Subsection 58-1-501(2)(f):~~
~~initial offense: $100 - $500~~
~~subsequent offense(s): $200 - $1,000~~
~~(64) practicing or attempting to practice as a pharmacist, pharmacy intern, pharmacy technician, or pharmacy technician trainee through gross incompetence, gross negligence or a pattern of incompetency or negligence, in violation of Subsection 58-1-501(2)(g):~~
~~initial offense: $500 - $2,000~~
~~subsequent offense(s): $2,000 - $10,000~~
~~(65) practicing or attempting to practice as a pharmacist, pharmacy intern, pharmacy technician, or pharmacy technician trainee by any form of action or communication that is false, misleading, deceptive or fraudulent, in violation of Subsection 58-1-501(2)(h):~~
~~initial offense: $100 - $500~~
~~subsequent offense(s): $200 - $1,000~~
~~(66) practicing or attempting to practice as a pharmacist, pharmacy intern, pharmacy technician, or pharmacy technician trainee beyond the individual's scope of competency, abilities or education, in violation of Subsection 58-1-501(2)(i):~~
~~initial offense: $100 - $500~~
~~subsequent offense(s): $200 - $1,000~~
~~(67) practicing or attempting to practice as a pharmacist, pharmacy intern, pharmacy technician, or pharmacy technician trainee beyond the scope of licensure, in violation of Subsection 58-1-501(2)(j):~~
~~initial offense: $100 - $500~~
~~subsequent offense(s): $200 - $1,000~~
~~(68) verbally, physically or mentally abusing or exploiting any person through conduct connected with the licensee's practice, in violation of Subsection 58-1-501(2)(k):~~
~~initial offense: $100 - $1,000~~
~~subsequent offense(s): $500 - $2,000~~
~~(69) acting as a supervisor without meeting the qualification requirements for that position as defined by statute or rule, in violation of Subsection 58-1-501(2)(l):~~
~~initial offense: $100 - $500~~
~~subsequent offense(s): $200 - $1,000~~
~~(70) violating a provision of Section 58-1-501.5, in violation of Subsection 58-1-501(2)(n):~~
~~initial offense: $500 - $2,000~~
~~subsequent offense(s): $2,000 - $10,000~~
~~(71) surrendering licensure to any other licensing or regulatory authority having jurisdiction over the licensee or applicant in the same occupation or profession while an investigation or inquiry into allegations of unprofessional or unlawful conduct is in progress or after a charging document has been filed against the applicant or licensee alleging unprofessional or unlawful conduct, in violation of Subsection R156-1-501(1):~~
~~initial offense: $500 - $2,000~~
~~subsequent offense(s): $2,500 - $10,000~~
~~(72) practicing a regulated occupation or profession in, through, or with a limited liability company that has omitted the words, "limited company," "limited liability company," or the abbreviation "L.C." or "L.L.C." in the commercial use of the name of the limited liability company, in violation of Subsection R156-1-501 (2):~~
~~initial offense: $500 - $2,000~~
~~subsequent offense(s): $2,500 - $10,000~~
~~(73) practicing a regulated occupation or profession in, through, or with a limited partnership that has omitted the words, "limited partnership," "limited," or the abbreviation "L.P." or "Ltd." in the commercial use of the name of the limited partnership, in violation of Subsection R156-1-501(3):~~
~~initial offense: $500 - $2,000~~
~~subsequent offense(s): $2,500 - $10,000~~
~~(74) practicing a regulated occupation or profession in, through, or with a professional corporation that has omitted the words "professional corporation" or the abbreviation "P.C." in the commercial use of the name of the professional corporation, in violation of Subsection R156-1-501(4):~~
~~initial offense: $500 - $2,000~~
~~subsequent offense(s): $2,500 - $10,000~~
~~(75) using a capitalized DBA (doing-business-as name) that has not been properly registered with the Division of Corporations and with the Division of Occupational and Professional Licensing, in violation of Subsection R156-1-501(5):~~
~~initial offense: $500 - $2,000~~
~~subsequent offense(s): $2,500 - $10,000~~
~~(76) failing, as a prescribing practitioner, to follow the "Model Policy for the Use of Controlled Substances for the Treatment of Pain," May 2004, established by the Federation of State Medical Boards of the United States, Inc., which is hereby adopted and incorporated by reference, in violation of R156-1-501(6):~~
~~initial offense: $500 - $2,000~~
~~subsequent offense(s): $2,500 - $10,000~~
~~(77) engaging in prohibited acts as defined in Section 58-37-8, in violation of Section 58-37-8:~~
~~initial offense: $1,000 - $5,000~~
~~subsequent offense(s) $5,000 - $10,000~~
~~(78) self-prescribing or self-administering by a licensee of any Schedule II or Schedule III controlled substance that is not prescribed by another practitioner having authority to prescribe the drug, in violation of Subsection R156-37-502(1)(a):~~
~~initial offense: $500 - $2,000~~
~~subsequent offense(s): $2,500 - $10,000~~
~~(79) prescribing or administering a controlled substance for a condition that the licensee is not licensed or competent to treat, in violation of Subsection R156-37-502(1)(b):~~
~~initial offense: $500 - $2,000~~
~~subsequent offense(s): $2,500 - $10,000~~
~~(80) violating any federal or state law relating to controlled substances, in violation of Subsection R156-37-502(2):~~
~~initial offense: $500 - $2,000~~
~~subsequent offense(s): $2,500 - $10,000~~
~~(81) failing to deliver to the Division all controlled substance certificates issued by the Division, to the Division, upon an action that revokes, suspends, or limits the license, in violation of R156-37-502(3):~~
~~initial offense: $500 - $2,000~~
~~subsequent offense(s): $2,500 - $10,000~~

~~(82) failing to maintain controls over controlled substances that would be considered by a prudent licensee to be effective against diversion, theft, or shortage of controlled substances, in violation of Subsection R156-37-502(4):~~
~~initial offense: $500 - $2,000~~
~~subsequent offense(s): $2,500 - $10,000~~
~~(83) being unable to account for shortages of controlled substances in any controlled substances inventory for which the licensee has responsibility, in violation of Subsection R156-37-502(5):~~
~~initial offense: $500 - $2,000~~
~~subsequent offense(s): $2,500 - $10,000~~
~~(84) knowingly prescribing, selling, giving away, or administering, directly or indirectly, or offering to sell, furnish, give away, or administer any controlled substance to a drug dependent person, as defined in Subsection 58-37-2(1)(s), except for legitimate medical purposes as permitted by law, in violation of Subsection R156-37-502(6):~~
~~initial offense: $500 - $2,000~~
~~subsequent offense(s): $2,500 - $10,000~~
~~(85) refusing to make available for inspection controlled substance stock, inventory, and records as required under this rule or other law regulating controlled substances and controlled substance records, in violation of Subsection R156-37-502(7):~~
~~initial offense: $500 - $2,000~~
~~subsequent offense(s): $2,500 - $10,000~~
~~(86) failing to submit controlled substance prescription information to the database manager after being notified in writing to do so, in violation of Subsection R156-37-502(8):~~
~~initial offense: $500 - $2,000~~
~~subsequent offense(s): $2,500 - $10,000~~
~~(87) any other conduct that constitutes unprofessional or unlawful conduct:~~
~~initial offense: $100 - $500~~
~~subsequent offense(s): $200 - $1,000~~
~~(88) if licensed as a DMP or DMP clinic pharmacy, delegating the dispensing of a drug to a DMP designee who has not completed a formal or on-the-job dispensing training program that meets standards established in Section R156-17b-622, in violation of Subsection R156-17b-502 (25):~~
~~initial offense: $500 - $2,000~~
~~subsequent offense: $2,500 - $10,000~~]

R156-17b-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) violating any provision of the American Pharmaceutical Association (APhA) Code of Ethics for Pharmacists, October 27, 1994, which is hereby incorporated by reference;

(2)(a) failing to comply with the USP-NF Chapter[~~s~~] 795 [~~and 797~~]if [~~such chapters are~~]applicable to activities performed[~~ in the pharmacy~~];

(b) failing to comply with the USP-NF Chapter 797, if applicable to activities performed;

(3) failing to comply with the continuing education requirements set forth in these rules;

(4) failing to provide the Division with a current mailing address within a 10 business day period of time following any change of address;

(5) defaulting on a student loan;

(6) failing to abide by all applicable federal and state law regarding the practice of pharmacy;

(7) failing to comply with administrative inspections;

(8) failing to return according to the deadline established by the Division, or providing false information on a self-inspection report;

(9)(a) violating the laws and rules regulating operating standards in a pharmacy discovered upon inspection by the Division;

(b) after discovery upon inspection by the Division of violation of laws and rules regulating operating standards in a pharmacy, failing to comply within the time established by the Division;

(10) abandoning a pharmacy or leaving prescription drugs accessible to the public;

(11) failing to identify licensure classification when communicating by any means;

(12)(a) as a pharmacist,[~~-~~] practicing pharmacy with an inappropriate pharmacist to pharmacy intern ratio established by Subsection R156-17b-606(1)(d) or pharmacist to pharmacy technician trainee ratio as established by Subsection R156-17b-601([~~3~~]5);

(b) as a pharmacy, practicing pharmacy with an inappropriate pharmacist to pharmacy intern ratio established by Subsection R156-17b-606(1)(d) or pharmacist to pharmacy technician trainee ratio as established by Subsection R156-17b-601(5);

(13)(a) as a pharmacist,[~~-~~] allowing any unauthorized persons in the pharmacy;

(b) as a pharmacy, allowing any unauthorized persons in the pharmacy;

(14)(a) as a pharmacist,[~~-~~] failing to offer to counsel any person receiving a prescription medication;

(b) as a pharmacy, failing to offer to counsel any person receiving a prescription medication;

(15) failing to pay an administrative fine that has been assessed in the time designated by the Division;

(16) failing to comply with the PIC or DMPIC standards as established in Section R156-17b-603;

(17) failing to adhere to institutional policies and procedures related to technician checking of medications when technician checking is utilized;

(18) failing to take appropriate steps to avoid or resolve identified drug therapy management problems as referenced in Subsection R156-17b-611(3);

(19) dispensing medication that has been discontinued by the FDA;

(20) failing to keep or report accurate records of training hours;

(21) failing to provide PIC or DMPIC information to the Division within 30 days of a change in PIC or DMPIC;

(22) requiring a pharmacy, pharmacist, or DMP to operate the pharmacy or allow operation of the pharmacy with a ratio of supervising pharmacist or DMP to other pharmacy personnel in circumstances that result in, or reasonably would be expected to result in, an unreasonable risk of harm to public health, safety, and welfare;

(23)(a) as a pharmacist,[-] failing to update the Division within seven calendar days of any change in the email address designated for use in self-audits or pharmacy alerts;

(b) as a pharmacy, failing to update the Division within seven calendar days of any change in the email address designated for use in self-audits or pharmacy alerts;

(24) failing to ensure, as a DMP or DMP clinic pharmacy, that a DMP designee has completed a formal or on-the-job dispensing training program that meets standards established in Section R156-17b-622;[~~and~~]

(25) failing to make a timely report regarding dispensing of an opiate antagonist to the division and to the physician who issued the standing order as required in Section R156-17b-625; and

(26) failing to comply with the operating standards for a remote dispensing pharmacy as established in Section R156-17b-614g.

R156-17b-601. Operating Standards - Pharmacy Technician and Pharmacy Technician Trainee.

In accordance with Subsection 58-17b-102(56), practice as a licensed pharmacy technician is defined as follows:

(1) A pharmacy technician may perform any task associated with the physical preparation and processing of prescription and medication orders, including:

(a) receiving written prescriptions;

(b) taking refill orders, including refill authorizations;

(c) entering and retrieving information into and from a database or patient profile;

(d) preparing labels;

(e) retrieving medications from inventory;

(f) counting and pouring into containers;

(g) placing medications into patient storage containers;

(h) affixing labels;

(i) compounding;

(j) counseling for over-the-counter drugs and dietary supplements under the direction of the supervising pharmacist[~~as referenced in Subsection 58-17b-102(56)~~];

(k) receiving new prescription drug orders when communicating telephonically or electronically, if the original information is recorded so the pharmacist may review the prescription drug order as transmitted, including accepting new prescription drug orders [~~left~~]saved on voicemail for a pharmacist to review;

(l) performing checks of certain medications prepared for distribution filled or prepared by another technician within a Class B hospital pharmacy, such as medications prepared for distribution to an automated dispensing cabinet, cart fill, crash cart medication tray, or unit dosing from a prepared stock bottle, in accordance with the following operating standards:

(i) technicians authorized by a hospital to check medications shall have at least one year of experience working as a pharmacy technician and at least six months experience at the hospital where the technician is authorized to check medications;

(ii) technicians shall only check steps in the medication distribution process that do not require the professional judgment of a pharmacist and that are supported by sufficient automation or technology to ensure accuracy (e.g. barcode scanning, drug identification automation, checklists, visual aids);

(iii) hospitals that authorize technicians to check medications shall have a training program and ongoing competency assessment that is documented and retrievable for the duration of each technician's employment and at least three years beyond employment, and shall maintain a list of technicians on staff that are allowed to check medications;

(iv) hospitals that authorize technicians to check medications shall have a medication error reporting system in place and shall be able to produce documentation of its use;

(v) a supervising pharmacist shall be immediately available during all times that a pharmacy technician is checking medications;

(vi) hospitals that authorize technicians to check medications shall have comprehensive policies and procedures that guide technician checking that include the following:

(A) process for technician training and ongoing competency assessment and documentation;

(B) process for supervising technicians who check medications;

(C) list of medications, or types of medications that may or may not be checked by a technician;

(D) description of the automation or technology to be utilized by the institution to augment the technician check;

(E) process for maintaining a permanent log of the unique initials or identification codes that identify each technician responsible for checked medications by name; and

(F) description of processes used to track and respond to medication errors; and

(m) additional tasks not requiring the judgment of a pharmacist.

(2) A [~~pharmacy technician trainee may perform any task in Subsection (1) with the exception of performing checks of certain medications prepared for distribution filled or prepared by another technician within a Class B hospital pharmacy as described in Subsection (1)(l).~~

~~(3) The~~] pharmacy technician [~~shall~~]may not: [~~receive new prescriptions or medication orders as described in Subsection 58-17b-102(56)(b)(iv), clarify prescriptions or medication orders nor perform drug utilization reviews. A new prescription, as used in Subsection 58-17b-102(56)(b)(iv), does not include authorization of a refill of a legend drug.~~]

(a) receive a new prescription or medication order, except as described in Subsection (1)(k);

(b) clarify a prescription or medication order from a prescriber;

(c) perform a drug utilization review;

(d) perform final review of a prescribed drug prepared for dispensing;

(e) dispense a drug; or

(f) counsel a patient with respect to a prescription drug.

([~~4~~]3) [~~Pharmacy technicians shall have general supervision by a pharmacist in accordance with Subsection R156-17b-603(3)(s).~~]A pharmacy technician may administer vaccines and emergency medications pursuant to delegation by a pharmacist under the Vaccine Administration Protocol: Standing Order to Administer Immunizations and Emergency Medications, adopted March 26, 2019, by the Division in collaboration with the Utah State Board of Pharmacy and Utah Physicians Licensing Board, as posted on the Division website, if the pharmacy technician:

(a) has completed the initial training required by Section R156-17b-621;

(b) is under "direct", on-site supervision by the delegating pharmacist as defined in R156-1-102a(4)(a); and

(c) for each renewal cycle after the initial training, has completed a minimum of two hours of continuing education in immunization or vaccine-related topics in accordance with R156-17-309.

([~~5~~]4) A pharmacy technician trainee:

(a) shall practice only under the direct supervision of a pharmacist, and in a ratio not to exceed one pharmacy technician trainee to one pharmacist; and

(b) may perform any task in Subsection (1), except performing checks of certain medications prepared for distribution filled or prepared by a technician within a Class B hospital pharmacy as described in Subsection (1)(l).

R156-17b-602. Operating Standards - Pharmacy Intern.

A pharmacy intern may provide services including the practice of pharmacy under the supervision of an approved preceptor, as defined in Subsection 58-17b-102(50), provided the pharmacy intern met the criteria as established in Subsection R156-17b-[~~306~~]303a.

R156-17b-603. Operating Standards - Pharmacist-In-Charge, Remote Dispensing Pharmacist-in-Charge, or Dispensing-Medical-Practitioner-In-Charge.

(1) The PIC, RDPIC, or DMPIC shall have the responsibility to oversee the operation of the pharmacy in conformance with all laws and rules pertinent to the practice of pharmacy and the distribution of drugs, durable medical equipment, and medical supplies. The PIC, RDPIC, or DMPIC shall be personally in full and actual charge of the pharmacy.

(2) In accordance with Subsections 58-17b-103(1) and 58-17b-601(1), a unique email address shall be established by the PIC, RDPIC, DMPIC, or responsible party for the pharmacy to be used for self-audits or pharmacy alerts initiated by the Division. The PIC, RDPIC, DMPIC, or responsible party shall notify the Division of the pharmacy's email address in the initial application for licensure.

(3) The duties of the PIC, RDPIC, or DMPIC shall include:

(a) assuring that a pharmacist, pharmacy intern, DMP, or DMP designee dispenses drugs or devices, including:

(i) packaging, preparation, compounding and labeling; and

(ii) ensuring that drugs are dispensed safely and accurately as prescribed;

(b) assuring that pharmacy personnel deliver drugs to the patient or the patient's agent, including ensuring that drugs are delivered safely and accurately as prescribed;

(c) assuring that a pharmacist, pharmacy intern, or DMP communicates to the patient or the patient's agent, at their request, information concerning any prescription drugs dispensed to the patient by the pharmacist, pharmacy intern, or DMP;

(d) assuring that a reasonable effort is made to obtain, record and maintain patient medication records;

(e) education and training of pharmacy personnel;

(f) establishment of policies for procurement of prescription drugs and devices and other products dispensed from the pharmacy;

(g) disposal and distribution of drugs from the pharmacy;

(h) bulk compounding of drugs;

(i) storage of all materials, including drugs, chemicals and biologicals;

(j) maintenance of records of all transactions of the pharmacy necessary to maintain accurate control over and accountability for all pharmaceutical materials required by applicable state and federal laws and regulations;

(k) establishment and maintenance of effective controls against theft or diversion of prescription drugs and records for such drugs;

(l) if records are kept on a data processing system, the maintenance of records stored in that system shall be in compliance with pharmacy requirements;

(m) legal operation of the pharmacy including meeting all inspection and other requirements of all state and federal laws, rules and regulations governing the practice of pharmacy;

(n) implementation of an ongoing quality assurance program that monitors performance of the automated pharmacy system, which is evidenced by written policies and procedures developed for pharmaceutical care;

(o) if permitted to use an automated pharmacy system for dispensing purposes:

(i) ensuring that the system is in good working order and accurately dispenses the correct strength, dosage form and quantity of the drug prescribed while maintaining appropriate record keeping and security safeguards; and

(ii) implementation of an ongoing quality assurance program that monitors performance of the automated pharmacy system, which is evidenced by written policies and procedures developed for pharmaceutical care;

(p) assuring that all relevant information is submitted to the Controlled Substance Database in the appropriate format and in a timely manner;

(q) assuring that all pharmacy personnel have the appropriate licensure;

(r) assuring that no pharmacy operates with a ratio of pharmacist or DMP to other pharmacy personnel in circumstances that result in, or reasonably would be expected to result in, an unreasonable risk of harm to public health, safety, and welfare;

(s) assuring that the PIC, RDPIC, or DMPIC assigned to the pharmacy is recorded with the Division and that the Division is notified of a change in PIC, RDPIC, or DMPIC within 30 days of the change; and

(t) assuring, with regard to the unique email address used for self-audits and pharmacy alerts, that:

(i) the pharmacy uses a single email address; and

(ii) the pharmacy notifies the Division, on the form prescribed, of any change in the email address within seven calendar days of the change.

R156-17b-604. Operating Standards - Closing a Pharmacy.

At least 14 days prior to the closing of a pharmacy, the PIC, RDPIC, or DMPIC shall comply with the following:

(1) If the pharmacy is registered to possess controlled substances, send a written notification to the appropriate regional office of the Drug Enforcement Administration (DEA) containing the following information:

(a) the name, address and DEA registration number of the pharmacy;

(b) the anticipated date of closing;

(c) the name, address and DEA registration number of the pharmacy acquiring the controlled substances; and

(d) the date the transfer of controlled substances will occur.

(2) If the pharmacy dispenses prescription drug orders, post a closing notice sign in a conspicuous place in the front of the prescription department and at all public entrance doors to the pharmacy. Such closing notice shall contain the following information:

(a) the date of closing; and

(b) the name, address and telephone number of the pharmacy acquiring the prescription drug orders, including refill information and patient medication records of the pharmacy.

(3) On the date of closing, the PIC, RDPIC, or DMPIC shall remove all prescription drugs from the pharmacy by one or a combination of the following methods:

(a) return prescription drugs to manufacturer or supplier for credit or disposal; or

(b) transfer, sell or give away prescription drugs to a person who is legally entitled to possess drugs, such as a hospital or another pharmacy.

(4) If the pharmacy dispenses prescription drug orders:

(a) transfer the prescription drug order files, including refill information and patient medication records, to a licensed pharmacy within a reasonable distance of the closing pharmacy; and

(b) move all signs or notify the landlord or owner of the property that it is unlawful to use the word "pharmacy", or any other word or combination of words of the same or similar meaning, or any graphic representation that would mislead or tend to mislead the public that a pharmacy is located at this address.

(5) Within [~~10~~]ten days of the closing of the pharmacy, the PIC, RDPIC, or DMPIC shall forward to the Division a written notice of the closing that includes the following information:

(a) the actual date of closing;

(b) a surrender of the license issued to the pharmacy;

(c) a statement attesting:

(i) that an inventory as specified in Subsection R156-17b-605(4) has been conducted; and

(ii) the manner in which the legend drugs and controlled substances possessed by the pharmacy were transferred or disposed;

(d) if the pharmacy dispenses prescription drug orders, the name and address of the pharmacy to which the prescription drug orders, including refill information and patient medication records, were transferred.

(6) If the pharmacy is registered to possess controlled substances, a letter shall be sent to the appropriate DEA regional office explaining that the pharmacy has closed. The letter shall include the following items:

(a) DEA registration certificate;

(b) all unused DEA order forms (Form 222) with the word "VOID" written on the face of each order form; and

(c) copy #2 of any DEA order forms (Form 222) used to transfer Schedule II controlled substances from the closed pharmacy.

(7) If the pharmacy is closed suddenly due to fire, destruction, natural disaster, death, property seizure, eviction, bankruptcy or other emergency circumstances and the PIC, RDPIC, or DMPIC cannot provide notification 14 days prior to the closing, the PIC, RDPIC, or DMPIC shall comply with the provisions of Subsection (1) as far in advance of the closing as allowed by the circumstances.

(8) If the PIC, RDPIC, or DMPIC is not available to comply with the requirements of this section, the owner or legal representative shall be responsible for compliance with the provisions of this section.

(9) Notwithstanding the requirements of this section, a DMP clinic pharmacy that closes but employs licensed practitioners who desire to continue providing services other than dispensing may continue to use prescription drugs in their practice as authorized under their respective licensing act.

R156-17b-605. Operating Standards - Inventory Requirements.

(1) All out of date legend drugs and controlled substances shall be removed from the inventory at regular intervals and in correlation to the beyond use date imprinted on the label.

(2) General requirements for inventory of a pharmacy shall include the following:

(a) the PIC, RDPIC, or DMPIC shall be responsible for taking all required inventories, but may delegate the performance of the inventory to another person or persons;

(b) the inventory records shall be maintained for a period of five years and be readily available for inspection;

(c) the inventory records shall be filed separately from all other records;

(d) the inventory records shall be in a written, typewritten, or printed form and include all stocks of controlled substances on hand on the date of the inventory including any that are out of date drugs and drugs in automated pharmacy systems. An inventory taken by use of a verbal recording device shall be promptly transcribed;

(e) the inventory may be taken either as the opening of the business or the close of business on the inventory date;

(f) the person taking the inventory and the PIC, RDPIC, or DMPIC shall indicate the time the inventory was taken and shall sign and date the inventory with the date the inventory was taken. The signature of the PIC, RDPIC, or DMPIC and the date of the inventory shall be documented within 72 hours or three working days of the completed initial, annual, change of ownership and closing inventory;

(g) the person taking the inventory shall make an exact count or measure all controlled substances listed in Schedule I or II;

(h) the person taking the inventory shall make an estimated count or measure of all Schedule III, IV or V controlled substances, unless the container holds more than 1,000 tablets or capsules in which case an exact count of the contents shall be made;

(i) the inventory of Schedule I and II controlled substances shall be listed separately from the inventory of Schedule III, IV and V controlled substances;

(j) if the pharmacy maintains a perpetual inventory of any of the drugs required to be inventories, the perpetual inventory shall be reconciled on the date of the inventory.

(3) Requirements for taking the initial controlled substances inventory shall include the following:

(a) all pharmacies having any stock of controlled substances shall take an inventory on the opening day of business. Such inventory shall include all controlled substances including any out-of-date drugs and drugs in automated pharmacy systems;

(b) in the event a pharmacy commences business with no controlled substances on hand, the pharmacy shall record this fact as the initial inventory. An inventory reporting no Schedule I and II controlled substances shall be listed separately from an inventory reporting no Schedule III, IV, and V controlled substances;

(c) the initial inventory shall serve as the pharmacy's inventory until the next completed inventory as specified in Subsection (4) of this section; and

(d) when combining two pharmacies, each pharmacy shall:

(i) conduct a separate closing pharmacy inventory of controlled substances on the date of closure; and

(ii) conduct a combined opening inventory of controlled substances for the new pharmacy prior to opening.

(4) Requirement for annual controlled substances inventory shall be within 12 months following the inventory date of each year and may be taken within four days of the specified inventory date and shall include all stocks including out-of-date drugs and drugs in automated pharmacy systems.

(5) Requirements for change of ownership shall include the following:

(a) a pharmacy that changes ownership shall take an inventory of all legend drugs and controlled substances including out-of-date drugs and drugs in automated pharmacy systems on the date of the change of ownership;

(b) such inventory shall constitute, for the purpose of this section, the closing inventory for the seller and the initial inventory for the buyer; and

(c) transfer of Schedule I and II controlled substances shall require the use of official DEA order forms (Form 222).

(6) Requirement for taking inventory when closing a pharmacy includes the PIC, RDPIC, DMPIC, owner, or the legal representative of a pharmacy that ceases to operate as a pharmacy shall forward to the Division, within ten days of cessation of operation, a statement attesting that an inventory has been conducted, the date of closing and a statement attesting the manner by which legend drugs and controlled substances possessed by the pharmacy were transferred or disposed.

(7) All pharmacies shall maintain a perpetual inventory of all Schedule II controlled substances that shall be reconciled according to facility policy.

R156-17b-607. Operating Standards - Supportive Personnel.

(1) In accordance with Subsection 58-17b-102([~~69~~]71)(a), supportive personnel may assist in any tasks not related to drug preparation or processing including:

(a) stock ordering and restocking;

(b) cashiering;

(c) billing;

(d) filing;

(e) receiving a written prescription and delivering it to the pharmacist, pharmacy intern, pharmacy technician, pharmacy technician trainee, DMP, or DMP designee;

(f) housekeeping; and

(g) delivering a pre-filled prescription to a patient.

(2) Supportive personnel shall not enter information into a patient prescription profile or accept verbal refill information.

(3) In accordance with Subsection 58-17b-102([~~69~~]71)(b) all supportive personnel shall be under the supervision of a licensed pharmacist or DMP. The licensed pharmacist or DMP shall be present in the area where the person being supervised is performing services and shall be immediately available to assist the person being supervised in the services being performed except for the delivery of pre-filled prescriptions as provided in Subsection (1)(g) above.

(4) In accordance with Subsection 58-17b-601(1), a pharmacist, pharmacy intern, pharmacy technician, pharmacy technician trainee, DMP, or DMP designee whose license has been revoked or is suspended shall not be allowed to provide any support services in a pharmacy.

R156-17b-608. Common Carrier Delivery.

A pharmacy that employs the United States Postal Service or other common carrier to deliver a filled prescription directly to a patient shall, under the direction of the PIC, RDPIC, DMPIC, or other responsible employee:

(1) use adequate storage or shipping containers and shipping processes to ensure drug stability and potency. The shipping processes shall include the use of appropriate packaging material and devices, according to the recommendations of the manufacturer or the United States Pharmacopeia Chapter 1079, in order to ensure that the drug is kept at appropriate storage temperatures throughout the delivery process to maintain the integrity of the medication;

(2) use shipping containers that are sealed in a manner to detect evidence of opening or tampering;

(3) develop and implement policies and procedures to ensure accountability, safe delivery, and compliance with temperature requirements. The policies and procedures shall address when drugs do not arrive at their destination in a timely manner or when there is evidence that the integrity of a drug was compromised during shipment. In these instances, the pharmacy shall make provisions for the replacement of the drugs;

(4)(i) provide for an electronic, telephonic, or written communication mechanism for a pharmacy to offer counseling to the patient as defined in Section 58-17b-613; and

(ii) provide documentation of such counseling; and

(5) provide information to the patient indicating what the patient should do if the integrity of the packaging or drug was compromised during shipment.

R156-17b-610. Operating Standards - Patient Counseling.

In accordance with Subsection 58-17b-601(1), guidelines for providing patient counseling established in Section 58-17b-613 include the following:

(1)(a) Counseling shall be offered orally in person, unless the patient or patient's agent is not at the pharmacy or a specific communication barrier prohibits oral communication.

(b) Counseling may be provided through a telepharmacy system.

(2) A pharmacy facility shall orally offer to counsel, but [~~shall not be~~]is not required to counsel a patient or patient's agent [~~when the patient or patient's agent~~]who refuses such counseling.

(3) Based upon the professional judgment of the pharmacist, pharmacy intern, or DMP, patient counseling may include the following elements:

(a) the name and description of the prescription drug;

(b) the dosage form, dose, route of administration and duration of drug therapy;

(c) intended use of the drug, when known, and expected action;

(d) special directions and precautions for preparation, administration and use by the patient;

(e) common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur;

(f) techniques for self-monitoring drug therapy;

(g) proper storage;

(h) prescription refill information;

(i) action to be taken in the event of a missed dose;

(j) pharmacist comments relevant to the individual's drug therapy, including any other information specific to the patient or drug; and

(k) the date after which the prescription should not be taken or used, or the beyond use date.

(4) The offer to counsel shall be documented.[~~and said d~~]Documentation shall be [~~available to the Division. These records shall be~~]maintained for a period of five years, and be available for inspection by the Division within 7-10 business days of the Division's request.

(5) Only a pharmacist, pharmacy intern, or DMP may orally provide counseling to a patient or patient's agent and answer questions concerning prescription drugs.

(6) If a prescription drug order is delivered to the patient or [~~the~~]patient's agent [~~at the patient's~~]or other designated location[~~, the following is applicable~~]:

(a) the information specified in Subsection (3) [~~of this section~~]shall be delivered with the dispensed prescription in writing;

(b) if prescriptions are routinely delivered outside the area covered by the pharmacy's local telephone service, the pharmacist shall place on the prescription container or on a separate sheet delivered with the prescription container, the telephone number of the pharmacy and the statement "Written information about this prescription has been provided for you. Please read this information before you take this medication. If you have questions concerning this prescription, a pharmacist is available during normal business hours to answer these questions."; and

(c) the written information provided in Subsection (6)(b) [~~of this section~~]shall be in the form of patient information leaflets similar to USP-NF patient information monographs or equivalent information.

(7) Patient counseling [~~shall~~]is not [~~be~~]required for [~~in~~]patients of a hospital or institution where other licensed health care professionals are authorized to administer the patient's drugs.

(8) A pharmacist or pharmacy intern who dispenses a self-administered hormonal contraceptive shall obtain a completed Utah Hormonal Contraceptive Self-Screening Risk Assessment Questionnaire and provide written information and counseling as described in Section 26-62-106.

R156-17b-612. Operating Standards - Prescriptions.

In accordance with Subsection 58-17b-601(1), the following shall apply to prescriptions:

(1) Prescription orders for controlled substances (including prescription transfers) shall be handled according to the rules of the Federal Drug Enforcement Administration.

(2) A prescription issued by an authorized licensed practitioner, if verbally communicated by an agent of that practitioner upon that practitioner's specific instruction and authorization, may be accepted by a pharmacist, pharmacy intern, or DMP.

(3) A prescription issued by a licensed prescribing practitioner, if electronically communicated by an agent of that practitioner, upon that practitioner's specific instruction and authorization, may be accepted by a pharmacist, pharmacy intern, pharmacy technician, pharmacy technician trainee, DMP, or DMP designee.

(4) In accordance with Sections 58-17b-609 and 58-17b-611, prescription files, including refill information, shall be maintained for a minimum of five years and shall be immediately retrievable in written or electronic format.

(5) Prescriptions for legend drugs having a remaining authorization for refill may be transferred by the pharmacist, pharmacy intern, or DMP at the pharmacy holding the prescription to a pharmacist, pharmacy intern or DMP at another pharmacy upon the authorization of the patient to whom the prescription was issued or electronically as authorized under Subsection R156-17b-613(9). The transferring pharmacist, pharmacy intern, or DMP and receiving pharmacist, pharmacy intern, or DMP shall act diligently to ensure that the total number of authorized refills is not exceeded. The following additional terms apply to such a transfer:

(a) the transfer shall be communicated directly between pharmacists, pharmacy interns, or DMP or as authorized under Subsection R156-17b-613(9);

(b) both the original and the transferred prescription drug orders shall be maintained for a period of five years from the date of the last refill;

(c) the pharmacist, pharmacy intern, or DMP transferring the prescription drug order shall void the prescription electronically or write void/transfer on the face of the invalidated prescription manually;

(d) the pharmacist, pharmacy intern, or DMP receiving the transferred prescription drug order shall:

(i) indicate on the prescription record that the prescription was transferred electronically or manually; and

(ii) record on the transferred prescription drug order the following information:

(A) original date of issuance and date of dispensing or receipt, if different from date of issuance;

(B) original prescription number and the number of refills authorized on the original prescription drug order;

(C) number of valid refills remaining and the date of last refill, if applicable;

(D) the name and address of the pharmacy and the name of the pharmacist, pharmacy intern, or DMP to whom such prescription is transferred; and

(E) the name of the pharmacist, pharmacy intern, or DMP transferring the prescription drug order information;

(e) the data processing system shall have a mechanism to prohibit the transfer or refilling of legend drugs or controlled substance prescription drug orders that have been previously transferred; and

(f) a pharmacist, pharmacy intern, or DMP may not refuse to transfer original prescription information to another pharmacist, pharmacy intern, or DMP who is acting on behalf of a patient and who is making a request for this information as specified in Subsection (12) of this section.

(6) Prescriptions for terminal patients in licensed hospices, home health agencies or nursing homes may be partially filled if the patient has a medical diagnosis documenting a terminal illness and may not need the full prescription amount.

(7) Refills may be dispensed only in accordance with the prescriber's authorization as indicated on the original prescription drug order;

(8) If there are no refill instructions on the original prescription drug order, or if all refills authorized on the original prescription drug order have been dispensed, authorization from the prescribing practitioner shall be obtained prior to dispensing any refills.

(9) Refills of prescription drug orders for legend drugs may not be refilled after one year from the date of issuance of the original prescription drug order without obtaining authorization from the prescribing practitioner prior to dispensing any additional quantities of the drug.

(10) Refills of prescription drug orders for controlled substances shall be done in accordance with Subsection 58-37-6(7)(f).

(11) A pharmacist or DMP may exercise professional judgment in refilling a prescription drug order for a drug, other than a Schedule II controlled substance[~~listed in Schedule II~~], without the authorization of the prescribing practitioner, [~~provided~~]if:

(a) the quantity of prescription drug dispensed does not exceed a 72-hour supply, unless the packaging is in a great quantity;

(b) failure to refill the prescription might result in an interruption of a therapeutic regimen or create patient suffering;

([~~b~~]c) either:

(i) a natural or manmade disaster has occurred that prohibits the pharmacist or DMP from being able to contact the practitioner; or

(ii) the pharmacist or DMP is unable to contact the practitioner after a reasonable effort, with the effort [~~should be~~] documented and [~~said~~]the documentation [~~should be~~]available to the Division upon request;

([e]d) [~~the quantity of prescription drug dispensed does not exceed a 72-hour supply, unless the packaging is in a greater quantity;~~

~~(d)~~]if the prescription was originally filled at another pharmacy:

(i) the patient has the prescription container label, receipt, or other documentation from the other pharmacy that contains the essential information; and

(ii) after a reasonable effort, the pharmacist or DMP is unable to contact the other pharmacy to transfer the remaining prescription refills or there are no refills remaining on the prescription; and

(e) the pharmacist or DMP:

(i) informs the patient or [~~the~~]patient's agent at the time of dispensing that the refill is being provided without [~~such~~]practitioner authorization, and that authorization [~~of the practitioner~~]is required for future refills;

([e]ii) [~~the pharmacist or DMP~~]informs the practitioner of the emergency refill at the earliest reasonable time;

([~~f~~]iii) [~~the pharmacist or DMP~~]maintains a record of the emergency refill containing the information required to be maintained on a prescription as specified in this subsection; and

([g]iv) [~~the pharmacist or DMP~~]affixes a label to the dispensing container as specified in Section 58-17b-602.[

~~(12) If the prescription was originally filled at another pharmacy, the pharmacist or DMP may exercise his professional judgment in refilling the prescription provided:~~

~~(a) the patient has the prescription container label, receipt or other documentation from the other pharmacy that contains the essential information;~~

~~(b) after a reasonable effort, the pharmacist or DMP is unable to contact the other pharmacy to transfer the remaining prescription refills or there are no refills remaining on the prescription;~~

~~(c) the pharmacist or DMP, in his or her professional judgment, determines that such a request for an emergency refill is appropriate and meets the requirements of (a) and (b) of this subsection; and~~

~~(d) the pharmacist or DMP complies with the requirements of Subsections (11)(e) through (g) of this section.~~]

([~~13~~]12) The address specified in Subsection 58-17b-602(1)(b) shall be a physical address, not a post office box.

([~~14~~]13) In accordance with Subsection 58-37-6(7)(e), a prescription may not be written, issued, filled, or dispensed for a Schedule I controlled substance unless:

(a) the person who writes the prescription is licensed to prescribe Schedule I controlled substances; and

(b) the prescribed controlled substance is to be used in research.

R156-17b-613. Operating Standards - Issuing Prescription Orders by Electronic Means.

In accordance with Subsections 58-17b-102(29) [~~through~~]and (30), 58-17b-602(1), R156-82, and R156-1, prescription orders may be issued by electronic means of communication according to the following standards:

(1) Prescription orders for Schedule II - V controlled substances received by electronic means of communication shall be handled according to Part 1304.04 of Section 21 of the CFR.

(2) Prescription orders for non-controlled substances received by electronic means of communication may be dispensed by a pharmacist, pharmacy intern, or DMP only if all of the following conditions are satisfied:

(a) all electronically transmitted prescription orders shall include the following:

(i) all information that is required to be contained in a prescription order pursuant to Section 58-17b-602;

(ii) the time and date of the transmission, and if a facsimile transmission, the electronically encoded date, time and fax number of the sender; and

(iii) the name of the pharmacy intended to receive the transmission;

(b) the prescription order shall be transmitted under the direct supervision of the prescribing practitioner or his designated agent;

(c) the pharmacist or DMP shall exercise professional judgment regarding the accuracy and authenticity of the transmitted prescription. Practitioners or their agents transmitting medication orders using electronic equipment are to provide voice verification when requested by the pharmacist receiving the medication order. The pharmacist or DMP is responsible for assuring that each electronically transferred prescription order is valid and shall authenticate a prescription order issued by a prescribing practitioner that has been transmitted to the dispensing pharmacy before filling it, whenever there is a question;

(d) a practitioner may authorize an agent to electronically transmit a prescription provided that the identifying information of the transmitting agent is included on the transmission. The practitioner's electronic signature, or other secure method of validation, shall be provided with the electronic prescription; and

(e) an electronically transmitted prescription order that meets the requirements above shall be deemed to be the original prescription.

(3) This section does not apply to the use of electronic equipment to transmit prescription orders within inpatient medical facilities.

(4) No agreement between a prescribing practitioner and a pharmacy shall require that prescription orders be transmitted by electronic means from the prescribing practitioner to that pharmacy only.

(5) The pharmacist or DMP shall retain a printed copy of an electronic prescription, or a record of an electronic prescription that is readily retrievable and printable, for a minimum of five years. The printed copy shall be of non-fading legibility.

(6) Wholesalers, distributors, manufacturers, pharmacists and pharmacies shall not supply electronic equipment to any prescriber for transmitting prescription orders.

(7) An electronically transmitted prescription order shall be transmitted to the pharmacy of the patient's choice.

(8) Prescription orders electronically transmitted to the pharmacy by the patient shall not be filled or dispensed.

(9) A prescription order for a legend drug or controlled substance in Schedule III through V may be transferred up to the maximum refills permitted by law or by the prescriber by electronic transmission providing the pharmacies share a real-time, on-line database provided that:

(a) the information required to be on the transferred prescription has the same information as described in Subsection R156-17b-612(5)(a) through (f); and

(b) pharmacists, pharmacy interns, pharmacy technicians, or pharmacy technician trainees, DMPs, and DMP designees electronically accessing the same prescription drug order records may electronically transfer prescription information if the data processing system has a mechanism to send a message to the transferring pharmacy containing the following information:

(i) the fact that the prescription drug order was transferred;

(ii) the unique identification number of the prescription drug order transferred;

(iii) the name of the pharmacy to which it was transferred; and

(iv) the date and time of the transfer.

R156-17b-614a. Operating Standards - Class A or Class B Pharmacy - General Operating Standards[, ~~Class A and B Pharmacy~~].

[~~(1)~~]In accordance with Subsection 58-17b-601(1), the following operating standards apply to all Class A and Class B pharmacies, which may be supplemented or amended by additional standards defined in this rule applicable to specific types of Class A and B pharmacies.

(1) The general operating standards include:

(a) [~~shall~~]be well lighted, well ventilated, clean and sanitary;

(b) if transferring a drug from a manufacturer's or distributor's original container to another container, the dispensing area, if any, shall have a sink with hot and cold culinary water separate and apart from any restroom facilities. This does not apply to clean rooms where sterile products are prepared. Clean rooms [~~should~~]may not have sinks or floor drains that expose the area to an open sewer. All required equipment shall be clean and in good operating condition;

(c) be equipped to permit the orderly storage of prescription drugs and durable medical equipment in a manner to permit clear identification, separation and easy retrieval of products and an environment necessary to maintain the integrity of the product inventory;

(d) be equipped to permit practice within the standards and ethics of the profession as dictated by the usual and ordinary scope of practice to be conducted within that facility;

(e) be stocked with the quality and quantity of product necessary for the facility to meet its scope of practice in a manner consistent with the public health, safety and welfare;[~~and~~]

(f) if dispensing controlled substances, be equipped with a security system to:

(i) permit detection of entry at all times when the facility is closed; and

(ii) provide notice of unauthorized entry to an individual;[~~and~~]

(g) be equipped with a lock on any entrances to the facility where drugs are stored; and

(h) have a counseling area to allow for confidential patient counseling, if applicable.

(2) The temperature of the pharmacy shall be maintained within a range compatible with the proper storage of drugs. If a refrigerator or freezer is necessary to properly store drugs at the pharmacy, the pharmacy shall keep a daily written or electronic log of the temperature of the refrigerator or freezer on days of operation. The pharmacy shall retain each log entry for at least three years.

(3) Facilities engaged in simple, moderate or complex non-sterile or any level of sterile compounding activities shall [~~be required to~~]maintain proper records and procedure manuals and establish quality control measures to ensure stability, equivalency where applicable, and sterility. The following requirements shall be met:

(a) Facilities shall follow USP-NF Chapter 795, compounding of non-sterile preparations, and USP-NF Chapter 797 if compounding sterile preparations.

(b) Facilities may compound in anticipation of receiving prescriptions in limited amounts.

(c) Bulk active ingredients[~~shall~~]:

(i) shall be procured from a facility registered with the federal Food and Drug Administration; and

(ii) may not be listed on the federal Food and Drug Administration list of drug products withdrawn or removed from the market for reasons of safety or effectiveness.

(d) All facilities that dispense prescriptions [~~must~~]shall comply with the record keeping requirements of their State Boards of Pharmacy. When a facility compounds a preparation according to the manufacturer's labeling instructions, then further documentation is not required. All other compounded preparations require further documentation as described in this section.

(e) A master formulation record shall be approved by a pharmacist or DMP for each batch of sterile or non-sterile pharmaceuticals to be prepared. Once approved, a duplicate of the master formulation record shall be used as the compounding record from which each batch is prepared and on which all documentation for that batch occurs. The master formulation record may be stored electronically and shall contain at a minimum:

(i) official or assigned name;

(ii) strength;

(iii) dosage form of the preparation;

(iv) calculations needed to determine and verify quantities of components and doses of active pharmaceutical ingredients;

(v) description of all ingredients and their quantities;

(vi) compatibility and stability information, including references when available;

(vii) equipment needed to prepare the preparation;

(viii) mixing instructions, which shall include:

(A) order of mixing;

(B) mixing temperatures or other environmental controls;

(C) duration of mixing; and

(D) other factors pertinent to the replication of the preparation as compounded;

(ix) sample labeling information, which shall contain, in addition to legally required information:

(A) generic name and quantity or concentration of each active ingredient;

(B) assigned beyond use date;

(C) storage conditions; and

(D) prescription or control number, whichever is applicable;

(x) container used in dispensing;

(xi) packaging and storage requirements;

(xii) description of final preparation; and

(xiii) quality control procedures and expected results.

(f) A compounding record for each batch of sterile or non-sterile pharmaceuticals shall document the following:

(i) official or assigned name;

(ii) strength and dosage of the preparation;

(iii) Master Formulation Record reference for the preparation;

(iv) names and quantities of all components;

(v) sources, lot numbers, and expiration dates of components;

(vi) total quantity compounded;

(vii) name of the person who prepared the preparation;

(viii) name of the compounder who approved the preparation;

(ix) name of the person who performed the quality control procedures;

(x) date of preparation;

(xi) assigned control, if for anticipation of use or prescription number, if patient specific, whichever is applicable;

(xii) duplicate label as described in the Master Formulation Record means the sample labeling information that is dispensed on the final product given to the patient and shall at minimum contain:

(A) active ingredients;

(B) beyond-use-date;

(C) storage conditions; and

(D) lot number;

(xiv) proof of the duplicate labeling information, which proof shall:

(A) be kept at the pharmacy;

(B) be immediately retrievable;

(C) include an audit trail for any altered form; and

(D) be reproduced in:

(I) the original format that was dispensed;

(II) an electronic format; or

(III) a scanned electronic version;

(xvii) description of final preparation;

(xviii) results of quality control procedures (e.g. weight range of filled capsules, pH of aqueous liquids); and

(xix) documentation of any quality control issues and any adverse reactions or preparation problems reported by the patient or caregiver.

(g) The label of each batch prepared of sterile or non-sterile pharmaceuticals shall bear at a minimum:

(i) the unique lot number assigned to the batch;

(ii) all active solution and ingredient names, amounts, strengths and concentrations, when applicable;

(iii) quantity;

(iv) beyond use date and time, when applicable;

(v) appropriate ancillary instructions, such as storage instructions or cautionary statements, including cytotoxic warning labels where appropriate; and

(vi) device-specific instructions, where appropriate.

(h) All prescription labels for compounded sterile and non-sterile medications when dispensed to the ultimate user or agent shall bear at a minimum in addition to what is required in Section 58-17b-602 the following:

(i) generic name and quantity or concentration of each active ingredient. In the instance of a sterile preparation for

parenteral use, labeling shall include the name and base solution for infusion preparation;

(ii) assigned compounding record or lot number; and

(iii) "this is a compounded preparation" or similar language.

(i) The beyond use date assigned shall be based on currently available drug stability information and sterility considerations or appropriate in-house or contract service stability testing;

(i) sources of drug stability information shall include the following:

(A) [~~references can be found in~~]Trissel's "Handbook on Injectable Drugs", 17th Edition, October 31, 2012;

(B) manufacturer recommendations; and

(C) reliable, published research;

(ii) when interpreting published drug stability information, the pharmacist or DMP shall consider all aspects of the final sterile product being prepared such as drug reservoir, drug concentration and storage conditions; and

(iii) methods for establishing beyond use dates shall be documented; and

(j) There shall be a documented, ongoing quality control program that monitors and evaluates personnel performance, equipment and facilities that follows the USP-NF Chapters 795 and 797 standards.

(4) The facility shall have current and retrievable editions of the following reference publications in print or electronic format and readily available and retrievable to facility personnel:

(a) Title 58, Chapter 1, Division of Occupational and Professional Licensing Act;

(b) R156-1, General Rule of the Division of Occupational and Professional Licensing;

(c) Title 58, Chapter 17b, Pharmacy Practice Act;

(d) R156-17b, Utah Pharmacy Practice Act Rule;

(e) Title 58, Chapter 37, Utah Controlled Substances Act;

(f) R156-37, Utah Controlled Substances Act Rule;

(g) Title 58, Chapter 37f, Controlled Substance Database Act;

(h) R156-37f, Controlled Substance Database Act Rule;

(i) Code of Federal Regulations (CFR) 21, Food and Drugs, Part 1300 to end or equivalent such as the USP DI Drug Reference Guides;

(j) current FDA Approved Drug Products (orange book); and

(k) any other general drug references necessary to permit practice dictated by the usual and ordinary scope of practice to be conducted within that facility.

(5) The facility shall maintain a current list of licensed employees involved in the practice of pharmacy at the facility. The list shall include individual licensee names, license classifications, license numbers, and license expiration dates. The list shall be readily retrievable for inspection by the Division and may be maintained in paper or electronic form.

(6) [~~Facilities shall have a counseling area to allow for confidential patient counseling, where applicable.~~

~~(7)~~]A pharmacy [~~shall~~]may not dispense a prescription drug or device to a patient unless a pharmacist or DMP is physically present and immediately available in the facility, or, for a remote dispensing pharmacy, physically present and immediately available in the facility or supervising through a telepharmacy system.

([~~8~~]7) Only a licensed Utah pharmacist, DMP or authorized pharmacy personnel shall have access to the pharmacy when the pharmacy is closed.

([~~9~~]8) The facility or parent company shall maintain a record for not less than [~~5~~]five years of the initials or identification codes that identify each dispensing pharmacist or DMP by name. The initials or identification code shall be unique to ensure that each pharmacist or DMP can be identified; therefore identical initials or identification codes shall not be used.

([~~10~~]9) The pharmacy facility shall maintain copy 3 of DEA order form (Form 222) that has been properly dated, initialed and filed and all copies of each unaccepted or defective order form and any attached statements or other documents.

([~~11~~]10) If applicable, a hard copy of the power of attorney authorizing a pharmacist, DMP, or DMP designee to sign DEA order forms (Form 222) shall be available to the Division whenever necessary.

([~~12~~]11) A pharmacist, DMP or other responsible individual shall verify that controlled substances are listed on the suppliers' invoices and were actually received by clearly recording their initials and the actual date of receipt of the controlled substances.

([~~13~~]12) The pharmacy facility shall maintain a record of suppliers' credit memos for controlled substances.

([~~14~~]13) A copy of inventories required under Section R156-17b-605 shall be made available to the Division when requested.

([~~15~~]14) The pharmacy facility shall maintain hard copy reports of surrender or destruction of controlled substances and legend drugs submitted to appropriate state or federal agencies.

([~~16~~]15) If the pharmacy does not store drugs in a locked cabinet and has a drop/false ceiling, the pharmacy's perimeter walls shall extend to the hard deck, or other measures shall be taken to prevent unauthorized entry into the pharmacy.

R156-17b-614f. Operating Standards - Central Prescription Processing.

In accordance with Subsection 58-17b-601(1), the following operating standards apply to pharmacies that engage in central prescription processing as defined in Subsection 58-17b-102(9):

(1) Centralized prescription processing services may be performed if the parties:

(a) have common ownership or common administrative control; or

(b) have a written contract outlining the services to be provided and the responsibilities and accountabilities of each party in fulfilling the terms of said contract; and

(c) share a common electronic file or have appropriate technology to allow access to sufficient information necessary or required to fill or refill a prescription drug order.

(2) The parties performing or contracting for centralized prescription processing services shall maintain a policy and procedures manual, and documentation of implementation, which shall be made available to the Division upon inspection and which includes the following:

(a) a description of how the parties will comply with federal and state laws and regulations;

(b) appropriate records to identify the responsible pharmacists and the dispensing and counseling process;

(c) a mechanism for tracking the prescription drug order during each step in the dispensing process;

(d) a description of adequate security to protect the integrity and prevent the illegal use or disclosure of protected health information; and

(e) a continuous quality improvement program for pharmacy services designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care, pursue opportunities to improve patient care, and resolve identified problems.

(3) "Non drug or device handling central prescription processing pharmacies", as defined in Subsection R156-17b-102([~~37~~]40), shall be licensed as Class E pharmacies. All other central prescription processing pharmacies shall be licensed in the appropriate pharmacy license classification.

R156-17b-614g. Operating Standards - Class A or Class B Pharmacy - Remote Dispensing Pharmacy.

In accordance with Subsections 58-17b-102(58), 58-17b-601(1), 58-17b-612(1)(b), and 58-1-301(3), the following operating standards apply to a remote dispensing pharmacy:

(1) A remote dispensing pharmacy shall:

(a) be a Class A or Class B pharmacy;

(b) have a Class A or Class B pharmacy serve as its supervising pharmacy to oversee its operations; and

(c) be located in an area of need as defined in Subsection R156-17b-102(4).

(2) A remote dispensing pharmacy may not perform compounding.

(3) The supervising pharmacy's PIC shall serve as the remote dispensing pharmacy's RDPIC, responsible for all remote dispensing pharmacy operations.

(4) The Division in collaboration with the Board shall review each application for designation of a remote dispensing pharmacy, and grant approval based upon consideration of the totality of conditions and circumstances demonstrated by the application. The application shall be submitted by the proposed supervising pharmacy on a completed form furnished by the Division that includes:

(a) complete identifying information concerning the proposed supervising pharmacy;

(b) complete identifying information concerning the proposed RDPIC;

(c) the proposed address of the remote dispensing pharmacy, with a detailed description of how that location is in an area of need as defined in Subsection R156-17b-102(4);

(d) a description of the physical facilities in which the remote dispensing pharmacy will operate;

(e) a description of the availability of sufficient qualified licensed pharmacy technicians to staff the remote dispensing pharmacy;

(f) a description of the telepharmacy system that will be used for supervision and counseling; and

(g) a copy of the proposed policies and procedures manual for the remote dispensing pharmacy and supervising pharmacy, which shall include:

(i) protecting the confidentiality and integrity of patient information;

(ii) the conditions under which prescription drugs shall be stored, used, and accounted for;

(iii) maintaining records to identify the name(s), initial(s), or identification code(s) and specific activities of each pharmacist and pharmacy technician involved in the dispensing process;

(iv) complying with federal and state law and regulations;

(v) operation of a quality improvement program for pharmacy services designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care, pursue opportunities to improve patient care, and resolve identified problems;

(vi) annually reviewing the written policies and procedures and documenting such review;

(vii) requiring monthly in-person inspections of the remote dispensing pharmacy and appropriate documentation by the RDPIC; and

(viii) any additional policies and procedures required by Subsection R156-17b-614f(2) for Central Prescription Processing.

(5) If more than one licensed pharmacy applies for designation of a remote dispensing pharmacy at a similar undesignated location, the Division in collaboration with the Board shall review all of the applications for designation, and if the location is approved, shall approve for licensure the applicant that the Division in collaboration with the Board determine is best able to serve the public interest as identified in this Section.

(6) Staffing and Supervision.

(a) In accordance with Subsections 58-17b-612(1)(b) and (d):

(i) a supervising pharmacist may not supervise more than two remote dispensing pharmacies simultaneously; and

(ii) an RDPIC may not serve as the RDPIC for more than one remote dispensing pharmacy, unless approved by the Division in collaboration with the Board.

(b) Unless a pharmacist is physically present, a remote dispensing pharmacy shall be staffed by no more than two licensed pharmacy technicians.

(c) Each pharmacy technician staffing a remote dispensing pharmacy shall have at least 500 hours of pharmacy technician experience.

(d) At all times that a remote dispensing pharmacy is open and available to serve patients, all pharmacy technicians shall remain under the physical supervision or electronic supervision of a supervising pharmacist from the supervising pharmacy.

(e) Adequate supervision by a supervising pharmacist of a remote dispensing pharmacy shall include maintaining uninterrupted visual supervision and auditory communication with the site, and full supervisory control of the automated system, if applicable. This supervision may not be delegated to any other person.

(7) The supervising pharmacy shall maintain a telepharmacy system that provides for effective video and audio communication between supervising pharmacy personnel and remote dispensing pharmacy personnel and patients, that:

(a) provides an adequate number of views of the entire site;

(b) facilitates adequate pharmacist supervision;

(c) allows the appropriate exchanges of visual, verbal, and written communication for patient counseling and other matters involved in the lawful transaction or dispensing of drugs;

(d) confirms that the drug selected to fill the prescription is the same as indicated on the prescription label and prescription; and

(e) is secure and HIPAA compliant as defined in R156-17b-102(64).

(8) Each component of the telepharmacy system shall be in good working order. If any component of the system is malfunctioning, the remote dispensing pharmacy shall immediately close to the public and remain closed until system corrections or repairs are completed, unless a pharmacist is present onsite.

(9) The supervising pharmacy shall develop and include in both the supervising pharmacy's and the remote dispensing pharmacy's policies and procedures a plan for continuation of pharmaceutical services by the remote dispensing pharmacy in case of an emergency interruption:

(a) The plan shall address the timely arrival at the remote dispensing pharmacy of necessary personnel, and the delivery to the remote dispensing pharmacy of necessary supplies, within a reasonable period of time following the identification of an emergency need. A supervising pharmacist shall be available onsite at the remote dispensing pharmacy as soon as possible after an emergency, and shall notify the Division in writing if the time exceeds 24 hours.

(b) The plan may provide for alternate methods of continuation of the services of the remote dispensing pharmacy, including personal delivery of patient prescription medications from an alternate pharmacy location or on-site pharmacist staffing at the remote dispensing pharmacy.

(10) Facility.

(a) The remote dispensing pharmacy's security system shall allow for tracking of entries into the remote dispensing pharmacy and the RDPIC shall periodically review the record of entries.

(b) A remote dispensing pharmacy shall display a sign easily visible to the public that informs patients of the following:

(i) that the pharmacy is a remote dispensing pharmacy;

(ii) the location of the supervising pharmacy; and

(iii) that at the patient's request a pharmacist will counsel the patient using audio and video communication systems.

(11) Records and Inspections.

(a)(i) The supervising pharmacy shall maintain records of all orders entered into its information system, including orders entered from the remote dispensing pharmacy.

(ii) Electronic records shall be available to and accessible from both the remote dispensing pharmacy and the supervising pharmacy.

(iii) The original records of the controlled substance prescriptions dispensed from the remote dispensing pharmacy shall be maintained at the remote dispensing pharmacy.

(b) The remote dispensing pharmacy shall retain a recording of surveillance, excluding patient communications, for at least 45 days.

(c) The RDPIC shall over see documented monthly inspections of the remote dispensing pharmacy. Documentation of such inspections shall be kept for five years, and shall include:

(i) maintenance and reconciliation of all controlled substances;

(ii) a perpetual inventory of Schedule II controlled substances;

(iii) temperature logs of the refrigerator and freezer that hold medications; and

(iv) the RDPIC's periodic review of the record of entries into the remote dispensing pharmacy.

R156-17b-615. Operating Standards - Class C Pharmacy - Pharmaceutical Wholesaler/Distributor and Pharmaceutical Manufacturer.

In accordance with Subsections 58-17b-102(47) and 58-17b-601(1), the operating standards for Class C pharmacies designated as pharmaceutical wholesaler/distributor and pharmaceutical manufacturer licensees includes the following:

(1) Each pharmaceutical wholesaler or manufacturer that distributes or manufactures drugs or medical devices in Utah shall be licensed by the Division. A separate license shall be obtained for each separate location engaged in the distribution or manufacturing of prescription drugs. Business names cannot be identical to the name used by another unrelated wholesaler licensed to purchase drugs and devices in Utah.

(2) Manufacturers distributing only their own FDA-approved:

(a) prescription drugs or prescription drugs that are co-licensed products satisfy the requirement in Subsection (1) by registering their establishment with the FDA pursuant to 21 CFR Part 207 and submitting the information required by 21 CFR Part 205 including any amendments thereto, to the Division; or

(b) devices or devices that are co-licensed products, including products packaged with devices, such as convenience kits, that are exempt from the definition of transaction in 21 USC sec. 360eee (24)(B)(xii-xvi) satisfy the requirement in Subsection (1) by registering their establishment with the FDA pursuant to 21 CFR.

(3) An applicant for licensure as a pharmaceutical wholesale distributor shall provide the following minimum information:

(a) All trade or business names used by the licensee (including "doing business as" and "formerly known as");

(b) Name of the owner and operator of the license as follows:

(i) if a person, the name, business address, social security number and date of birth;

(ii) if a partnership, the name, business address, and social security number and date of birth of each partner, and the partnership's federal employer identification number;

(iii) if a corporation, the name, business address, social security number and date of birth, and title of each corporate officer and director, the corporate names, the name of the state of incorporation, federal employer identification number, and the name of the parent company, if any, but if a publicly traded corporation, the social security number and date of birth for each corporate officer shall not be required;

(iv) if a sole proprietorship, the full name, business address, social security number and date of birth of the sole proprietor and the name and federal employer identification number of the business entity;

(v) if a limited liability company, the name of each member, social security number of each member, the name of each manager, the name of the limited liability company and federal employer identification number, and the name of the state where the limited liability company was organized; and

(c) any other relevant information required by the Division.

(4) The licensed facility need not be under the supervision of a licensed pharmacist, but shall be under the supervision of a designated representative who meets the following criteria:

(a) is at least 21 years of age;

(b) has been employed full time for at least three years in a pharmacy or with a pharmaceutical wholesaler in a capacity related to the dispensing and distribution of, and recordkeeping related to prescription drugs;

(c) is employed by the applicant full time in a managerial level position;

(d) is actively involved in and aware of the actual daily operation of the pharmaceutical wholesale distribution;

(e) is physically present at the facility during regular business hours, except when the absence of the designated representative is authorized, including but not limited to, sick leave and vacation leave; and

(f) is serving in the capacity of a designated representative for only one licensee at a time.

(5) The licensee shall provide the name, business address, and telephone number of a person to serve as the designated representative for each facility of the pharmaceutical wholesaler that engages in the distribution of drugs or devices.

(6) All pharmaceutical wholesalers and manufacturer shall publicly display or have readily available all licenses and the most recent inspection report administered by the Division.

(7) All Class C pharmacies shall:

(a) be of suitable size and construction to facilitate cleaning, maintenance and proper operations;

(b) have storage areas designed to provide adequate lighting, ventilation, sanitation, space, equipment and security conditions;

(c) have the ability to control temperature and humidity within tolerances required by all prescription drugs and prescription drug precursors handled or used in the distribution or manufacturing activities of the applicant or licensee;

(d) provide for a quarantine area for storage of prescription drugs and prescription drug precursors that are outdated, damaged, deteriorated, misbranded, adulterated, opened or unsealed containers that have once been appropriately sealed or closed or in any other way unsuitable for use or entry into distribution or manufacturing;

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

(f) be free from infestation by insects, rodents, birds or vermin of any kind.

(8) Each facility used for wholesale drug distribution or manufacturing of prescription drugs shall:

(a) be secure from unauthorized entry;

(b) limit access from the outside to a minimum in conformance with local building codes, life and safety codes and control access to persons to ensure unauthorized entry is not made;

(c) limit entry into areas where prescription drugs, prescription drug precursors, or prescription drug devices are held to authorized persons who have a need to be in those areas;

(d) be well lighted on the outside perimeter;

(e) be equipped with an alarm system to permit detection of entry and notification of appropriate authorities at all times when the facility is not occupied for the purpose of engaging in distribution or manufacturing of prescription drugs; and

(f) be equipped with security measures, systems and procedures necessary to provide reasonable security against theft and diversion of prescription drugs or alteration or tampering with computers and records pertaining to prescription drugs or prescription drug precursors.

(9) Each facility shall provide the storage of prescription drugs, prescription drug precursors, and prescription drug devices in accordance with the following:

(a) all prescription drugs and prescription drug precursors shall be stored at appropriate temperature, humidity and other conditions in accordance with labeling of such prescription drugs or prescription drug precursors or with requirements in the USP-NF;

(b) if no storage requirements are established for a specific prescription drug, prescription drug precursor, or prescription drug devices, the products shall be held in a condition of controlled temperature and humidity as defined in the USP-NF to ensure that its identity, strength, quality and purity are not adversely affected; and

(c) there shall be established a system of manual, electromechanical or electronic recording of temperature and humidity in the areas in which prescription drugs, prescription drug precursors, and prescription drug devices are held to permit review of the record and ensure that the products have not been subjected to conditions that are outside of established limits.

(10) Each person who is engaged in pharmaceutical wholesale distribution of prescription drugs for human use that leave, or have ever left, the normal distribution channel shall, before each pharmaceutical wholesale distribution of such drug, provide a pedigree to the person who receives such drug. A retail pharmacy or pharmacy warehouse shall comply with the requirements of this section only if the pharmacy engages in pharmaceutical wholesale distribution of prescription drugs. The pedigree shall:

(a) include all necessary identifying information concerning each sale in the chain of distribution of the product from the manufacturer, through acquisition and sale by any pharmaceutical wholesaler, until sale to a pharmacy or other person dispensing or administering the prescription drug. At a minimum, the necessary chain of distribution information shall include:

(i) name, address, telephone number, and if available, the email address of each owner of the prescription drug, and each pharmaceutical wholesaler of the prescription drug;

(ii) name and address of each location from which the product was shipped, if different from the owner's;

(iii) transaction dates;

(iv) name of the prescription drug;

(v) dosage form and strength of the prescription drug;

(vi) size of the container;

(vii) number of containers;

(viii) lot number of the prescription drug;

(ix) name of the manufacturer of the finished dose form; and

(x) National Drug Code (NDC) number.

(b) be maintained by the purchaser and the pharmaceutical wholesaler for five years from the date of sale or transfer and be available for inspection or use upon a request of an authorized officer of the law.

(11) Each facility shall comply with the following requirements:

(a) in general, each person who is engaged in pharmaceutical wholesale distribution of prescription drugs shall establish and maintain inventories and records of all transactions regarding the receipt and distribution or other disposition of the prescription drugs. These records shall include pedigrees for all prescription drugs that leave the normal distribution channel;

(b) upon receipt, each outside shipping container containing prescription drugs, prescription drug precursors, or prescription drug devices shall be visibly examined for identity and to prevent the acceptance of prescription drugs, prescription drug precursors, or prescription drug devices that are contaminated, reveal damage to the containers or are otherwise unfit for distribution:

(i) prescription drugs, prescription drug precursors, or prescription drug devices that are outdated, damaged, deteriorated, misbranded, adulterated or in any other way unfit for distribution or use in manufacturing shall be quarantined and physically separated from other prescription drugs, prescription drug precursors or prescription drug devices until they are appropriately destroyed or returned to their supplier; and

(ii) any prescription drug or prescription drug precursor whose immediate sealed or outer secondary sealed container has been opened or in any other way breached shall be identified as such and shall be quarantined and physically separated from other prescription drugs and prescription drug precursors until they are appropriately destroyed or returned to their supplier;

(c) each outgoing shipment shall be carefully inspected for identity of the prescription drug products or devices and to ensure that there is no delivery of prescription drugs or devices that have been damaged in storage or held under improper conditions:

(i) if the conditions or circumstances surrounding the return of any prescription drug or prescription drug precursor cast any doubt on the product's safety, identity, strength, quality or purity, then the drug shall be appropriately destroyed or returned to the supplier, unless examination, testing or other investigation proves that the product meets appropriate and applicable standards related to the product's safety, identity, strength, quality and purity;

(ii) returns of expired, damaged, recalled, or otherwise non-saleable prescription drugs shall be distributed by the receiving pharmaceutical wholesale distributor only to the original manufacturer or a third party returns processor that is licensed as a pharmaceutical wholesale distributor under this chapter;

(iii) returns or exchanges of prescription drugs (saleable or otherwise), including any redistribution by a receiving pharmaceutical wholesaler, shall not be subject to the pedigree requirements, so long as they are exempt from the pedigree requirement under the FDA's Prescription Drug Marketing Act guidance or regulations; and

(d) licensee under this Act and pharmacies or other persons authorized by law to dispense or administer prescription drugs for use by a patient shall be accountable for administering their returns process and ensuring that all aspects of their operation are secure and do not permit the entry of adulterated and counterfeit prescription drugs.

(12) A manufacturer or pharmaceutical wholesaler shall furnish prescription drugs only to a person licensed by the Division or to another appropriate state licensing authority to possess, dispense or administer such drugs for use by a patient.

(13) Prescription drugs furnished by a manufacturer or pharmaceutical wholesaler shall be delivered only to the business address of a person described in Subsections R156-17b-102([~~19~~]20)(c) and R156-17b-615[~~(13)~~], or to the premises listed on the license, or to an authorized person or agent of the licensee at the premises of the manufacturer or pharmaceutical wholesaler if the identity and authority of the authorized agent is properly established.

(14) Each facility shall establish and maintain records of all transactions regarding the receipt and distribution or other disposition of prescription drugs and prescription drug precursors and shall make inventories of prescription drugs and prescription drug precursors and required records available for inspection by authorized representatives of the federal, state and local law enforcement agencies in accordance with the following:

(a) there shall be a record of the source of the prescription drugs or prescription drug precursors to include the name and principal address of the seller or transferor and the address of the location from which the drugs were shipped;

(b) there shall be a record of the identity and quantity of the prescription drug or prescription drug precursor received, manufactured, distributed or shipped or otherwise disposed of by specific product and strength;

(c) there shall be a record of the dates of receipt and distribution or other disposal of any product;

(d) there shall be a record of the identity of persons to whom distribution is made to include name and principal address of the receiver and the address of the location to which the products were shipped;

(e) inventories of prescription drugs and prescription drug precursors shall be made available during regular business hours to authorized representatives of federal, state and local law enforcement authorities;

(f) required records shall be made available for inspection during regular business hours to authorized representatives of federal, state and local law enforcement authorities and such records shall be maintained for a period of two years following disposition of the products; and

(g) records that are maintained on site or immediately retrievable from computer or other electronic means shall be made readily available for authorized inspection during the retention period; or if records are stored at another location, they shall be made available within two working days after request by an authorized law enforcement authority during the two year period of retention.

(15) Each facility shall establish, maintain and adhere to written policies and procedures that shall be followed for the receipt, security, storage, inventory, manufacturing, distribution or other disposal of prescription drugs or prescription drug precursors,

including policies and procedures for identifying, recording and reporting losses or thefts, and for correcting all errors and inaccuracies in inventories. In addition, the policies shall include the following:

(a) a procedure whereby the oldest approved stock of a prescription drug or precursor product is distributed or used first with a provision for deviation from the requirement if such deviation is temporary and appropriate;

(b) a procedure to be followed for handling recalls and withdrawals of prescription drugs adequate to deal with recalls and withdrawals due to:

(i) any action initiated at the request of the FDA or other federal, state or local law enforcement or other authorized administrative or regulatory agency;

(ii) any voluntary action to remove defective or potentially defective drugs from the market; or

(iii) any action undertaken to promote public health, safety or welfare by replacement of existing product with an improved product or new package design;

(c) a procedure to prepare for, protect against or handle any crisis that affects security or operation of any facility in the event of strike, fire, flood or other natural disaster or other situations of local, state or national emergency;

(d) a procedure to ensure that any outdated prescription drugs or prescription drug precursors shall be segregated from other drugs or precursors and either returned to the manufacturer, other appropriate party or appropriately destroyed;

(e) a procedure for providing for documentation of the disposition of outdated, adulterated or otherwise unsafe prescription drugs or prescription drug precursors and the maintenance of that documentation available for inspection by authorized federal, state or local authorities for a period of five years after disposition of the product;

(f) a procedure for identifying, investigating and reporting significant drug inventory discrepancies (involving counterfeit drugs suspected of being counterfeit, contraband, or suspect of being contraband) and reporting of such discrepancies within three (3) business days to the Division and/or appropriate federal or state agency upon discovery of such discrepancies; and

(g) a procedure for reporting criminal or suspected criminal activities involving the inventory of drugs and devices to the Division, FDA and if applicable, Drug Enforcement Administration (DEA), within three (3) business days.

(16) Each facility shall establish, maintain and make available for inspection by authorized federal, state and local law enforcement authorities, lists of all officers, directors, managers and other persons in charge which lists shall include a description of their duties and a summary of their background and qualifications.

(17) Each facility shall comply with laws including:

(a) operating within applicable federal, state and local laws and regulations;

(b) permitting the state licensing authority and authorized federal, state and local law enforcement officials, upon presentation of proper credentials, to enter and inspect their premises and delivery vehicles and to audit their records and written operating policies and procedures, at reasonable times and in a reasonable manner, to the extent authorized by law; and

(c) obtaining a controlled substance license from the Division and registering with the Drug Enforcement Administration (DEA) if they engage in distribution or manufacturing of controlled substances and shall comply with all federal, state and local regulations applicable to the distribution or manufacturing of controlled substances.

(18) Each facility shall be subject to and shall abide by applicable federal, state and local laws that relate to the salvaging or reprocessing of prescription drug products.

(19)(a) A Class C pharmacy [~~shall~~]may not be located in the same building as a separately licensed Class A, B, D, or E pharmacy unless:

(i) the separately licensed pharmacy is a third-party logistics provider; or

(ii) the two pharmacies are located in different suites as recognized by the United States Postal Service.

(b) Two Class C pharmacies may be located at the same address in the same suite if the pharmacies:

([~~a~~]i) are under the same ownership;

([~~b~~]ii) have processes and systems for separating and securing all aspects of the operation; and

([e]iii) have traceability with a clear audit trail that distinguishes a pharmacy's purchases and distributions.

R156-17b-616. Operating Standards - Class D Pharmacy - Out of State Mail [~~Order~~]Service Pharmacies.

(1) In accordance with Subsections 58-1-301(3) and 58-17b-306(2), an application for licensure as a Class D pharmacy shall include:

(a) a pharmacy care protocol that includes the operating standards established in Subsections R156-17b-610(1) and (8) and R156-17b-612(1) through (4);

(b) a copy of the pharmacist's license for the PIC; and

(c) a copy of the most recent state inspection or NABP inspection completed as part of the NABP Verified Pharmacy Program (VPP) showing the status of compliance with the laws and regulations for physical facility, records and operations.

(2) An out of state mail [~~order~~]service pharmacy that compounds shall follow the USP-NF Chapter 795 Compounding of non-sterile preparations and Chapter 797 Compounding of sterile preparations.

R156-17b-617a. Operating Standards - Class E Pharmacy [~~Operating Standards~~]- General Provisions.

(1) In accordance with Section 58-17b-302 and Subsection 58-17b-601(1), Class E pharmacies shall have a written pharmacy care protocol that includes:

(a) the identity of the supervisor or director;

(b) a detailed plan of care;

(c) the identity of the drugs to be purchased, stored, used, [~~and~~]or accounted for; and

(d) the identity of any licensed healthcare provider associated with the operation.

(2) Class E pharmacies shall comply with all applicable federal and state laws.

R156-17b-617g. Operating Standards - Class E Pharmacy - Third Party Logistics Provider.

(1) A third party logistics provider shall comply with storage practices for facilitating, including:

(a) access to warehouse space of suitable size to facilitate safe operations, including a suitable area to quarantine suspect product;

(b) adequate security; and

(c) written policies and procedures to:

(i) address receipt, security, storage, inventory, shipment, and distribution of a product;

(ii) identify, record, and report confirmed losses or thefts in the United States;

(iii) correct errors and inaccuracies in inventories;

(iv) provide support for manufacturer recalls;

(v) prepare for, protect against, and address any reasonably foreseeable crisis that affects security or operation at the facility, such as a strike, fire, or flood;

(vi) ensure that any expired product is segregated from other products and returned to the manufacturer or reverse distributor;

(vii) maintain the capability to trace the receipt and outbound distribution of a product, and supplies and records of inventory; and

(viii) quarantine or destroy a suspect product if directed to do so by the respective manufacturer, wholesale distributor, dispenser, or an authorized government agency.

(2) A third party logistics provide may not employ at its facility an individual who has been convicted of a felony violation relating to product tampering.

R156-17b-621. Operating Standards - Pharmacist, Pharmacy Intern, and Pharmacy Technician Administration - Training.

[~~(1)~~]In accordance with Subsections 58-17b-102(53), (56), and (57), and 58-17b-502(1)(i):[~~ 58-17b-502(9),~~]

(1) A pharmacist or pharmacy intern who will administer a prescription drug or device shall complete the following appropriate training prior to engaging in administration[~~for the administration of a prescription drug includes~~]:

(a) current Basic Life Support (BLS) certification;[~~ and~~

~~(b) successful completion of a training program which includes at a minimum:~~]

([~~i~~]b) for injectable drugs, didactic and practical training for administering injectable drugs;

(c) topics related to the specific prescription drug or device that will be administered;

([~~ii~~]d) [~~the current Advisory Committee on Immunization Practices (ACIP) of the United States Center for Disease Control and Prevention guidelines for the administration of immunizations~~]if administering vaccines, current guidelines from the Advisory Committee on Immunization Practices (ACIP) of the U.S. Centers for Disease Control and Prevention (CDC); and

([~~iii~~]e) the management of an anaphylactic reaction.

(2) A pharmacy technician who will administer a prescription drug or device shall complete the appropriate training described in Subsections (1)(a), (b), and (e) prior to engaging in administration.

([~~2~~]3) Sources for the appropriate training include:

(a) ACPE approved programs;[~~ and~~]

(b) curriculum-based programs from an ACPE accredited college of pharmacy, or an ASHP accredited pharmacy technician program;

(c) state or local health department programs; and

(d) other Board recognized providers.

([~~3~~]4) [~~Training is to be supplemented by documentation of two hours of continuing education related to the area of practice in each preceding renewal period.~~]An individual who engages in the administration of prescription drugs or devices shall:

(a) maintain documentation that they obtained their required training; and

(b) for each renewal cycle after their initial training, complete at least two hours of continuing education related to their administration of prescription drugs or devices, in accordance with Section R156-17b-309.

([~~4~~]5) The "Vaccine Administration Protocol: Standing Order to Administer Immunizations and Emergency Medications", adopted March [~~27, 2012~~]26, 2019, by the Division in collaboration with the Utah State Board of Pharmacy and the Utah Physicians Licensing Board, as posted on the Division website, is the guideline or standard for pharmacist administration of vaccines and emergency medications, and for pharmacy intern or pharmacy technician administration pursuant to delegation by a pharmacist.

R156-17b-621a. Operating Standards - Pharmacist Administration of a Long-acting Injectable Drug Therapy - Training.

In accordance with Subsections 58-17b-502([~~9~~]1)(i) and 58-17b-625(2):

(1) [~~Training for a pharmacist to administer long-acting injectables intramuscularly shall include successful completion of~~]Prior to engaging in the administration of a long-acting injectable drug pursuant to Section 58-17b-625, a pharmacist shall successfully complete:

(a) current Basic Life Support (BLS) certification; and

(b) a training program for administering long-acting injectables intramuscularly that is provided by an ACPE accredited provider.

(2) An individual who engages in the administration of long-acting injectable[~~s~~] drugs intramuscularly shall:

(a) maintain documentation that [~~the~~]they obtained their required training [~~was obtained~~]prior to any administration; and

(b) for each renewal cycle after the initial training, successfully complete [~~a minimum of~~]at least two hours of continuing education related to administering long-acting injectable[~~s~~] drugs, in accordance with Section R156-17b-309.

R156-17b-621b. Operating Standards - Pharmacist and Pharmacy Intern Dispensing of a Self-Administered Hormonal Contraceptive - Training.

In accordance with Subsection 58-17b-502([~~14~~]n) and Section 26-[~~62~~]64-106:

(1) Prior to dispensing a self-administered hormonal contraceptive, a pharmacist or pharmacy intern shall successfully complete a training program for dispensing self-administered hormonal contraceptives that is provided by an ACPE-accredited provider and approved by the Division in collaboration with the Board.

(2) A pharmacist or pharmacy intern who engages in the dispensing of a self-administered hormonal contraceptive shall:

(a) maintain documentation that [~~the~~]they obtained their required training [~~was obtained~~]prior to any dispensing; and

(b) for each renewal cycle after the initial training, successfully complete a minimum of two hours of continuing education related to dispensing a self-administered hormonal contraceptive, in accordance with Section R156-17b-309.

(3) The Utah Hormonal Contraceptive Self-screening Risk Assessment Questionnaire, adopted September 18, 2018, posted on the Division's website, is the self-screening risk assessment questionnaire to be used for pharmacist and pharmacy intern dispensing of self-administered hormonal contraceptives.

R156-17b-622. Standards - Dispensing Training Program.

(1) In accordance with Subsection R156-17b-102 ([~~17~~]18), a formal or on-the-job dispensing training program completed by a DMP designee is one that covers the following topics to the extent that the topics are relevant and current to the DMP practice where the DMP designee is employed:

(a) role of the DMP designee;

(b) laws affecting prescription drug dispensing;

(c) pharmacology including the identification of drugs by trade and generic names, and therapeutic classifications;

(d) pharmaceutical terminology, abbreviations and symbols;

(e) pharmaceutical calculations;

(f) drug packaging and labeling;

(g) computer applications in the pharmacy;

(h) sterile and non-sterile compounding;

(i) medication errors and safety;

(j) prescription and order entry and fill process;

(k) pharmacy inventory management; and

(l) pharmacy billing and reimbursement.

(2) Documentation demonstrating successful completion of a formal or on-the-job dispensing training program shall include the following information:

(a) name of individual trained;

(b) name of individual or entity that provided training;

(c) list of topics covered during the training program; and

(d) training completion date.

R156-17b-623. Standards - Approved Cosmetic Drugs and Injectable Weight Loss Drugs for Dispensing Medical Practitioners.

[~~(1) A cosmetic~~]The drugs that may be dispensed by a DMP in accordance with Subsection 58-17b-802(1) and Section 58-17b-803 [~~is~~]are limited to:

(1) the following cosmetic drugs:

(a) Latisse; and

(b) the injectable weight loss drug human chorionic gonadotropin; and

(2) the legend, non-controlled drugs approved under Section R156-83-306 for prescribing by an online prescriber.[

~~(2) An injectable weight loss drug that may be dispensed by a DMP in accordance with Section 58-17b-803 is limited to human chorionic gonadotropin.~~]

KEY: pharmacists, licensing, pharmacies
Date of Enactment or Last Substantive Amendment: [~~December 27, 2018~~]2019
Notice of Continuation: January 5, 2015
Authorizing, and Implemented or Interpreted Law: 58-17b-101; 58-17b-601(1); 58-37-1; 58-1-106(1)(a); 58-1-202(1)(a)

Health, Disease Control and Prevention, Health Promotion
R384-415
Electronic-Cigarette Substance Standards

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 44114
FILED: 10/01/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Outdated dates in Sections R384-415-7 and R384-415-8 that reference requirements for tobacco retailers to comply with as of 08/08/2019 that need to align better with the FDA's changed timeline on regulating electronic cigarettes. When this rule was originally written, the FDA published timeline to approve electronic cigarette substance standards was planned to be on or before 08/08/2019. However the FDA's original timeline was delayed until August 2022 and then changed to May 2021 by court ruling. This timeline could change again. As a result, this administrative rule is out of date and should be updated so it no longer states a specific date in both Sections R384-415-7 and R384-415-8.

SUMMARY OF THE RULE OR CHANGE: In Section R384-415-7, the change modifies the date language and adds language that will better align with the FDA's electronic cigarette pre-market product process which has changed multiple times and is not a set date and eliminating the 08/08/2019 date from this administrative rule. In Section R384-415-8, the change modifies the date language for consistency in Subsection R384-415-8(1)(c) and instead adds language that will better align with the FDA's electronic cigarette pre-market product process which has changed multiple times and is not a set date and eliminating the 08/08/2019 date from this administrative rule.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-57-103

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: These proposed rule changes are not expected to have any fiscal impact on the state budget because these changes do not affect the implementation of this rule; they simply clarify the process.
♦ LOCAL GOVERNMENTS: These proposed rule changes are not expected to have any fiscal impact on local governments because these changes do not affect the implementation of this rule; they simply clarify the process.

♦ SMALL BUSINESSES: These proposed rule changes are not expected to have any fiscal impact on small businesses because these changes do not affect the implementation of this rule; they simply clarify the process.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: These proposed rule changes are not expected to have any fiscal impact on other persons because these changes do not affect the implementation of this rule; they simply clarify the process.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no potential costs for updating this rule because these changes do not affect the implementation of this rule; they simply clarify the process.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses because these rule changes do not change requirements for businesses.

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:
♦ Heather Borski by phone at 801-538-9998, by FAX at 801-538-9495, or by Internet E-mail at hborski@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 11/14/2019

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 11/07/2019 01:00 PM, UDOH Cannon Building, 288 N 1460 W, Room 125, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 11/22/2019

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2020	FY 2021	FY 2022
State Government	$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
As of January 1, 2019, according to the Utah Department of Health's (UDOH) combined local health department tobacco retail compliance check logs, there are approximately 835 non-small businesses tobacco retailers operating in Utah under the NAICS codes of 453991 and 424940. These businesses will likely not experience a direct cost or benefit because these rule changes will allow them to continue to sell non-manufacturer sealed electronic cigarette substances until the United States Food and Drug Administration (FDA) institutes its process to regulate standards for electronic cigarette substances.

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

R384. Disease Control and Prevention, Health Promotion.
R384-415. Electronic-Cigarette Substance Standards.
R384-415-1. Authority and Purpose.

(1) This rule is authorized by Section 26-57-103 and Subsection 59-14-803(5).

(2) This rule establishes standards for labeling, nicotine content, packaging, and product quality for electronic-cigarette substances for the regulation of electronic-cigarettes.

(3) This rule does not apply to a manufacturer-sealed electronic-cigarette substance.

(4) A product in compliance with this rule is not endorsed as safe.

R384-415-2. Definitions.

As used in this rule:

(1) "Business" means any sole proprietorship, partnership, joint venture, corporation, association, or other entity formed for profit or non-profit purposes.

(2) "Child resistant" means the same as the term "special packaging" is defined in 16 C.F.R 1700.1(a)(4) (January 1, 2015) and

is tested in accordance with the method described in 16 C.F.R. 1700.20 (January 1, 2015).

(3) "Department" means the Utah Department of Health.

(4) "Electronic-cigarette" means the same as the term is defined in Subsections 26-38-2(1) and 59-14-802(2).

(5) "Electronic-cigarette Product" means the same as the term is defined in Subsection 59-14-802(3).

(6) "Electronic-cigarette substance" means the same as the term is defined in Subsection 59-14-802(4).

(7) "Local health department" means the same as the term is defined in Subsection 26A-1-102(5).

(8) "Manufacture" means the same as the term is defined in Subsection 26-57-102(5).

(9) "Manufacturer" means the same as the term is defined in Subsection 26-57-102(6).

(10) "Mg/mL" means milligrams per milliliter, a ratio for measuring an ingredient, in liquid form, where accuracy is measured in milligrams per milliliter, or a percentage equivalent.

(11) "Nicotine" means the same as the term is defined in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 387(12) (2013).

(12) "Manufacturer-sealed electronic-cigarette substance" means the same as the term defined is in Subsection 26-57-102(6).

(13) "Package "or "packaging" means a pack, box, carton, or container of any kind, or if no other container, any wrapping, in which an electronic cigarette substance is offered for sale, sold, or otherwise distributed to consumers.

(14) "Retailer" means any person who sells, offers for sale, or offers to exchange for any form of consideration, an electronic-cigarette substance to a consumer. This definition is without regard to the quantity of an electronic-cigarette substance sold, offered for sale, exchanged, or offered for exchange.

(15) "Retailing" means involvement in any of the activities listed in Subsection R384-415-2(14). This definition is without regard to the quantity of an electronic-cigarette substance sold, offered for sale, exchanged, or offered for exchange.

(16) "Transaction statement" means a statement, in paper or electronic form, which the manufacturer transferring ownership of the product certifies that the electronic-cigarette substance is in compliance with the standards in this rule.

R384-415-3. Labeling.

(1) The retailer shall ensure that nicotine containing electronic-cigarette substance offered for sale to the consumer features on the product package label the required safety warning stating "WARNING": This product contains nicotine. Nicotine is an addictive chemical."

(2) The retailer shall ensure that an electronic-cigarette substance marketed as nicotine-free and offered for sale to the consumer features a safety warning stating "WARNING: Keep away from children and pets."

(3) The retailer shall ensure that the required safety warning appear directly on the package and must be visible underneath any cellophane or other clear wrapping as follows:

(a) be located in a conspicuous and prominent place on the two principle display panels of the package and the warning area must comprise at least 30 percent of each of the principal display panels;

(b) is capitalized and punctuated as indicated in Subsection (1) or (2) of this Section;

(c) be printed in at least 12-point font size and ensure that the required warning statement occupies the greatest possible proportion of the warning area set aside for the required text;

(d) uses a conspicuous and legible Helvetica, Arial, or other san serif font;

(e) uses either a black font on a white background or a white font on a black background; and

(f) is centered in the warning area in which the text is required to be printed and positions such that the text of the required warning statement and the other information on the principal display panel have the same orientation.

(4) A retailer of an electronic-cigarette substance will not be in violation of this Section when packaging:

(a) contains a health warning;

(b) is supplied to the retailer by a manufacturer, importer, or distributor, who has the required state, local, or tobacco tax license or permit, if applicable; and

(c) is not altered by the retailer in a way that is material to the requirements of this Section.

(5) An electronic-cigarette substance package that would be required to bear the warning in Subsection (1) or (2) of this Section but is too small or otherwise unable to accommodate a warning label with sufficient space to bear such information is exempt from compliance with the requirement provided:

(a) the information and specifications required in Subsection (1) and (2) of this Section appear on the carton or other outer container or wrapper if the carton, outer container, or wrapper has sufficient space to bear the information; or

(b) appear on a tag firmly and permanently affixed to the packaged electronic-cigarette substance.

(c) In the case of Subsection (5)(a) or (b), the carton, outer container, wrapper, or tag will serve as the location of the principal display panels.

R384-415-4. Prohibited Sales.

(1) The retailer shall be prohibited from selling an electronic-cigarette substance to the public that is labeled to the public as containing:

(a) additives that create the impression that an electronic-cigarette substance has a health benefit;

(b) additives that are associated with energy and vitality;

(c) illegal or controlled substances as identified in Section 58-37-3; and

(d) additives having coloring properties for emissions.

R384-415-5. Nicotine Content.

The retailer shall sell an electronic-cigarette substance to the consumer that is limited to 360 mg nicotine per container, and does not exceed a 24mg/mL concentration of nicotine.

R384-415-6. Packaging.

The retailer shall ensure that the packaging of an electronic-cigarette substance intended for sale to a consumer is certified as child resistant, and compliant with federal standards and law concerning child nicotine poisoning prevention.

R384-415-7. Product Quality.

[~~As of August 8, 2019,~~]When the United States Food and Drug Administration instituting its process to approve electronic

cigarettes, the retailer shall only sell an electronic-cigarette substance that has been approved for regulatory sale by the United States Food and Drug Administration through a Pre-Market Tobacco application or Substantial Equivalent application.

R384-415-8. Record Keeping and Testing.

(1) The retailer shall provide the electronic-cigarette substances transaction statement to the Department or the local health department within five working days of a request. The retailer shall ensure that the transaction statement includes manufacturer certifications that:

(a) the nicotine content of an electronic-cigarette substance is compliant with Section R384-415-5;

(b) the packaging of an electronic cigarette-substance is child-resistant; and

(c) [~~United States Food and Drug Administration Approval after August 8, 2019.~~]An electronic cigarette substance that has been approved for regulatory sale by the United States Food and Drug Administration through a Pre-Market Tobacco application or Substantial Equivalent application.

(2) The retailer shall provide evidence that supports the documents described in Subsection R384-415-8(1) to the Department or the local health department within 5 working days of a request.

(3) The retailer shall have access to the documents described in Subsections R384-415-8(1) and R384-415-8(2) for a period of two years after the retailer purchases the electronic-cigarette substance.

R384-415-9. Enforcement.

(1) The Department may enforce and seek penalties for the violation of public health rules including, the standards for electronic cigarettes set forth in this rule as prescribed in Sections 26-23-1 through 26-23-10.

(2) A local health department may enforce and seek penalties for the violation of the standards for electronic cigarettes set forth in this rule. A local health department shall have authority to enforce and seek penalties for violations of public health law including this rule as is found in Sections 26-23-1 through 26-23-10, 26A-1-108, 26A-1-114(1) and 26A-1-123.

(3) The Department or local health department is responsible to make a determination as to if a person holding a Utah State Tax Commission license to sell electronic cigarettes has violated the standards of this rule. If the Department or local health department makes such a determination it shall notify the Utah State Tax Commission to revoke the person's license as provided in Subsection 59-14-803(5).

(4) Administrative or civil enforcement of this rule by the Department or local health departments does not preclude criminal enforcement by a law enforcement agency and prosecution of any violation of the standards in this rule that can constitute a criminal offense under state law.

KEY: electronic cigarettes, nicotine, standards, Electronic Cigarette Regulation Act
Date of Enactment or Last Substantive Amendment: [~~Deecember 29, 2016~~]2019
Authorizing, and Implemented or Interpreted Law: 26-57-103; 59-14-803(5)

Health, Disease Control and Prevention, Epidemiology
R386-80
Local Public Health Emergency Funding Protocols

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 44112
FILED: 10/01/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to update language to match statutory changes. The report requirement referenced in Section R386-80-4 was repealed during the 2013 General Session (S.B. 207).

SUMMARY OF THE RULE OR CHANGE: This rule establishes a local health emergency assistance program to be administered by the Utah Department of Health. The purpose of this amendment is to update language to match statutory changes. The report requirement referenced in Section R386-80-4 was repealed in S.B. 207 (2013).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-38

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: These rule changes will not have any cost or savings to the state budget, because these amendments only remove reference to a legislative report that hasn't been required since 2012.
♦ LOCAL GOVERNMENTS: These rule changes will not have any cost or savings to local governments, because these amendments only remove reference to a legislative report that hasn't been required since 2012.
♦ SMALL BUSINESSES: These rule changes will not have any cost or savings to small businesses, because this rule only applies to state and local governments.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This rule change will not have any cost or savings to persons other than small businesses, businesses, or local government entities, because this rule only applies to state and local governments.

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 is no fiscal impact on businesses because this rule only applies to state and local governments.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
DISEASE CONTROL AND PREVENTION, EPIDEMIOLOGY
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Heather Borski by phone at 801-538-9998, by FAX at 801-538-9495, or by Internet E-mail at hborski@utah.gov or mail at PO Box 142104, Salt Lake City, UT 84114-2104

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/02/2019

THIS RULE MAY BECOME EFFECTIVE ON: 12/09/2019

AUTHORIZED BY: Joseph Miner, MD, 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
These rule changes will not have any fiscal impact on non-small businesses' revenues or expenditures. This rule only applies to Local Health Departments, and the amendment merely removes a report that is no longer required by the Utah Legislature and makes minor edits.

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

R386. Health, Disease Control and Prevention, Epidemiology.
R386-80. Local Public Health Emergency Funding Protocols.
R386-80-1. Authority and Purpose.

(1) This rule establishes a local health emergency assistance program to be administered by the Utah Department of Health. This program establishes the Public Emergency Fund to be funded with money appropriated by the legislature or otherwise made available to the program fund as defined by this rule

(2) Monies that the legislature appropriates to the Program Fund are non-lapsing and must be used exclusively to provide emergency funding to local health departments. However, the Department may use money in the Program to cover its costs of administering the Program.

(3) Any interest earned on the balance of the funds in the Program shall be deposited to the General Fund.

R386-80-2. Definitions.

(1) Department - means the Utah Department of Health.

(2) Local Health Department - means a county or multicounty local health department established under Utah Code Title 26A.

(3) Local Public Health Emergency - means an unusual event or series of events causing or resulting in a substantial risk or potential risk to the health of a significant portion of the population within the boundary of a local health department.

(4) Program - means the local health emergency assistance program established under this section.

(5) Program Fund - means money that the Legislature appropriates to the Department for use in the Program and other monies otherwise made available for use in the Program.

R386-80-3. Reimbursement of Local Health Departments.

(1) Upon the occurrence of a local public health emergency by the local health officer with the concurrence by the Department's Executive Director [~~of the Department~~]or his Designee, the local health department is eligible to receive reimbursement through the Public Emergency Funding Program for expenses incurred in

responding to a local health emergency to the extent funding is available.

(2) The request for reimbursement from the fund shall include an itemized list of expenses incurred associated with the public health emergency. The list of expenses shall be in the format directed by the Department. The local health department is required to match funds received from the Program Fund. The total of the program reimbursement and the local match cannot exceed the total dollars expended on the emergency.

(3) If the Department receives requests for emergency funding from multiple local health departments during a similar time period for the same public health emergency, and the requests exceed the balance of the funding available, the Department shall allocate the distribution of available funds by an agreed upon formula with the Local Health Officers Association. Information contained in the local health department request for funding is subject to both audit and approval by the Department.

(4) The Local Health Officers Association and the Department shall, through a Memorandum of Agreement or Contract, include more specifically what constitutes a public health emergency, types of reimbursable expenses, and the formula to be used if multiple public health emergencies occur at similar times with not enough funding available.

[~~R386-80-4. Department Reports.~~

~~(1) The Department shall submit a report each September to the Health and Human Services Interim Committee of the Utah Legislature summarizing program activities. The report shall consist of:~~

~~(a) A description of the requests for reimbursement from local health departments during the preceding 12 months;~~

~~(b) The amount of each reimbursement made from the Program Fund to local health departments; and,~~

~~(c) The current balance of the Program Fund.~~

~~(2) A copy of the report shall also be submitted to the appropriations subcommittee designated by the Executive Appropriations Committee of the Legislature.~~]

R386-80-[~~5~~]4. Record Keeping.

(1) The Department shall keep all financial records related to distribution of funds to local health departments according to established rules for such financial documents.

KEY: public health emergency
Date of Enactment or Last Substantive Amendment: [~~October 24, 2014~~]2019
Notice of Continuation: August 22, 2019
Authorizing, and Implemented or Interpreted Law: 26-1-38

Health, Disease Control and Prevention, Environmental Services
R392-702
Cosmetology Facility Sanitation

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 44099
FILED: 09/24/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This new rule is created to meet the requirements in the authorizing statutes. This rule is authorized under Sections 26-1-5 and 26-15-2, and Subsection 26-1-30(23). Section 26-15-2 and Subsection 26-1-30(23) direct the Department of Health to establish and enforce, or provide for the enforcement of, minimum rules of sanitation necessary to protect the public health including rules necessary for the design, construction, operation, maintenance, or expansion of barbershops and beauty shops, as well as other places of business.

SUMMARY OF THE RULE OR CHANGE: This new rule establishes minimum standards for the sanitation, operation, and maintenance of a cosmetology facility, as defined by this rule, and provides for the prevention and control of health hazards associated with a cosmetology facility that are likely to affect public health including risk factors contributing to injury, sickness, death, and disability.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5 and Section 26-15-2 and Subsection 26-1-30(23)

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: Enacting Rule R392-702 will not result in a cost or benefit to the state budget because this proposed rule does not require a change to state operations or programs, and it does not include requirements for the payment of fines or fees.

♦ LOCAL GOVERNMENTS: Enacting Rule R392-702 will not result in a direct cost or benefit to local governments because no construction, equipment, or operational changes are required by this rule. This proposed rule does not include requirements for permit or inspection fees.

♦ SMALL BUSINESSES: 1,048 small businesses in Utah provide cosmetology services (NAICS codes 812111, 812112, 812113, 812199, and 611511). Enacting Rule R392-702 will not result in a direct cost or benefit to small businesses because this rule requires no construction, equipment or operational changes. This rule does not require a construction change in any portion of the cosmetology facility. The sanitation, operation, maintenance, and infection control standards established by this rule are consistent with industry standard practices, processes, and procedures as currently instructed in barbering, cosmetology, esthetics, and nail technology schools throughout Utah.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Enacting Rule R392-702 will not result in a direct cost or benefit to any one specific person.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Affected persons are as follows: State: Utah Department of Health and Utah Department of Human Services. This proposed rule is not expected to have a cost or benefit to state government revenues or expenditures because it does not require additional programs or work than is currently being expended. Local Government: 13 local health departments. This proposed rule is not expected to have a cost or benefit to local health departments' revenues or expenditures because it does not require additional permits, inspection programs, or work than is currently being expended. Small businesses: Places such as barber schools, barber and beauty colleges, barber shops, cosmetology schools, cosmetology salons or shops, hair salons, beauty shops, beauty salons, beauty parlors, manicure and pedicure salons, cosmetology schools, electrolysis (i.e., hair removal) salons, and esthetician (i.e., skin care) services. These requirements reflect current practices. This proposed rule is not expected to have a cost or benefit to small businesses' revenues or expenditures because it does not require additional programs or work than is currently being expended. The sanitation, operation, maintenance, and infection control standards established by this rule are consistent with industry standard practices, processes, and procedures as currently instructed in barbering, cosmetology, esthetics, and nail technology schools throughout Utah. Other Persons: No specific person will be affected by this rule. This proposed rule is not expected to have a cost or benefit to a specific person's revenues or expenditures because it does not affect any specific person and it does not require additional programs or work than is currently being expended. The sanitation, operation, maintenance, and infection control standards established by this rule are consistent with industry standard practices, processes, and procedures as currently instructed in barbering, cosmetology, esthetics, and nail technology schools throughout Utah.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact on businesses because this rule does not require changes to construction, equipment, or operation that are not already consistent with industry standard practice.

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

HEALTH
DISEASE CONTROL AND PREVENTION,
ENVIRONMENTAL SERVICES
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Chris Nelson by phone at 801-538-6739, or by Internet E-mail at chrisnelson@utah.gov or mail at PO Box 142104, Salt Lake City, UT 84114-2104

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2019

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2019

AUTHORIZED BY: Joseph Miner, MD, 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 are two non-small businesses operating in Utah in the industry in question (NAICS codes 812111, 812112, 812113, 812199, and 611511). Enacting Rule R392-702 will not result in a direct cost or benefit to non-small businesses because no construction, equipment, or

operational changes are required by this rule and the sanitation, operation, maintenance, and infection control standards established by this rule are consistent with industry standard practices, processes, and procedures as currently instructed in barbering, cosmetology, esthetics, and nail technology schools throughout Utah.

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

R392. Health, Disease Control and Prevention, Environmental Services.

R392-702. Cosmetology Facility Sanitation.

R392-702-1. Authority and Purpose.

(1) This rule is authorized under Sections 26-1-5, 26-1-30(23), 26-15-2.

(2) This rule establishes minimum standards for the sanitation, operation, and maintenance of a cosmetology facility, as defined by this rule, and provides for the prevention and control of health hazards associated with a cosmetology facility that are likely to affect public health including risk factors contributing to injury, sickness, death, and disability.

R392-702-2. Applicability.

(1) This rule applies to facilities in which one or more individuals are engaged in any of the following practices, unless specifically exempted:

(a) barbering;

(b) barbering instruction;

(c) cosmetology/barbering;

(d) cosmetology/barbering instruction;

(e) electrology;

(f) electrology instruction;

(g) esthetics;

(h) master-level esthetics;

(i) esthetics instruction;

(j) hair design;

(k) hair design instruction;

(l) nail technology; or

(m) nail technology instruction.

(2) This rule applies to the following school facilities:

(a) a barbering school;

(b) a cosmetology/barbering school;

(c) an electrology school;

(d) an esthetics school;

(e) a hair design school; or

(f) a nail technology school.

(3) This rule does not apply to:

(a) physicians, surgeons, nurses, other medical persons, or morticians, if duly licensed to practice their respective professions in the State of Utah, and if engaged in the personal performance of the duties of their respective profession;

(b) a commissioned physician or surgeon serving in the armed forces of the United States or another federal agency;

(c) a person who visits the state to engage in instructional seminars, advanced classes, trade shows, or competitions of a limited duration;

(d) a person providing instruction in workshops, seminars, training meetings, or other educational programs whose purpose is to provide continuing professional development to licensed barbers, cosmetologists/barbers, hair designers, estheticians, master estheticians, electrologists, or nail technicians; or

(e) an employee of a company that is primarily engaged in the business of selling products used in the practice of barbering, cosmetology/barbering, esthetics, master-level esthetics, electrology, or nail technology when demonstrating the company's products to a potential customer.

(4) This rule does not apply to the practice of ear piercing; body art; body painting; body piercing; face painting; henna tattoos and permanent tattoos; threading; microblading; permanent makeup; tanning by UV radiation and spray tanning units; injectables; mortuary services; massage; body wraps when performed by a massage therapist; or hair braiding.

R392-702-3. Definitions.

As used in this rule:

(1) "Barber" means an individual who is licensed by the State of Utah Division of Occupational and Professional Licensing to perform barbering; or any person engaged in the practice of barbering for the public generally, with or without compensation, whether as owner, operator, instructor, or demonstrator.

(2) "Building Code" means International Building Code as incorporated and amended in Title 15A, State Construction and Fire Codes Act.

(3) "Chemical disinfectant" means:

(a) a solution of EPA-registered bactericidal, fungicidal, and virucidal disinfectants used according to manufacturer's directions; or

(b) a chlorine bleach solution in a concentration range of between 200 ppm and 500 ppm.

(4) "Clean" means the condition of being visibly free from dirt, soil, debris, or other materials not intended to be a part of the object in question.

(5) "Client" means any person who enters a cosmetology facility, or school facility as listed in Subsection R392-702-2(2), with the intent to receive cosmetology services.

(6) "Cosmetologist/Barber" means an individual who is licensed by the State of Utah Division of Occupational and Professional Licensing to perform cosmetology or barbering; or any person engaged in the practice of cosmetology/barbering for the public generally, with or without compensation, whether as owner, operator, instructor, or demonstrator.

(7) "Cosmetology facility" means any structure, dwelling, or business where cosmetology, barbering, or associated professional services, as listed in Subsection R392-702-2(1), are practiced.

(8) "Disinfection" means the use of a chemical disinfectant to destroy pathogens on reusable implements and other non-porous, nonliving surfaces or to prevent the growth of pathogenic organisms, which thereby renders an item safe for handling and use.

(9) "Dwelling" means a building or structure that is intended or designed to be used, rented, leased, let or hired out for human habitation.

(10) "Electrologist" means an individual who is licensed by the State of Utah Division of Occupational and Professional Licensing to engage in the practice of electrology; or any person engaged in the practice of electrology for the public generally, with or without compensation, whether as owner, operator, instructor, or demonstrator.

(11) "Esthetician" means an individual who is licensed by the State of Utah Division of Occupational and Professional Licensing

who engages in the practice of basic esthetics or master esthetics; or any person engaged in the practice of basic esthetics or master esthetics for the public generally, with or without compensation, whether as owner, operator, instructor, or demonstrator.

(12) "Eyelash technician" means an individual who is engaged in the practice of eyelash technology and is licensed by the State of Utah Division of Occupational and Professional Licensing to engage in the practice of cosmetology/barbering or esthetics; or any person engaged in the practice of eyelash technology for the public generally, with or without compensation, whether as owner, operator, instructor, or demonstrator.

(13) "Eyelash technology" means the application, removal, and trimming of threadlike natural or synthetic fibers to an eyelash, including the cleansing of the eye area and lashes.

(14) "Foot bath" means any basin, tub, sink, or bowl using non-circulating water in the practice of cosmetology, esthetics, or nail technology.

(15) "Hair braiding" has the same meaning as provided in Section 58-11a-102(18).

(16) "Hair designer" means an individual who is licensed by the State of Utah Division of Occupational and Professional Licensing to engage in the practice of hair design; or any person engaged in the practice of hair design for the public generally, with or without compensation, whether as owner, operator, instructor, or demonstrator.

(17) "Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that can cause infection, disease transmission, vermin infestation, or hazardous condition that requires immediate correction or cessation of operation to prevent injury, illness, or death.

(18) "Licensed professional" means a barber, cosmetologist/barber, electrologist, esthetician, hair designer, nail technician, as defined in this rule, or an instructor in a school facility as listed in Subsection R392-702-2(2).

(19) "Linens" means towels, sheets, headbands, robes, capes, drapes and other reusable textiles commonly used in a cosmetology facility.

(20) "Local health department" has the same meaning as provided in Section 26A-1-102(5).

(21) "Local health officer" means the health officer of the local health department having jurisdiction, or a designated representative.

(22) "Nail technician" means an individual who is licensed by the State of Utah Division of Occupational and Professional Licensing to engage in the practice of nail technology; or any person engaged in the practice of nail technology for the public generally, with or without compensation, whether as owner, operator, instructor, or demonstrator.

(23) "Operator" means any licensed professional as defined in this rule, or any person who owns, leases, manages or controls, or who has the duty to manage or control a cosmetology facility.

(24) "Pedicure" means any of the following:

(a) cleaning, trimming, softening, or caring for the nails or cuticles of the feet;

(b) the use of manual instruments or implements on the nails or cuticles of the feet;

(c) callus removal by sanding, buffing, or filing including electric filing; or

(d) massaging of the feet or lower portion of the leg.

(25) "Plumbing Code" means International Plumbing Code as incorporated and amended in Title 15A, State Construction and Fire Codes Act.

(26) "Plumbing fixture" means a receptacle or device that is connected to the water supply system of the premises; or discharges wastewater, liquid-borne waste materials, or sewage to the drainage system of the premises.

(27) "Practice of barbering" has the same meaning as provided in Section 58-11a-102(29).

(28) "Practice of basic esthetics" has the same meaning as provided in Section 58-11a-102(31).

(29) "Practice of cosmetology/barbering" has the same meaning as provided in Section 58-11a-102(32).

(30) "Practice of electrology" has the same meaning as provided in Section 58-11a-102(34).

(31) "Practice of hair design" has the same meaning as provided in Section 58-11a-102(37).

(32) "Practice of master-level esthetics" has the same meaning as provided in Section 58-11a-102(39).

(33) "Practice of nail technology" has the same meaning as provided in Section 58-11a-102(40).

(34) "Service Animal" has the same meaning as provided in Section 35.104 of the Americans with Disabilities Act Title II Regulations.

(35) "Waxing" means a treatment in which superfluous hair is removed from a client's body by:

(a) covering the hair with a thin layer of soft wax after which a paper or fabric strip is applied and pressed firmly into the wax and then quickly pulled away, removing the wax and body hair; or

(b) covering the hair with a thin layer of heated hard wax after which the wax is allowed to cool, and is then quickly pulled away, removing the wax and body hair.

(36) "Whirlpool foot spa" means any basin using circulating water, either in a self-contained unit or in a unit that is connected to other plumbing in the cosmetology facility. A drain-and-fill circulating foot spa is considered a self-contained whirlpool foot spa.

R392-702-4. General Requirements.

(1) Except as specified in Subsections R392-702-4(1)(a), this rule does not require a construction change in any portion of the cosmetology facility if the facility was operating in compliance with applicable laws and ordinances in effect prior to enactment of this rule. A cosmetology facility that is newly established more than 90 days after the enactment date of this rule shall operate in full compliance with the rule.

(a) The local health officer may require construction changes consistent with this rule if it is determined the cosmetology facility or portion thereof is dangerous, unsanitary, a nuisance or menace to life, health or property, or that it creates an imminent health hazard.

(2) A cosmetology facility located in a private residence or dwelling shall be exempt from the requirements of Section R392-702-5.

R392-702-5. Construction and Operating Requirements.

(1) All floors and interior walls in areas where licensed services are performed, including restrooms and areas where chemicals are mixed or stored, or where water may splash, shall be constructed with smooth, durable, non-porous, and easily cleanable materials,

except that anti-slip applications or plastic floor coverings may be used for safety reasons. Carpet is permitted in all other areas.

(2) Except in a lobby or reception area, all tables, counters, chairs, and equipment in the cosmetology facility shall be constructed of smooth, easily cleanable materials, and shall be maintained in good repair.

(3) The operator shall maintain floors, walls, ceilings, shelves, furniture, furnishings, and fixtures in good condition, clean and free from an accumulation of hair, nails, skin, wax, liquids, and other debris.

(4) The operator shall provide adequate covered waste receptacles conveniently located in the facility to contain debris and other solid waste and to prevent the accumulation of solid waste in or around the cosmetology facility or its premises.

(5)(a) All plumbing in the facility shall comply with the provisions of Plumbing Code, including backflow prevention requirements.

(b) Plumbing fixtures shall be free from any cracks or disrepair that would prevent proper cleaning, and shall be maintained in a clean and operable condition.

(c) The water heater shall be of sufficient size to accommodate all attached appliances and fixtures when used simultaneously.

(6) Each cosmetology facility, or adjacent common area, shall have a restroom that is accessible to operators and clients, and is equipped with:

(a) a toilet;

(b) a handwashing sink with hot and cold running water;

(c) liquid or foam soap and toilet tissue in suitable dispensers;

(d) Single-use towels or an alternate hand drying method approved by the local health officer; and

(e) a solid, durable, and easily cleanable waste receptacle with lid.

(7)(a) In addition to the handwashing sink required in Subsection R392-702-5(6)(b), each operator shall have unobstructed access within the facility to at least one handwashing sink that is equipped with:

(i) hot and cold running water;

(ii) liquid or foam soap in a suitable dispenser;

(iii) Single-use towels or an alternate hand drying method approved by the local health officer; and

(iv) a solid, durable, and easily cleanable covered waste receptacle;

(b) A shampoo bowl may be used as a handwashing sink when it meets the requirements of Subsection R392-702-5(7)(a).

(c) A foot bath or whirlpool foot spa shall not be used as a handwashing sink.

(8)(a) A cosmetology facility shall be equipped with a closable cabinet, bin, or room for:

(i) storage of cleaning and disinfecting chemicals; and

(ii) storage of chemicals or products used in licensed practices.

(b) Any hazardous cleaning agents, chemicals, or employee medications located in the restroom shall be kept in a locked cabinet not accessible to the public.

(9) A cosmetology facility shall be equipped with a designated area for the storage of disinfected implements, and an area for the storage of clean towels and linens.

(10)(a) When not in use, all clean and disinfected implements, tools, and materials shall be stored in a designated area, separate from soiled implements and materials.

(b) An operator shall store personal items away from clean and disinfected implements and materials.

(11)(a) All areas of the cosmetology facility shall be provided with adequate ventilation to prevent the accumulation of harmful vapors.

(b) Each area having a nail station where a nail technician files or shapes an acrylic nail, as defined in rule by the Division of Occupational and Professional Licensing, shall comply with Section 15A-3-402.

(12) The cosmetology facility shall be provided with a light source equivalent to at least 25 foot-candles (269 lux) 30 inches off the floor, except that at least 60 foot-candles (646 lux) shall be provided at the level where the licensed service is being performed and where instruments are disinfected.

(13) An operator shall perform services only in areas that are dedicated solely for licensed practice.

(14) A cosmetology facility located in a mobile vehicle or mobile structure ("mobile salon") shall operate in compliance with this rule, and with all city and county laws, regulations, and ordinances regarding water storage, wastewater disposal, electrical and power supply, commercial motor vehicles, vehicle insurance, safety, noise, signage, parking, commerce, business, and all other local government requirements. It is the responsibility of the operator to investigate applicable mobile cosmetology facility requirements in each jurisdiction where the mobile cosmetology facility operates, and to ensure compliance with the requirements.

R392-702-6. General Cleaning, Sanitation, Operational, and Maintenance Requirements.

(1)(a) An operator shall employ good personal hygiene habits while providing licensed services.

(b) Before providing any licensed service to a client, all operators shall thoroughly wash their hands with soap and water and dry them with single-use towels or an alternate hand drying method approved by the local health officer.

(c) An operator may use a liquid or foam hand sanitizer in lieu of handwashing when changing gloves or switching tasks while providing any licensed service to the same client.

(2)(a) Before disinfecting any surface or item, any visible debris and disposable parts shall be removed and the surface or item shall be washed with detergent and water or an all-purpose cleaning agent, rinsed thoroughly, and disinfected according to manufacturer's directions. Surfaces may be wiped with an all-purpose cleaning agent before being disinfected.

(b) Any cleaning agent or chemical disinfectant not in the original container shall have a legible label with the name of the agent and directions. If the original container with directions is available, directions are not required to be repeated on the new container label.

(3)(a) Except when washable or disposable covers are replaced after each client, equipment such as facial chairs, beds, and headrests shall be cleaned and disinfected after each client.

(b) Equipment such as chairs, counter surfaces, cupboards, drawers, mats, and dryers shall be maintained clean.

(4) Before use on a new client, any non-electric multi-use implements or tools intended to touch skin or hair shall be cleaned and disinfected in the following sequential manner:

(a) Remove all visible debris;
(b) Clean with detergent and water;
(c) Rinse with water;
(d) Disinfect by:
(i) completely immersing the implement or tool, including handles, in a chemical disinfectant according to manufacturer's directions; or
(ii) spraying or wiping the implement or tool with a chemical disinfectant according to manufacturer's directions; and
(e) Rinse with water; and
(f) Dry before storing as specified in Subsection R392-702-5(10).
(5) At the conclusion of each client service, electric equipment including electric clippers, nail e-files, curling irons, flat irons, glass or metal electrodes, high frequency wands, esthetic machines, steamers, diffusers, wax pots and paraffin warmers, or other electric or electronic tools that cannot be immersed in liquid shall be cleaned and disinfected, including the equipment body, handle, and attached cord, prior to each use in the following sequential manner:
(a) Remove all visible debris;
(b) Disinfect with a chemical disinfectant spray or wipe according to the manufacturer's directions; and
(c) Store as specified in Subsection R392-702-5(10).
(6) Plastic guards and any nonmetal removable parts shall be removed, cleaned, and disinfected as required in Subsection R392-702-6(4).
(7) Skin care machines and equipment shall be cleaned and disinfected according to the manufacturer's directions.
(8) Chemical disinfectants, including sprays and wipes, shall be prepared and used according to the manufacturer's directions, including contact time, safety precautions, dilution requirements if any, and proper disposal.
(9)(a) If concentrated chemical disinfectants must be diluted with water, measuring devices shall be readily available and used to ensure an effective solution is made.
(b) Unless otherwise directed by the disinfectant label, chemical disinfectant solutions shall be made daily and disposed of at the end of the day.
(c) Chemical disinfectant solutions shall be disposed of and replaced immediately if visible debris is present or if a lack of disinfection effectiveness is otherwise indicated.
(10) The operator may use a chlorine bleach solution as a chemical disinfectant when the following requirements are met:
(a) Prior to dilution by the operator, chlorine bleach shall contain 5.25% to 6.15% sodium hypochlorite;
(b) Bleach shall contain no fragrances, thickeners, or foaming agents;
(c) Chlorine test strips shall be accessible to the operator, and shall be used to verify chlorine concentration is between 200 and 500 ppm; and
(d) Chlorine bleach shall not be placed or stored near other chlorine-reactive chemicals used in cosmetology facilities (e.g. acrylic monomers, alcohol, ammonia, or other disinfecting products) or near flame.
(11) Immediately after use on a single client, the operator shall dispose of single-use equipment, implements, tools, or porous items including but not limited to nail files, pedicure files, natural pumice, sanding bands, sleeves, heel and toe pumice, exfoliating blocks, buffer blocks, cotton swabs, cotton balls, cotton pads, sponges, gauze, cuticle pushers, disposable applicators, lancets, fabric strips, single-use gloves, neck strips, tissues, thread, disposable wipes, and disposable towels.
(12) Hair cuttings shall be removed from the floor and deposited in a waste receptacle after each haircut.
(13) The operator shall comply with all manufacturer's directions for product and equipment use.
(a) When the manufacturer's directions require a patch test, the operator shall:
(i) offer a patch test; and
(ii provide information to the client regarding the risk of potential adverse reactions to the product.
(14)(a) Wax pots and paraffin warmers shall be kept covered and the exterior cleaned daily.
(b) If debris is found in the wax pot or paraffin warmer, or if the wax or paraffin has been contaminated by contact with skin, unclean applicators, or double-dipping, the wax pot or paraffin warmer shall be emptied, the wax shall be discarded, and the pot or warmer shall be disinfected as required in Subsection R392-702-6(5).
(c) Disposable spatulas and wooden sticks shall be dipped into the wax only once and then discarded without using the other end.
(d) Applicators shall be dipped only once into the wax unless the wax is a single-service item and unused wax is discarded after each service.
(e) Any surface touched by a used wax stick shall be cleaned and disinfected immediately after the service.
(f) Paraffin wax shall be portioned out for each client in a bag or other container, or dispensed in a manner that prevents contamination of the unused supply.
(15) Any solid waste that may create a nuisance or imminent health hazard that is generated at a cosmetology facility and stored on its exterior premises shall be stored in a leak-proof, non-absorbent container with a tight-fitting lid that shall be kept closed at all times except when placing waste in or emptying waste from the container.
(16) All solid wastes shall be disposed with sufficient frequency and in such a manner as to prevent insect breeding, rodent harborage, or nuisance.

R392-702-7. Linens and Laundry Service.
(1) The operator shall maintain a sufficient supply of clean linens, as defined in this rule, for each client's use.
(2)(a) Any linens used to cover or protect a client shall not be used for more than one client and shall be deposited in a vented container or hamper labeled "soiled" immediately after use, and not used again until laundered.
(b) The operator shall launder used linens either by regular commercial laundering or by a noncommercial laundering process that includes washing with detergent and hot water in a washing machine, drying on hot with no moisture remaining, and immediately storing in accordance with Subsection R392-702-7(3).
(c) A laundry washing machine located in a cosmetology facility shall only be used for washing soiled linens, and shall not be used to wash personal laundry.
(d) Plastic or nylon capes and aprons shall be washed in a machine and:
(i) dried on any setting in a dryer; or

(ii) disinfected with a spray disinfectant.

(e) Clean linens shall not come in contact with soiled linens at any time.

(3) After washing and drying as required, the operator shall maintain and store all linens in a clean and sanitary manner at a location free from the likelihood of contamination by vermin, wastewater, filth, or toxic chemicals in either:

(a) a clean, closed cabinet;

(b) a clean, solid, and easily cleanable closed container; or

(c) a designated room on a clean shelf.

(4) Laundry carts, baskets, and hampers shall be constructed with smooth, durable, non-porous, and easily cleanable materials, and shall be maintained in good condition. Washable laundry bags and liners are permitted.

(5) If laundry is processed at the cosmetology facility, the operator shall use the following procedures to prevent cross-contamination from laundry hampers, carts, or baskets:

(a) Any visible debris shall be cleaned from laundry carts and baskets;

(b) Carts and baskets used to store or transport used linens shall be disinfected each day of use with a chemical disinfectant; and

(c) Separate containers (carts, baskets, hampers, laundry bags, etc.) shall be designated and used for storing and transporting clean and soiled linens.

R392-702-8. Specific Health and Sanitation Requirements -- Practice of Nail Technology.

(1) Before performing any nail technology services, nail technicians shall wash their hands with soap and water. After which, nail technicians shall clean the areas of the client's body on which the service is to be performed.

(2) Manicure tables and surfaces that may contact the client's hands, wrists, or arms shall be cleaned and disinfected prior to use for each client.

(3)(a) The nail technician shall portion products from multi-use containers into individual-use containers for each client, as required by manufacturer's directions and recognized industry standards.

(b) When finger bowls or reusable containers are used during nail technology services, they shall be replaced with cleaned and disinfected containers for each client.

(4) Prior to use for each client, the operator shall clean and disinfect each whirlpool foot spa in the following sequential manner:

(a) All water shall be drained and all visible debris shall be removed from the spa basin;

(b) The spa basin shall be cleaned with detergent, rinsed with clean water, and drained;

(c) After cleaning, the whirlpool foot spa shall be disinfected with chemical disinfectant according to manufacturer's directions for 10 minutes or the time stated on the label as follows:

(i) Fill the spa basin with clean water;

(ii) Add the appropriate amount of chemical disinfectant;

(iii) Turn the unit on to circulate the chemical disinfectant for the entire contact time.

(iv) After disinfection, drain and rinse the whirlpool foot spa with clean water.

(5) Prior to use for each client, the operator shall clean and disinfect each non-circulating foot bath, as defined in this rule, in the following sequential manner:

(a) Drain the foot bath and remove any visible debris;

(b) Scrub the foot bath with a clean brush, detergent, and water;

(c) Rinse the foot bath with clean water;

(d) Disinfect the foot bath with a chemical disinfectant according to the manufacturer's directions for 10 minutes or the time stated on the label;

(e) Rinse the foot bath with clean water; and

(f) Allow the foot bath to air dry if not placed immediately back into service.

(6) At the conclusion of each business day, the operator shall clean and disinfect each used whirlpool foot spa in the following sequential manner:

(a) Remove the filter screen, inlet jets, and all other removable parts from the basin and clean out any debris trapped behind or in them.

(b) Using a brush, scrub the parts described in Subsection R392-702-8(6)(a) with detergent.

(c) Rinse the parts described in Subsection R392-702-8(6)(a) with clean water and place them back into the basin apparatus.

(d) Fill the basin with clean water and add a chemical disinfectant, following label directions.

(e) Turn the unit on and circulate the system with the chemical disinfectant solution for 10 minutes or the time stated on the label.

(f) After disinfection, drain the spa basin, rinse with clean water, and air dry.

(7)(a) A local health officer may exempt an operator from the requirements of Subsection R392-702-8(5) when the operator uses a removable spa basin liner in a non-circulating foot bath when the liner is discarded after each client.

(b) The operator shall adhere to the requirements of Subsections R392-702-8(4) and R392-702-8(6) even when using a removable spa basin liner in a whirlpool foot spa.

(8)(a) Before soaking a client's feet in a foot bath or whirlpool foot spa, the operator shall examine the client's feet and legs for any condition that may weaken the skin barrier.

(b) If open sores or skin wounds are present, including insect bites, scratches, or scabbed-over wounds, the operator shall explain to the client that the foot bath or whirlpool foot spa should not be used.

(9) Only electric files or machines specifically designed and manufactured for use in the practice of nail technology may be used in any cosmetology facility for performing nail technology services. Craft, hardware, and hobby, or other similar type tools, or kitchen utensils shall not be used under any circumstances.

(10) After each use on a single client, diamond, carbide, and metal bits shall be:

(a) cleaned of all visible debris by either:

(i) using a brush;

(ii) using an ultrasonic cleaner according to manufacturer's directions; or

(iii) immersing the bit in acetone for 10 minutes; and then

(b) disinfected by complete immersion in a chemical disinfectant according to manufacturer's directions.

R392-702-9. Specific Health and Sanitation Requirements -- Practice of Basic and Master Esthetics.

(1) Estheticians shall wash their hands with soap and water prior to performing any licensed services on a client. Gloves shall be worn during any type of extraction.

(2) Equipment, multi-use implements, and tools and materials shall be properly cleaned and disinfected after servicing each client as described in Section R392-702-6.

(3) The following items that are used during services shall be replaced with clean items for each client:

(a) disposable and cloth towels;

(b) hair caps;

(c) headbands;

(d) brushes;

(e) gowns;

(f) makeup brushes; and

(g) other items used for a similar purpose.

(4)(a) Items subject to possible cross contamination such as creams, cosmetics, astringents, lotions, removers, waxes, moisturizers, masks, oils and other preparations shall be used in a manner so as not to contaminate the remaining product.

(b) Applicators shall not be re-dipped in product.

(c) Permitted procedures to avoid cross contamination are:

(i) Disposing of the remaining product before beginning services on each client;

(ii) Using a single-use disposable implement to apply product and disposing of such implement after use;

(iii) Using an applicator bottle to apply the product; and

(iv) Dispensing product from a multi-use container into a separate container for single client use.

(5) An esthetician shall not use ungloved fingers to dispense any service product from a container.

R392-702-10. Specific Health and Sanitation Requirements -- Eyelash Extension Services.

(1) The practice of eyelash extension services shall only be performed by a licensed cosmetologist/barber or esthetician/master esthetician.

(2) Eyelash technicians shall wash their hands thoroughly with soap and water prior to performing any licensed services on a client.

(3) Equipment, implements, and materials including eyelash stands, holders, pallets, and trays shall be cleaned and disinfected in accordance with Section R392-702-6 prior to providing any licensed service.

(4) Glue pallets and holders shall be:

(a) used on only one client, and disposed according to Subsection R392-702-6(11) after each client; or

(b) cleaned and disinfected in accordance with Subsection R392-702-6(4) before use with each client.

(5) Reusable items that are used during services shall be replaced with clean items for each client, including, but not limited to:

(a) cloth towels;

(b) hair caps, headbands, and gowns; and

(c) brushes and spatulas that contact skin or products from multi-use containers.

(6) An operator shall use only properly labeled semi-permanent glue and semi-permanent glue remover, intended and approved for use on humans around the eyes, in accordance with the manufacturer's directions.

(7) Eyelash extensions shall be stored in a clean, closed container or sealed in the original packaging, and shall be kept in a clean, dry, debris-free storage area.

(8)(a) Eyelash extensions that are removed from the container or original packaging for a client's eyelash service and not used shall be disposed of in accordance with Subsection R392-6(10) and shall not be used for another client.

(b) When removing eyelashes from the container or package to portion out eyelashes for a service, an eyelash technician shall use disinfected scissors, blade, or other tool to snip a portion of a strip, or a disinfected tweezer to portion out the lashes for each service.

R392-702-11. Prohibited Products and Practices.

(1) Operators shall not use any of the following substances or products in performing cosmetology services:

(a) Methyl Methacrylate Liquid Monomers, a.k.a., MMA;

(b) Razor-type callus shavers designed and intended to cut or shave growths of skin such as corns and calluses (e.g. credo blades or "microplanes"), unless licensed with the Utah Division of Professional Licensing as a Master Esthetician;

(c) Styptic pencil, alum, or other astringent in stick or lump form. (Alum or other astringents in powder or liquid form are acceptable.); and

(d) Fumigants such as formalin (formaldehyde) tablets or liquids.

(2) Multiple-use roll-on wax is prohibited. Single-use roll-on wax cartridges are acceptable but shall be disposed of immediately after service. Roll-on wax cartridges warming in a wax heater shall have an intact seal. The heating unit is subject to the requirements of Subsection R392-702-6(5), and shall be cleaned and disinfected after each use.

(3) UV sterilizers or light boxes shall not be used as an infection control device in a cosmetology facility. This does not apply to UV dryers or ultraviolet lamps used to dry or cure nail products.

(4) Electric or battery-operated equipment or implements not specifically manufactured for use on humans are prohibited.

(5) Live fish, leeches, snails, and other living creatures shall not be used in the practice of cosmetology/barbering, esthetics, or nail technology.

(6)(a) Only service animals assisting persons with disabilities are permitted in a cosmetology facility. Pets, emotional support animals, comfort animals, and therapy animals are not permitted.

(b) Animal beautification or pet grooming services shall not be performed in a cosmetology facility.

(7) An operator shall not perform licensed cosmetology services on a client if:

(a) the operator has a known contagious disease of a nature that may be transmitted by performing the procedure, unless the operator takes medically approved measures to prevent transmission of the disease; or

(b) The client has a known contagious disease of a nature that may be transmitted by performing the procedure, unless the operator takes medically approved measures to prevent transmission of the disease.

R392-702-12. Food Service.

When food or beverage service is provided for cosmetology clients, food service, storage, and preparation shall comply with the FDA Model Food Code as incorporated and amended in Rule R392-100 and local health department regulations.

R392-702-13. Inspections and Investigations.

(1) Upon presenting proper identification, the operator shall permit the Local Health Officer to enter upon the premises of a cosmetology facility to perform inspections, investigations, and other actions as necessary to ensure compliance with Rule R392-702.

(2) The operator shall have access to all cosmetology facility space, including leased space, and shall provide the Local Health Officer with access to all cosmetology facility space.

R392-702-14. Closing or Restricting Use of a Cosmetology Facility.

(1) If a local health officer deems a cosmetology facility or portion thereof to be an imminent health hazard, the cosmetology facility may be closed or its use may be restricted, as determined by the local health officer.

(2) The operator shall restrict public access to the impacted area of any cosmetology facility closed or restricted to use by a local health officer within a reasonable time as ordered by the local health officer.

(3) It shall be unlawful for an operator to allow the public to utilize any cosmetology facility or portion thereof that has been deemed unfit for use until written approval of the local health officer is given.

KEY: cosmetologist/barber, hair salon, nail salon, esthetician
Date of Enactment or Last Substantive Amendment: 2019
Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-1-30(23); 26-15-2

Health, Disease Control and Prevention, Immunization
R396-100
Immunization Rule for Students

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 44105
FILED: 09/26/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: During the 2017 General Session, H.B. 308 was passed and codified in Title 53G, Chapter 9, Part 3. This bill changed immunization exemption and conditional enrollment requirements, and rule amendments are needed for the agency to comply with these changes.

SUMMARY OF THE RULE OR CHANGE: This rule is being amended to comply with Title 53G, Chapter 9, Part 3. These amendments clarify the role of parents and schools in the exemption process, reference the exemption process and form required by statute, and clarify requirements for receiving, and documenting receipt of, specific health education to receive an immunization exemption. This rule also allows for the Department of Health (Department) to provide electronic copies of student immunization records to schools. These amendments cite the statutory requirement that a student granted conditional enrollment must begin receiving immunizations within 21 days of school enrollment. Additional nonsubstantive changes clarify language referencing Kindergarten and Meningococcal vaccine. Finally, references have been updated to reflect the change in Utah Code pertaining to this rule; this amended rule now references sections within Title 53G, Chapter 9, Part 3.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53G-9-305 and Section 53G-9-308

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There will be no change in cost or savings for state government as a result of these rule changes; these amendments update language to comply with statutory requirements within Title 53G, Chapter 9, Part 3, and no additional work, or process changes, are anticipated as a result of these amendments. The Department already provides copies, including electronic copies, of exemption forms to schools, as described in these amendments.
♦ LOCAL GOVERNMENTS: Enacting these proposed changes will not result in a cost, or benefit, to local governments because these rule changes match what is already in statute. Local health departments have already been providing education and exemption forms as described in these amendments. Schools have already been aware of, and compliant with, conditional enrollment requirements, and requirements for retaining exemption forms with the student's immunization record.
♦ SMALL BUSINESSES: Enacting these proposed changes will not result in a cost or benefit to small businesses because these rule changes only match what is already in statute.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There will be no change in cost or savings for other persons through enacting these proposed changes; these rule changes match what is in statute, and clarify the role of parents in obtaining exemptions.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs associated with these rule amendments.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no fiscal impact to businesses because there is no additional changes that are not already in existing statute.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
DISEASE CONTROL AND PREVENTION, IMMUNIZATION
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:
♦ Rich Lakin by phone at 801-538-3905, or by Internet E-mail at rlakin@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2019

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2019

AUTHORIZED BY: Joseph Miner, MD, 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
These rule changes are not expected to have any fiscal impact on non-small businesses, because there are no non-small businesses affected by these changes.

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

R396. Health, Disease Control and Prevention, Immunization.
R396-100. Immunization Rule for Students.
R396-100-1. Purpose and Authority.

(1) This rule implements the immunization requirements of Title [~~53A, Chapter 11, Part 3~~]53G, Chapter 9, Part 3. It establishes minimum immunization requirements for attendance at a public, private, [~~or parochial kindergarten,~~]elementary, or secondary school through grade 12, nursery school or Kindergarten, licensed day care center, child care facility, family home care, or Head Start program in this state. It establishes:

(a) required doses and frequency of vaccine administration;

(b) reporting of statistical data; and

(c) time periods for conditional enrollment.

(2) This rule is required by Section [~~53A-11-303~~]53G-9-305 and authorized by Section [~~53A-11-306~~]53G-9-308.

R396-100-2. Definitions.

As used in this rule:

"Department" means the Utah Department of Health.

"Early Childhood Program" means a nursery or preschool, licensed day care center, child care facility, family care home, or Head Start program.

"Exemption" means a relief from the statutory immunization requirements by reason of qualifying under Section[s] [~~53A-11-302~~]53G-9-303[~~ and 302.5~~].

"Parent" means a biological or adoptive parent who has legal custody of a child; a legal guardian, or the student, if of legal age.

"School" means a public, private, or parochial kindergarten, elementary, or secondary school through grade 12.

"School entry" means a student, at any grade, entering a Utah school or an early childhood program for the first time.

"Student" means an individual enrolled or attempting to enroll in a school or early childhood program.

R396-100-3. Required Immunizations.

(1) A student born before July 1, 1993 must meet the minimum immunization requirements of the ACIP prior to school entry for the following antigens: Diphtheria, Tetanus, Pertussis, Polio, Measles, Mumps, and Rubella.

(2) A student born after July 1, 1993 must meet the minimum immunization requirements of the ACIP prior to school entry for the following antigens: Diphtheria, Tetanus, Pertussis, Polio, Measles, Mumps, Rubella, and Hepatitis B.

(3) A student born after July 1, 1993, must also meet the minimum immunization requirements of the ACIP prior to entry into the seventh grade for the following antigens: Tetanus, Diphtheria, Pertussis, Varicella, and Meningococcal conjugate.

(4) A student born after July 1, 1996 must meet the minimum immunization requirements of the ACIP prior to school entry for the following antigens: Diphtheria, Tetanus, Pertussis, Polio, Measles, Mumps, Rubella, Hepatitis B, Hepatitis A, and Varicella.

(5) To attend a Utah early childhood program, a student must meet the minimum immunization requirements of the ACIP for the following antigens: Diphtheria, Tetanus, Pertussis, Polio, Measles, Mumps, Rubella, Haemophilus Influenza Type b, Hepatitis A, Hepatitis B, Pneumococcal, and Varicella vaccines prior to school entry.

(6) The vaccinations must be administered according to the recommendations of the United States Public Health Service's Advisory Committee on Immunization Practices (ACIP) as listed below which are incorporated by reference into this rule:

(a) General Recommendations on Immunization: MMWR, December 1, 2006/Vol. 55/No. RR-15;

(b) Immunization of Adolescents: MMWR, November 22, 1996/Vol. 45/No. RR-13;

(c) Combination Vaccines for Childhood Immunization: MMWR, May 14, 1999/Vol. 48/No. RR-5;

(d) Use of Diphtheria Toxoid-Tetanus Toxoid-Acellular Pertussis Vaccine as a Five-Dose Series: Supplemental Recommendations of the Advisory Committee on Immunization Practices: MMWR November 17, 2000/Vol. 49/No. RR-13;

(e) Updated Recommendations for Use of Tetanus Toxoid, Reduced Diphtheria Toxoid and Acellular Pertussis (Tdap) Vaccine from the Advisory Committee on Immunization Practices, 2010: MMWR, January 14, 2011/Vol. 60/No. 1;

(f) A Comprehensive Strategy to Eliminate Transmission of Hepatitis B Virus Infection in the United States: MMWR, December 23, 2005/Vol. 54/No. RR-6;

(g) Haemophilus b Conjugate Vaccines for Prevention of Haemophilus influenza Type b Disease Among Infants and Children Two Months of Age and Older: MMWR, January 11, 1991/Vol. 40/No. RR-1;

(h) Recommendations for Use of Haemophilus b Conjugate Vaccines and a Combined Diphtheria, Tetanus, and Pertussis, and Haemophilus b Vaccine: MMWR, September 17, 1993/Vol. 42/No. RR-13;

(i) Updated Recommendations of the Advisory Committee on Immunization Practices (ACIP) for the Control and Elimination of Mumps: MMWR, June 9, 2006/Vol. 55/No. RR-22;

(j) Updated Recommendations of the Advisory Committee on Immunization Practices (ACIP) Regarding Routine Poliovirus Vaccination: MMWR, August 7, 2009/Vol. 58/No. 30;

(k) Prevention of Varicella: MMWR, June 22, 2007/Vol. 56/No. RR-4;

(l) Prevention of Hepatitis A Through Active or Passive Immunization: MMWR, May 29, 2006/Vol. 55/No. RR-7;

(m) Licensure of a 13-Valent Pneumococcal Conjugate Vaccine (PCV13) and Recommendations for Use Among Children-Advisory Committee on Immunization Practices, (ACIP), 2010: MMWR March 12, 2010/Vol. 59/No. 09; and

(n) Prevention and Control of Meningococcal Disease: Recommendations of the Advisory Committee on Immunization Practices (ACIP): March 22, 2013/62(RR02);1-22.

R396-100-4. Official Utah School Immunization Record (USIR).

(1) Schools and early childhood programs shall use the official Utah School Immunization Record (USIR) form as the record of each student's immunizations. The Department shall provide copies or electronic copies of the USIR to schools, early childhood programs, physicians, and local health departments upon each of their requests.

(2) Each school or early childhood program shall accept any immunization record provided by a licensed physician, registered nurse, or public health official as certification of immunization. It shall transfer this information to the USIR with the following information:

(a) name of the student;

(b) student's date of birth;

(c) vaccine administered; and

(d) the month, day, and year each dose of vaccine was administered.

(3) Each school and early childhood program shall maintain a file of the USIR for each student in all grades and an exemption form for each student claiming an exemption.

(a) The school and early childhood programs shall maintain up-to-date records of the immunization status for all students in all grades such that it can quickly exclude all non-immunized students if an outbreak occurs.

(b) If a student withdraws, transfers, is promoted or otherwise leaves school, the school or early childhood program shall either:

(i) return the USIR and any exemption form to the parent of a student; or

(ii) transfer the USIR and any exemption form with the student's official school record to the new school or early childhood program.

(4) A representative of the Department or the local health department may examine, audit, and verify immunization records maintained by any school or early childhood program.

(5) Schools and early childhood programs may meet the record keeping requirements of this section by keeping its official school immunization records in the Utah Statewide Immunization Information System (USIIS).

R396-100-5. Exemptions.

(1) A parent claiming an exemption to immunization for medical, religious or personal reasons, as allowed by Section [~~53A-11-302~~]53G-9-303, shall provide to the student's school or early childhood program the exemption form as set forth and required in Section 53G-9-304.[~~completed forms. The school or early childhood program shall attach the forms to the student's USIR.~~]

(2) Also, to qualify for the exemption, the school or early childhood program shall attach the Section 26-7-9 Health Education form to the student's USIR indicating the parent received the required health education by online module or from an authorized local health authority.

R396-100-6. Reporting Requirements.

(1) Each school and early childhood program shall report the following to the Department in the form or format prescribed by the Department:

(a) by November 30 of each year, a statistical report of the immunization status of students enrolled in a licensed day care center, Head Start program, and kindergartens;

(b) by November 30 of each year, a statistical report of the two-dose measles, mumps, and rubella immunization status of all kindergarten through twelfth grade students;

(c) by November 30 of each year, a statistical report of tetanus, diphtheria, pertussis, hepatitis B, varicella, and the two-dose measles, mumps, and rubella immunization status of all seventh grade students; and

(d) by June 15 of each year, a statistical follow-up report of those students not appropriately immunized from the November 30 report in all public schools, kindergarten through twelfth grade.

(2) The information that the Department requires in the reports shall be in accordance with the Centers for Disease Control and Prevention guidelines.

R396-100-7. Conditional Enrollment and Exclusion.

A school or early childhood program may conditionally enroll a student who is not appropriately immunized as required in this rule. To be conditionally enrolled, a student must have received at least one dose of each required vaccine and be on schedule for subsequent immunizations. The student must begin receiving required immunizations within 21 days of school enrollment.[~~If subsequent immunizations are one calendar month past due, the school or early childhood program must immediately exclude the student from the school or early childhood program.~~]

(1) A school or early childhood program with conditionally enrolled students shall routinely review every 30 days the immunization status of all conditionally enrolled students until each student has completed the subsequent doses and provided written documentation to the school or early childhood program.

(2) Once the student has met the requirements of this rule, the school or early childhood program shall take the student off conditional status.

R396-100-8. Exclusions of Students Who Are Under Exemption and Conditionally Enrolled Status.

(1) A local or state health department representative may exclude a student who has claimed an exemption to all vaccines or to one vaccine or who is conditionally enrolled from school attendance if there is good cause to believe that the student has a vaccine preventable disease or:

(a) has been exposed to a vaccine-preventable disease; or

(b) will be exposed to a vaccine-preventable disease as a result of school attendance.

(2) An excluded student may not attend school until the local health officer is satisfied that a student is no longer at risk of contracting or transmitting a vaccine-preventable disease.

R396-100-9. Penalties.

Enforcement provisions and penalties for the violation or for the enforcement of public health rules, including this Immunization Rule for Students, are prescribed under Section 26-23-6.

KEY: immunizations, rules and procedures
Date of Enactment or Last Substantive Amendment: [~~December 5, 2014~~]2019
Notice of Continuation: June 7, 2018
Authorizing, and Implemented or Interpreted Law: [~~53A-11-303; 53A-11-306~~]Title 53G Chapter 9 Part 3; 26-7-9

Health, Family Health and Preparedness, Maternal and Child Health
R433-2
Early Childhood Services Early Childhood Utah Advisory Council Membership, Duties and Procedures

NOTICE OF PROPOSED RULE

(New Rule)
DAR FILE NO.: 44088
FILED: 09/18/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to define rules, membership, and procedures for the Early Childhood Utah (ECU) Advisory Council.

SUMMARY OF THE RULE OR CHANGE: This rule delineates the required membership, duties, and procedures for the ECU Advisory Council.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26 Chapter 66

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The proposed rule will result in an estimated fiscal cost for the staff time to complete the following duties: plan, promote, and facilitate quarterly ECU Advisory and Executive Meetings; take and distribute meeting minutes; support five workgroups monthly meetings; follow up with partners to ensure required work is completed; develop yearly report for the Governor's commission; and staff time/benefits are estimated at 20 hours/week at $50 per hour = $52,000. Additionally, the ECU Council is made up of 26 voluntary members from various sectors of the community. 19 members are state employees, 8 are Utah Department of Health (UDOH) members, and 11 are other state employees. UDOH Members: 4 ECU Advisory Meetings at 5 hours (including drive time) = 20 hours x 8 members = 160 hours x $50 per hour (pay/benefits) = $19,000; 6 ECU Executive Meetings at 2 hours (including drive time) = 12 hours x 2 members = 24 hours x $50 per hour (pay/benefits) = $1,200; 12 workgroup meetings at 3 hours (including drive time) = 36 hours x 8 members/workgroup = 288 hours x $50 per hour

(pay/benefits) = $14,400. 8 members X 3 hours = 24 hours/month x 12 = 288 hours/year x $50 per hour (pay/benefits) = $14,400 for outside work completed. Estimated total UDOH member per year $49,000. Other state Members: 4 ECU Advisory Meetings at 5 hours (including drive time) = 20 hours x 11 members = 220 hours x $50 per hour (pay/benefits) = $11,000. 6 ECU Executive Meetings at 2 hours (including drive time) = 12 hours x 4 members = 48 hours x $50 per hour (pay/benefits) = $2,400. 12 Workgroup meetings at 3 hours (including drive time) = 36 hours x 11 members/workgroup = 396 hours x $50 per hour (pay/benefits) = $19,800. 11 members X 3 hours = 33 hours/month x 12 = 396 hours/year x $50 per hour (pay/benefits) = $19,800 for outside work completed. Estimated total state member per year $53,000.

♦ LOCAL GOVERNMENTS: This proposed rule is not expected to have any fiscal impact on local governments' revenues or expenditures.

♦ SMALL BUSINESSES: The ECU Council has seven required members from small businesses. At this point it is a required voluntary position. A breakdown of actual cost is below. 4 ECU Advisory Meetings at 5 hours (including drive time) = 20 hours x 7 members = 140 hours x $50 per hour (pay/benefits) = $7,000. 6 ECU Executive Meetings at 2 hours (including drive time) = 12 hours x 3 members = 36 hours x $50 per hour (pay/benefits) = $1,800. 1 workgroup x 12 meetings = 12 Workgroup meetings at 3 hours (including drive time) = 36 hours x 7 members/workgroup = 252 hours x $50 per hour (pay/benefits) = $12,600. 7 members X 3 hours = 21 hours/month x 12 = 252 hours/year x $50 per hour (pay/benefits) = $12,600 for outside work completed. Estimated total small business member per year = $34,000.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is not anticipated to be any fiscal impact to other persons.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no anticipated costs.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that there is minimal fiscal impact on a businesses for the cost of its employee who is a voluntary member of the ECU Council.

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

HEALTH
FAMILY HEALTH AND PREPAREDNESS,
MATERNAL AND CHILD HEALTH
PO BOX 142001
SALT LAKE CITY UT 84114-2001
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Nicole Bissonette by phone at 801-273-2859, or by Internet E-mail at nicolebissonette@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2019

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2019

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	**FY 2020**	**FY 2021**	**FY 2022**
State Government	$154,000	$154,000	$154,000
Local Government	$0	$0	$0
Small Businesses	$34,000	$34,000	$34,000
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0
Total Fiscal Costs:	**$188,000**	**$188,000**	**$188,000**
Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Persons	$0	$0	$0
Total Fiscal Benefits:	**$0**	**$0**	**$0**
Net Fiscal Benefits:	**$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

Childcare providers are typically small businesses; there are 378 licensed centers and 894 licenses homes in Utah. Of those up to approximately 10 are non-small businesses.

There is no impact to non-small business because the rule does not prescribe regulatory compliance.

After conducting a thorough analysis it was determined that there is minimal fiscal impact on a business for the cost of its employee who is a voluntary member of the ECU Council. Joseph K. Miner, MD, Executive Director

R433. Health, Family Health and Preparedness, Maternal and Child Health.

R433-2. Early Childhood Utah Advisory Council Membership, Duties and Procedures.

R433-2-100. Authority and Purpose.

(1) This rule is enacted pursuant to Section 26-66 which requires the Department of Health to write rules establishing the membership, duties, and procedures of the Early Childhood Utah Advisory Council.

R433-2-200. Early Childhood Utah Definitions.

(1) "Commission" is defined in Section 26-66-102(1).

(2) "Council" is defined in Section 26-66-102(2).

R433-2-300. Council Membership and Terms.

(1) The following voting members are required as per the Council and the Health Resources and Services Administration Early Childhood Grant:

(a) Representative of the Governor's Office

(b) Title V Leadership

(c) Family Engagement Leadership

(d) Public and Private Primary Health Care (2)

(e) Mental Health Service Providers (2)

(f) Place Based Communities (3)

(g) State Office of Child Care Administrator

(h) Utah State Board of Education

(i) Local Education Agencies

(j) Institutions of Higher Education

(k) Local Provider of Early Child Care Administrator

(l) Utah Head Start Association, Rep of MS and AIAN

(m) State Director of Head Start Collaboration

(n) Department of Health Part C Rep.

(o) Utah State Board of Education- Part B

(p) Department of Human Services - Mental Health

(q) Department of Health - Health

(r) Data Systems (Early Childhood)

(s) Department of Health, Women, Infants and Children

(t) Utah Department of Health-Oral Health

(u) Division of Child and Family Services

(v) Parent

(w) McKinney-Vento Homeless Assistance Act

(x) Specialized Services Providers and Related Organization

(y) MIECHV Home Visiting Program

(2) Non-Voting Members. Representatives from organizations and agencies that are not currently voting members are encouraged to attend the meetings, give input, and participate in standing sub-committees. All meetings are open to the public.

(3) Vacancies. The agency creating the vacancy will name a new member representative of the position being vacated to fill the vacancy; excluding general vacancies that will be determined by the Executive Committee.

(4) Non- Agency Member Terms. The term of the non-agency members shall be three years; the term may be renewable for one additional term for a total of six years.

(5) Participation. Active participation by all members is essential to address the purpose of the Council. The following establishes the participation requirements for all voting members of the Council:

(a) Any member missing two consecutive Council meetings may be asked to terminate membership so that another representative may be invited to participate.

(b) Subcommittee members are expected to attend all Subcommittee meetings.

(c) Executive Committee members are required to attend all Executive Committee meetings, Subcommittee meetings and the Council or send a representative in their place to ensure that they are fully informed for all future meetings.

R433-2-400. Leadership, Staff and Subcommittee Requirements.

(1) Leadership.

(a) Council Chairs. Two voting members of the Council shall serve as co-chairs. One co-chair shall rotate from one of the four State Agencies on the Commission. The other co-chair shall be elected from the body at large and cannot be from one of the four agencies mentioned above. The co-chairs shall conduct the full meetings of the Council. Both shall serve for a period of two years and rotate off in different years to ensure continuity.

(b) Executive Committee. The Executive Committee is comprised of the Council chairs, the Council Subcommittee chairs and ECU Program staff. Sub-committee chairs will represent the voice, perspective and recommendations of subcommittee members, which include Council voting members and 4 members from the larger early childhood system and community. Subcommittee chairs
will represent the broad perspective of the larger system at executive committee meetings, where key decisions are made.

(i) A representative of the Governor's office will attend the Council Executive Committee meetings providing another mechanism to ensure the broader perspective is heard and considered in key decisions.

(ii) The Council Executive Committee will provide guidance to all standing Subcommittee on what community members are needed and should be serving on the different subcommittee groups.

(i) The ongoing focus of the Council Executive Committee shall be to:

(A) Utilize the statewide assessment, strategic needs assessment and strategic report to develop policy recommendations.

(B) Review legislative proposals designed to address the needs of children, ages 0-8 years old to determine whether they are data-driven and evidence-based, leading to improved outcomes for children.

(C) Evaluate the annual budget presented by the Governor and the Legislature to determine whether it effectively meets the needs of Utah's young children and their families.

(D) Ensure that all policy and budgetary recommendations are supported by all relevant state agencies, and the Governor's Office, impacted by policy and budgetary proposals prior to making a formal recommendation to the full Council.

(E) The Council Executive Committee will review the priority areas of the subcommittees to ensure their work includes those tasks required by federal and state early childhood guidelines and regulations.

(F) The Council Executive Committee will review proposals and recommendations submitted by the individual subcommittees. Once reviewed the Council Executive Committee will vote upon the proposal/recommendation. Recommendations will be sent back to the individual subcommittees if more information is needed before voting upon.

(2) Staff. The Early Childhood Utah Program Manager in the Utah Department of Health shall serve as staff to the Council.

(3) Subcommittees.

(a) Expectations and Procedures.

(i) Each voting member of the Council shall serve on at least one standing committee, based on the committee member's area of expertise.

(ii) Each standing sub-committee will submit meeting notes to Executive Committee with proposals and recommendations in writing at least two weeks prior to Executive Committee meeting.

(iii) Each standing sub-committee shall have one chair or two co-chairs. The chair shall be elected by a simple majority vote of the voting members of the standing committee participating at the meeting during which voting occurs and shall serve for a term of two years. A standing sub-committee chair may fill additional consecutive terms as chair, if approved by a majority of the voting membership of that sub-committee.

(iv) Each sub-committee may appoint additional non-voting members to their committee as needed based on area of expertise and/or specific projects.

(b) The Council shall include the following sub-committees.

(i) Promoting Health and Access to Medical Homes. The focus of this sub-committee shall be ensuring access to health and dental health care services and support for medical homes for all young children in the state.

(ii) Early Care and Education. The focus of this sub-committee shall be ensuring access to quality programs and services that support the early learning and development of all young children in the state. This includes both in-home and out-of-home services.

(iii) Social/Emotional and Mental Health. The focus of this sub-committee shall be ensuring access to services to promote healthy social-emotional development in all young children in the state, and services to address the needs of children who have or are at risk for developing mental health concerns or challenging behaviors.

(iv) Parent Engagement, Support and Education. The focus of this sub-committee shall be ensuring access to family-centered, culturally appropriate parenting education and family support services for all parents of young children in the state, to promote the ability of parents and families to nurture and support the healthy development of their children.

(v) Data and Research. The focus of this sub-committee shall be developing an annual needs assessment that evaluates the needs of children birth through five and their families; assists in obtaining relevant data and research to support members of the Council, evaluates research in the early childhood development field to support the Executive Committee in the development of evidence-based strategies that address the needs of Utah's early childhood population; and identifies data gaps regionally, racially and economically in Utah's early childhood system.

(vi) Ad Hoc Committees. Time limited ad hoc committees may be formed to work on specific projects requiring expertise or representation beyond the voting membership of the Council.

R433-2-500. Meeting Procedures.

(1) The Council and sub-committees shall adhere to the following procedures:

(a) Meeting Frequency

(i) The Council shall meet at least four times each year, or more frequently as determined by the Council Executive Committee. Notice of the year's meeting schedule shall be provided to all voting members at the first meeting of each calendar year.

(ii) The Council Executive Committee shall meet at least four times each year or more frequently as needed to facilitate Council Executive Committee work.

(iii) The Council sub-committee's shall meet at least four times each year. Each sub-committee chair will call and coordinate committee meetings as needed to facilitate individual sub-committee work.

(b) Electronic Attendance. All meetings will have an electronic meeting option.

(c) Public Meetings. All meetings of the Council shall be conducted in accordance with the Utah Open and Public Meetings Act (Utah Code, Title 52, Chapter 4).

(d) Voting. A simple majority of the voting members of Early Childhood Utah Advisory the Council participating at a meeting will conduct the transaction of business. Decisions, changes, or actions to the strategic plan, scope of work, or bylaws of the Council require a simple majority vote of the members participating at the meeting during which the voting occurs. Email and telephone votes may be taken between meetings in accordance with the electronic meetings act.

(e) Proxy. In the event that a Council member cannot attend the Council meeting, Council sub-committee meeting and the Council Executive Committee meeting, that individual may designate a proxy to attend the meeting. The proxy shall be granted all rights and privileges inherent to the position, including voting privileges, for that meeting.

(f) Record Keeping. Staff to Early Childhood Utah Program shall produce minutes of each full meeting. Reports, records, and meeting minutes shall be open to the public and shall be available at upon approval at the next Council meeting.

R433-2-600. Conflict of Interest.

(1) The following outlines the Council's Conflict of Interest Policy:

(a) Each voting member of the Council shall be responsible for declaring a conflict of interest when one exists. A conflict of interest may include any matter that may provide direct personal financial benefit for that member.

(b) When a conflict of interest exists, the conflicted member will refrain from the voting process.

(c) Where a conflict of interest is known to exist but is not declared by an individual, one or more members of the Council may ask the individual to refrain from voting on the issue in question.

(d) In the event of a disagreement over whether a conflict of interest exists, the matter shall be decided by a simple majority vote of the members participating at the meeting.

R433-2-700. Amendments to the Bylaws.

(1) The Council shall adhere to following process when making amendments to the Council Bylaws:

(a) Proposed amendments shall be distributed to all voting members of the Council at least one week prior to the next regularly scheduled meeting.

(b) These bylaws may be amended or repealed by a simple majority of the voting members participating at any regularly scheduled meeting.

KEY: early, childhood, advisory, council
Date of Enactment or Last Substantive Amendment: 2019
Authorizing, and Implemented or Interpreted Law: 26-66

Human Services, Child and Family Services
R512-40
Recruitment, Home Studies, and Approval of Adoptive Families for Children in the Custody of Child and Family Services

NOTICE OF PROPOSED RULE

(Amendment)
DAR FILE NO.: 44100
FILED: 09/24/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being changed in response to S.B. 128, passed in the 2019 General Session.

SUMMARY OF THE RULE OR CHANGE: The proposed changes to this rule bring the rule in-line with statutory changes from S.B. 128 (2019).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53-10-108 and Section 62A-4a-102 and Section 62A-4a-105 and Section 62A-4a-205.6 and Section 62A-4a-607 and Section 78B-6-128

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The proposed changes to this rule are not expected to have any fiscal impact on state government revenues or expenditures as the revised language brings the rule current to language in S.B. 128 (2019).
♦ LOCAL GOVERNMENTS: There is little or no impact to local governments due to these rule changes. These revisions bring the rule in-line with S.B. 128 (2019).
♦ SMALL BUSINESSES: There is little or no impact to small businesses due to this rule modification. These revisions bring the rule in-line with S.B. 128 (2019).
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is little or no impact to other persons due to revisions made to this rule. These revisions bring the rule in-line with S.B. 128 (2019).

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons associated with implementing this rule because these changes are not fiscal in nature.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that these proposed rule changes will not result in a fiscal impact to small or non-small businesses because this rule implements a procedure for home studies to be conducted by the Division of Child and Family Services that is expected to have no costs for businesses and only minimal, unquantifiable potential savings.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
CHILD AND FAMILY SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Carol Miller by phone at 801-557-1772, by FAX at 801-538-3993, or by Internet E-mail at carolmiller@utah.gov
♦ Jonah Shaw by phone at 801-538-4219, by FAX at 801-538-3942, or by Internet E-mail at jshaw@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2019

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2019

AUTHORIZED BY: Diane Moore, 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 impact on non-small businesses because non-small businesses have no responsibility for services offered by Child and Family Services and are therefore not affected by this rule and will have no fiscal impact.

The head of the Department of Human Services, Ann Williamson, has reviewed and approved this fiscal analysis.

R512. Human Services, Child and Family Services.
R512-40. [~~Recruitment~~]Identification, Home Studies, and Approval of Adoptive Families for Children in the Custody of Child and Family Services.
R512-40-1. Purpose and Authority.

(1) The purpose of this rule is to establish criteria for recruitment of adoptive families, standards for conducting adoptive home studies, and requirements for approval of adoptive homes.

(2) This rule is authorized by Sections 53-10-108, 62A-4a-102, 62A-4a-105, 62A-4a-205.6, 62A-4a-607, and 78B-6-128.

R512-40-2. Definitions.

(1) For the purpose of this rule the following definitions apply:

(a) "Adoptive parent" means a couple or individual who completes Child and Family Services training for prospective adoptive parents and is approved by Child and Family Services.

(b) "Cohabiting" means residing with another person and being involved in a sexual relationship.

(c) "Home study" means a pre-placement adoption evaluation defined in Section 78B-6-128 regarding the capacity of the adoptive parents, their family, and their resources available to meet the needs of a child in custody.

[~~(d) "Involved in a sexual relationship" means any sexual activity and conduct between persons.~~]

(d) "ICWA" means the Indian Child Welfare Act, which defines relative by the law or custom of the Indian child's tribe and includes extended relatives. This definition extends beyond the state's definition of relative. (Defined in 25 U.S.C. Sec. 1901 et seq.)

(e) "Permanency" means the establishment and maintenance of a legally permanent living situation for a child to give the child an internal sense of family stability and belonging and a sense of self that connects the child to his or her past, present, and future.

(f) "Relative" is defined in Section 78A-6-307 as a relative who is the child's grandparent, great-grandparent, aunt, great-aunt, uncle, great-uncle, brother-in law, sister-in-law, stepparent, first cousin, stepsibling, sibling, or the first cousin of the parent, or an adult who is an adoptive parent of the child's sibling.

[~~(f)~~](g) "Residing" means living in the same household on an uninterrupted basis for 30 days or more or on an intermittent basis.

R512-40-3. [~~Recruitment of~~]Identifying Adoptive Families for Children in the Custody of Child and Family Services.

(1) Child and Family Services seeks to [~~recruit~~]identify permanent adoptive families for children in state's custody whose primary permanency goal is adoption, or whose parents have voluntarily relinquished their parental rights or whose parental rights have been terminated by a court. Kin caregivers and other relatives should be considered first.

(2) [~~Recruitment~~]Identification of an adoptive family for children in state's custody is accomplished by:

(a) Identifying if the child is in a relative placement who will adopt them.

(b) Targeting efforts to identify family members and others known to the child to consider adoption if not already in a relative placement.

[~~(b)~~](c) Targeting efforts to identify family members and others known to the child to consider adoption if not already in a relative placement.

[~~(a)~~](d) Discussing with the [~~adoptive applicant or relative caring for the child~~]current caregiver about adopting the child.

[~~(c)~~](e) Coordinating with Child and Family Services resource family consultants throughout the state about potential adoptive families for a child.

[~~(d)~~](f) Website listing of a child for whom there is not an identified adoptive family within 30 days of the primary permanency goal of adoption or whose parents' parental rights are terminated.

[~~(e)~~](g) Requiring all licensed child placing adoption agencies in Utah to inform adoptive applicants that there are children in state's custody available for adoption in accordance with Section 62A-4a-607.

R512-40-4. Requirements for Persons Applying for Adoptive Placement of a Child in the Custody of Child and Family Services.

(1) [~~Legally married couples and single adults, including relatives of a child and employees of Child and Family Services, may apply to adopt a child in state's custody based on their ability to provide a permanent family for the child.~~]Adopting a child in state's

custody is based on an adult or couple's ability to provide a permanent family for the child. Adoptive applicants shall:

(a) Apply in the region where they live.

(b) Complete the adoption training program approved by Child and Family Services, with one exception:

(i) Training for relatives[~~, as defined in Section 78A-6-307,~~] who are adopting a child will be based on needs identified on a case-by-case basis.

(c) Be assessed and approved as an adoptive parent by Child and Family Services following completion of a home study pursuant to R512-40-5.

(d) Obtain a foster care license issued by the Department of Human Services, Office of Licensing, or meet the same standards required to be licensed in R501-12, or receive a written waiver from Child and Family Services for a specific standard.

(e) An employee of Child and Family Services must [~~R~~]receive a determination by Child and Family Services that no conflict of interest exists in the adoption process.

R512-40-5. Home Study Requirements for Adoption.

(1) A home study must be completed by the Department of Human Services, Office of Licensing, [~~or by~~]Child and Family Services, or by a licensed child placing adoption agency contracted with Child and Family Services to conduct home studies.

(a) A prospective adoptive parent may [~~not~~]be approved for the adoptive placement of a child in state's custody [~~unless~~]if the following are met:

[~~(i) The prospective adoptive parent is legally married or single and not cohabiting.~~

~~(ii) The prospective adoptive parent and all adults residing in the home have completed criminal background checks, including a national fingerprint-based check that is approved according to criteria specified in Sections 53-10-108, 62A-2-120, 78A-6-308, and 78B-6-128, and Pub. L. 109-248.~~

~~(iii) A child abuse registry check is completed by Child and Family Services for the prospective adoptive parent and all adults residing in the home, including a check of child abuse registries in any states in which the prospective adoptive parent and all adults residing in the home have resided in the five years prior to application to adopt that is approved according to criteria specified in Sections 62A-2-120, 78A-6-308, and 78B-6-128, and Pub. L. 109-248.~~]

(i) The prospective adoptive parent and all adults residing in the home have passed criminal background checks, including a national fingerprint-based check that is approved according to criteria specified in Sections 53-10-108, 62A-2-120, 78A-6-308, and 78B-6-128, and Pub. L. 109-248.

(ii) A child abuse registry check is completed by Child and Family Services for the prospective adoptive parent and all adults residing in the home, including a check of child abuse registries in any states in which the prospective adoptive parent and all adults residing in the home have resided in the five years prior to application, that is approved according to criteria specified in Sections 62A-2-120, 78A-6-308, and 78B-6-128, and Pub. L. 109-248.

(iii) The prospective adoptive parent is a relative of the child and/or an ICWA placement preference and is legally married, single, or may be cohabiting.

(iv) The prospective adoptive parent who is not a relative of the child or ICWA placement preference is legally married or single and not cohabiting.

(2) The home study should be consistent with the standards of the Child Welfare League of America (www.cwla.org).

(a) The following factors are critical in the success of adoptive placements and are required content in adoptive applicant interviews and home study documentation:

(i) Commitment to the legal adoption of the child as a permanent member of the family.

(ii) Stable marital or cohabiting relationship and/or commitment and stability in other existing family relationships and/or the ability to sustain long-term relationships that would provide a base for an adoptive child.

(iii) Proper motivation and realistic expectations of a child who has experienced trauma and other effects of abuse and neglect.

(iv) Emotional openness, empathy, and flexibility.

(v) Strong social support system for both the parent and child.

(vi) Knowledge of resources to help raise a child.

(b) The following factors may significantly contribute to adoption disruption and [~~the following~~]are required content to be addressed in adoptive applicant interviews and home study documentation:

(i) History of emotional or psychological problems or substance abuse.

(ii) Marital or relationship difficulties and incompatibilities that seriously compromise the ability to meet the needs of the child.

(iii) Serious problems in child rearing.

(iv) Unrealistic expectations of self and child.

(v) Impulse control disorders.

(vi) Disruptive and/or crisis filled lifestyle.

(vii) Criminal activity.

(c) The home study assessment and family evaluation will include information gathered from the following:

(i) Criminal background clearances for all adults in the home as described in subparagraph 1a[~~(ii)~~](i) above.

(ii) Child abuse registry clearances for all adults in the home as described in subparagraph 1a[~~(iii)~~](ii) above.

(iii) [~~Four~~]Three written statements of reference, one of which may be from a relative, [~~three of~~]which are positive[~~,~~] regarding the applicant's stability and parenting capacity.[~~, with one exception:~~

~~(A) Two positive written statements of reference if the applicant is a relative of the child as defined in Section 78A-6-307.~~]

(iv) Psycho-social information gathered from the prospective adoptive parent and family members.

(v) Home visits and interviews to assess the prospective adoptive parent in the following areas:

(A) Marriage, relationship, and personal stability.

(B) Ability to manage stress.

(C) Parenting skills and emotional openness and flexibility to provide continuity of a caring relationship.

(D) Capacity to parent a child who has experienced trauma and who may have other special needs.

(E) How the children living at home will be affected.

(F) How supervision for the child will be arranged in accordance with the child's age and developmental ability at times when the prospective adoptive parent is not able to be in the home.

(vi) Health status verification regarding the prospective adoptive parent based on a doctor's examination made within six months prior to the date of application.

(vii) Financial status that verifies income sufficient to provide for a child's needs.

(viii) Home health and safety assessment.

(d) The evaluation of the family shall include their strengths and challenges.

(e) To preserve family connections for adopted children, home study requirements for relatives or friends known to the child[~~ as defined in Section 78A-6-307~~] that do not impact the health and safety of the child may be waived.

(f) Recommendations shall be made regarding the specific child intended to be adopted or the age and type of child who can best fit into the home to ensure the healthy development of the child.

R512-40-6. Follow-up Services.

(1) Child-specific home studies will be reviewed by the child's caseworker or designated adoption worker.

(2) All other home studies will be reviewed by the identified region committee.[~~(1) The identified committee in the region that reviews home studies will review each home study provided by the Department of Human Services, Office of Licensing, and any other detailed information regarding the adoptive parent~~]. As a result of the review, the region committee will determine if the [~~adoptive parent~~]applicant is approved to receive adoptive placements, if the [~~adoptive parent~~]applicant is denied for adoptive placements, or if more information is needed from the [~~adoptive parent~~]applicant.

(a) If the [~~adoptive parent~~]applicant is approved for adoptive placements, the region committee (or region designee) will send a letter to the [~~adoptive parent~~]applicant to let them know that they are approved for adoptive placements.

(b) When Child and Family Services determines through the region committee that there are concerns about making an adoptive placement with the adoptive applicant:

(i) The region committee or designee will provide their concerns in writing to designated region staff. The concerns will include any steps an adoptive applicant may take in order remedy concerns.

(ii) Two designated region staff members will meet with the adoptive applicant and review the concerns outlined by the region committee, including whether the concerns can be resolved.

(iii) The region designees will take clarifying information and/or steps that the [~~adoptive~~]applicant has taken to remedy concerns back to the region home study committee.

(iv) If the [~~adoptive~~]applicant has been able to remedy the concerns to the satisfaction of the region committee, the region committee will approve the [~~adoptive parent~~]applicant to receive adoptive placements.

(v) If the [~~adoptive~~]applicant is unable or unwilling to remedy the concerns, a formal, written letter will be sent to the adoptive applicant explaining that Child and Family Services will not be making an adoptive placement with them.

(c) If an [~~adoptive~~]applicant is denied for adoptive placements, the [~~family~~]applicant may request that the Child and Family Services region director or designee review the reasons for the denial. The Child and Family Services region director or designee is the only person who has the authority to reverse a denial.

[~~(2) If a home study was conducted to evaluate a family for a specific child or a relative or friend known to the child as defined in Section 78A-6-307,the home study will be reviewed by the child's caseworker or designated adoption worker to determine if the adoptive parent is the best family to meet the child's needs.~~]

(3) All adoptive home studies will require an updated amendment [~~at least every 18~~]within 12 months [~~to be considered current for child placement or adoption:~~]immediately preceding the placement of a child.

(a) A family licensed as a foster parent will require a home study update every 12 months to include background and child abuse registry clearances and to address any changes in the circumstances of the family.

(b) A family that is not licensed as a foster parent or has let their license lapse must have a home study update within 18 months of the original home study to include background and child abuse registry clearances and address any changes in the circumstances of the family.

(c) A home study that is older than two years will require new training requirements and a complete new home study.

(4) The home study document will be maintained in the Child and Family Services offices and will be destroyed according the retention schedule.

KEY: adoption
Date of Enactment or Last Substantive Amendment: [~~May 9, 2016~~]2019
Notice of Continuation: October 13, 2016
Authorizing, and Implemented or Interpreted Law: 53-10-108; 62A-4a-102; 62A-4a-105; 62A-4a-205.6; 62A-4a-607; 78B-6-128

Human Services, Child and Family Services
R512-41
Qualifying Adoptive Families and Adoption Placement

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 44101
FILED: 09/24/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being changed in response to S.B. 128, passed in the 2019 General Session.

SUMMARY OF THE RULE OR CHANGE: The proposed changes to this rule bring the rule in-line with statutory changes from S.B. 128 (2019).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-4a-102 and Section 62A-4a-105 and Section 62A-4a-205.6

MATERIALS INCORPORATED BY REFERENCE:

♦ Adds Pub. L. No. 110-351, published by United States Printing Office, 2008

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The proposed changes to this rule are not expected to have any fiscal impact on state government revenues or expenditures as the revised language brings the rule current to language in S.B. 128 (2019).
♦ LOCAL GOVERNMENTS: There is little or no impact to local governments due to these rule changes. These revisions bring the rule in-line with S.B. 128 (2019).
♦ SMALL BUSINESSES: There is little or no impact to small businesses due to this rule modification. These revisions bring the rule in-line with S.B. 128 (2019).
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is little or no impact to other persons due to revisions made to this rule. These revisions bring the rule in-line with S.B. 128 (2019).

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons associated with implementing these rule changes because these changes are not fiscal in nature.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that these proposed rule changes will not result in a fiscal impact to small or non-small businesses because this rule implements a procedure for home studies to be conducted by the Division of Child and Family Services that is expected to have no costs for businesses and only minimal, unquantifiable potential savings.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
CHILD AND FAMILY SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Carol Miller by phone at 801-557-1772, by FAX at 801-538-3993, or by Internet E-mail at carolmiller@utah.gov
♦ Jonah Shaw by phone at 801-538-4219, by FAX at 801-538-3942, or by Internet E-mail at jshaw@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2019

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2019

AUTHORIZED BY: Diane Moore, 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 impact on non-small businesses because non-small businesses have no responsibility for services offered by Child and Family Services and are therefore not affected by this rule and will have no fiscal impact.

The head of the Department of Human Services, Ann Williamson, has reviewed and approved this fiscal analysis.

R512. Human Services, Child and Family Services.
R512-41. Qualifying Adoptive Families and Adoption Placement.
R512-41-1. Purpose and Authority.

(1) The purpose of this rule is to define the requirements used to qualify adoptive parent(s) and the criteria for adoption placement used by the Division of Child and Family Services (Child and Family Services).

(2) This rule is authorized by Section 62A-4a-102. This rule also incorporates by reference Public Law 110-351 (2008).

R512-41-2. Definitions.

(1) For the purpose of this rule the following definitions apply:

(a) "Adoptive parent(s)" means a couple or individual who completes Child and Family Services training and has a completed home study for prospective adoptive parent(s) and is approved by Child and Family Services.

(b) "Permanency" means the establishment and maintenance of a permanent living situation for a child to give the child an internal sense of family stability and belonging and a sense of self that connects the child to his or her past, present, and future.

R512-41-3. Requirements for Adoptive Parent(s).

(1) Prospective adoptive parent(s) who apply to adopt a child in the custody of Child and Family Services, including a relative of a child or a Child and Family Services employee, must meet all of the requirements listed in Rule R512-40.

R512-41-4. Adoption Decision.

(1) Permanency decisions should be made in a timely manner, recognizing the child's developmental needs and sense of time. Child and Family Services shall make intensive efforts to place the child with the adoptive parent(s) within 30 days after the court determined a permanency goal of adoption for the child.

(2) When the child is not residing with the family that will adopt the child, Child and Family Services will reconsider any potential kinship caregivers or other adults known to the child.

(3) Concurrently, the Adoption Committee or committees should seek other resource families in all regions of the state to select adoptive parent(s) who could meet the child's needs.

(4) If adoptive parent(s) are not found for the child within 30 days of the primary permanency goal becoming adoption, the child must be registered with The Adoption Exchange to help recruit adoptive parents.

(5) Geographic boundaries alone should not present barriers or delays to the selection of adoptive parent(s).

(6) The Indian Child Welfare Act, 25 USC 1915 (January 3, 2007), takes [~~precedent~~]precedence for an adoption of an Indian child who is a member of a federally recognized tribe or Alaskan [~~n~~]Native village.

(7) Placements will be made in accordance with the Interethnic Adoption Act, 42 USC 1996b (2010).

R512-41-5. Matching the Child and the Adoptive Parent(s).

(1) The selection of the adoptive parent(s) for a child or sibling group will be determined based on the best interest of the child.

(2) The decision must be based on a thorough assessment of the child's current and potential development, medical, emotional, and educational needs, as well as needs for family connections.

(3) The capacity of the prospective adoptive parent(s) to successfully meet the child's needs and to love and accept the child as a fully integrated member of the family must be considered.

(4) The child's preference may be considered, if the child has the capacity to express a preference.

(5) Sibling groups should not be separated.

(a) If siblings are not placed together and there are no safety concerns that preclude the siblings being together, Child and Family Services should reconsider a family for all the siblings to be adopted together.

(b) If the siblings are not able to be adopted together or if being taken from a current family would create undue trauma to the child, arrangements should be made to allow life-long contact to be pursued between the adoptive families of the separated siblings.

(6) [~~Foster care parent(s) (or other caregiver with physical custody)~~]Current caregivers of the child [~~may~~]should be [~~given preferential consideration~~]considered for adoption if the child has substantial emotional ties with the foster parent(s)/caregiver and if removal of the child from the foster parent(s)/caregiver would be detrimental to the child's well-being.

(7) Child and Family Services shall provide detailed information about the child to the prospective adoptive parent(s), allowing sufficient time for the prospective adoptive parent(s) to make an informed decision regarding placement of the child. The information given to the prospective adoptive parent(s) must include detailed information available in writing that is important to raise the child. Child and Family Services and the prospective adoptive parent(s) will acknowledge receipt of the information by signing a Child and Family Services' information disclosure form. Child and Family Services shall respond to questions or concerns of the prospective adoptive parent(s). The prospective adoptive parent(s) shall have the opportunity to meet the child prior to permanent placement. Release of all documents is subject to the Government Records Access Management Act, Title 63G, Chapter 2 and other governing statutes.

(8) When the approved adoptive parent(s) agree to accept the placement of a child for adoption, the adoptive parent(s) and a representative from Child and Family Services shall sign an agreement for the intent to adopt a specific child on a form provided by Child and Family Services.

(9) When the adoptive parent(s) agree to accept the placement of a child who is not free for adoption, the parent(s) shall sign Child and Family Services' foster care agreement.

R512-41-6. Placement.

(1) Child and Family Services will make every effort to make a smooth and effective transition of the child to the prospective adoptive parent(s) with the cooperation of the foster family and others who have a supportive relationship with the child.

(2) All out-of-home requirements continue to be applicable until the adoption is finalized.

(3) The prospective adoptive parent(s) will have access to all relevant information in the case record to help them understand and accept the child and preserve the child's history.

(4) The prospective adoptive parent(s) shall be advised about adoption assistance available to meet the special needs of the child before and after the adoption is final, as well as of community services.

(5) Child and Family Services will develop a Child and Family Plan within 30 days of placement and supervise the adoptive placement, including frequent visits with the child and adoptive family for at least the first six months after placement.

(6) Child and Family Services' supervision will continue until the adoption is final.

R512-41-7. Adoption Disruption/Removal of a Child from Adoptive Parent(s) Prior to Finalization.

(1) Child and Family Services shall consider removal of a child before an adoption is finalized if the adoptive parent(s) request removal or if serious circumstances impair the child's security or development.

(2) Prior to removal, Child and Family Services shall respond to the adoptive parent(s)' concerns in a timely manner, counsel with the adoptive parent(s), and, if possible and appropriate, offer further treatment, including intensive in-home services or temporary removal of the child from the home for respite purposes.

(3) When removal is recommended, the Adoption Committee shall review the placement progress and present situation, and shall decide to either continue placement with further services or to remove the child from the home. The region director will review and approve the decision.

(4) If the Adoption Committee decides to remove the child, a Notice of Agency Action shall be sent to the adoptive parent(s), notifying them of their due process rights. The adoptive parent(s) shall be offered the same rights as those offered a foster family regarding removal of a child (Rule R512-31).

(5) Child and Family Services will reconsider any potential kinship caregivers if the child is disrupted or removed from an adoptive placement or a permanent placement has not been identified.

R512-41-8. Adoption Finalization and Post Adoption.

(1) Before an adoption is final, the Adoption Assistance Committee shall assess if the child qualifies for adoption assistance and, when appropriate, what level of monthly subsidy the child is eligible to receive (Rule R512-43).

(2) The prospective adoptive family shall be made aware of available post adoption resources.

R512-41-9. Adoption Committee.

(1) An Adoption Committee will be appointed in each Child and Family Services region and will consist of at least three members to include senior-level Child and Family Services staff and one or more members from an outside agency with expertise in adoption or foster care.

(2) The Adoption Committee is responsible for deciding adoptive parent(s) who can best meet the needs of a child when the child is not residing with the family that will adopt. The Adoption Committee is also responsible for recommending removal of the child from a placement when indicated.

(3) Anyone who has information regarding the child and the prospective adoptive parents under consideration may be invited by the Adoption Committee to present information but not to participate in the deliberations.

(4) Any member of the Adoption Committee who has a potential conflict of interest must recuse himself or herself from the proceeding.

(5) The Adoption Committee will reach its decision through consensus. If consensus cannot be reached, the Adoption Committee will submit their recommendation to the region director for a decision.

(6) Child and Family Services will send written notification of selection to the adoptive parent(s).

(7) A family or individual that is not selected for an adoption placement of a specific child shall have no right to appeal the decision, unless the parent(s) not selected for the adoptive placement is the child's current foster parent(s) and the foster parent(s) have completed all requirements. If the foster parent(s) are not selected for the adoptive placement, the foster parent(s) due process rights for removal of a child apply (Rule R512-31).

(8) The adoption committee will make and retain a written record of their proceedings. All proceedings are confidential.

R512-41-10. Adult Adoptee or Adoptive Parent(s) Request for Records.

(1) The adoption records of Child and Family Services shall be made available to the adoptive parent(s) or adult adoptee upon written request in accordance with the Government Records Access Management Act, Title 63G, Chapter 2. An adult adoptee may also register with the Utah Department of Health Mutual-Consent, Voluntary Adoption Registry, Section 78B-6-144 to attempt to contact biological family members.

R512-41-11. Information Regarding the Adoptive Parent(s).

(1) No identifying information regarding the adoptive parent(s) shall be released to birth families without the written consent of the adoptive parent(s).

KEY: child welfare, adoption
Date of Enactment or Last Substantive Amendment: [~~May 9, 2016~~]2019
Notice of Continuation: October 15, 2018
Authorizing, and Implemented or Interpreted Law: 62A-4a-102; 62A-4a-105; 62A-4a-205.6

Human Services, Child and Family Services
R512-42
Adoption by Relatives

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 44102
FILED: 09/24/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being changed in response to S.B. 128, passed in the 2019 General Session.

SUMMARY OF THE RULE OR CHANGE: The proposed changes to this rule bring the rule in-line with statutory changes from S.B. 128 (2019).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 62A-4a-102 and Section 78A-6-207 and Section 78B-6-102 and Section 78B-6-117 and Section 78B-6-128 and Section 78B-6-133 and Section 78B-6-137

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The proposed changes to this rule are not expected to have any fiscal impact on state government revenues or expenditures as the revised language brings the rule current to language in S.B. 128 (2019).
♦ LOCAL GOVERNMENTS: There is little or no impact to local governments due to these rule changes. These revisions bring the rule in-line with S.B. 128 (2019).
♦ SMALL BUSINESSES: There is little or no impact to small businesses due to this rule modification. These revisions bring the rule in-line with S.B. 128 (2019).
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is little or no impact to other persons due to revisions made to this rule. These revisions bring the rule in-line with S.B. 128 (2019).

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons associated with implementing these rule changes because these changes are not fiscal in nature.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that these proposed rule changes will not result in a fiscal impact to small or non-small businesses because this rule specifies requirements for relatives to adopt a child in the custody of the Division of Child and Family Services, which is expected to have no costs for businesses and only minimal, unquantifiable potential savings.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HUMAN SERVICES
CHILD AND FAMILY SERVICES
195 N 1950 W
SALT LAKE CITY, UT 84116
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Carol Miller by phone at 801-557-1772, by FAX at 801-538-3993, or by Internet E-mail at carolmiller@utah.gov
♦ Jonah Shaw by phone at 801-538-4219, by FAX at 801-538-3942, or by Internet E-mail at jshaw@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2019

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2019

AUTHORIZED BY: Diane Moore, 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 impact on non-small businesses because non-small businesses have no responsibility for services offered by Child and Family Services and are therefore not affected by this rule and will have no fiscal impact.

The head of the Department of Human Services, Ann Williamson, has reviewed and approved this fiscal analysis.

R512. Human Services, Child and Family Services.
R512-42. Adoption by Relatives.
R512-42-1. Purpose and Authority.

(1) The purpose of this rule is to specify requirements for relatives to adopt a child in the custody of Child and Family Services.

(2) This rule is authorized by Sections 62A-4a-102, 78A-6-307, 78B-6-128, and 78B-6-133.

R512-42-2. Definitions.

(1) "Child and Family Services" means the Division of Child and Family Services.

(2) "Relative" is defined in Section 78A-6-307.

R512-42-3. Adoption by Relatives.

(1) A relative who has a relationship with a child in state's custody who may become available for adoption may apply to adopt a particular child.

(2) The application and adoptive evaluation (commonly called a home study) will be handled in accordance with the Child and Family Services Adoption Practice Guidelines, and in accordance with R512-41 and Sections 78B-6-128 and 78B-6-133, based upon the best interest of the child.

(a) Any preferential consideration of a relative defined in Section 78A-6-306 for the initial placement of a child in state's custody expires in 120 days of the shelter hearing.

(b) When a relative, as set forth in Section 78B-6-133, who has a significant and substantial relationship with the child[~~as set forth in Section 78B-6-133~~], and who was not [~~notified by Child and Family Services within 120 days and~~]aware or did not come forward within 120 days, comes forward when a child in state's custody has a permanency goal of adoption, the long-term needs of the child to have connection with family will be a [~~priority~~]consideration as long as the relative has the ability to meet the long-term physical, emotional, cognitive, and special needs of the child.

(3) When the 120-day time period for preferential consideration for a relative of a child in custody expires, the court [~~shall consider an adoptive petition based on the best interest of the child and shall include:~~]can grant a hearing to a petitioner that meets the following criteria:

(a) A relative who did not come forward in the first 120 days, if:

(i) they have a significant and substantial relationship with the child; and

(ii) the child is with another relative who is unable or unwilling to adopt the child; and

(iii) they were unaware the child was in foster care; and

(iv) they filed a written statement with the court within 30 days of reunification services being terminated to express the intent to assume full custody and adopt the child.

[~~(a)~~](b) The petitioner's home is where the child is placed.

[~~(b)~~](c) The petitioner's home is where the child has resided for six months.

[~~(c) Relatives who have filed a written statement with the court within 120 days of the date of the shelter hearing to:~~

~~(i) request immediate placement of the child; and~~

~~(ii) express the petitioner's intention of adopting the child.~~

~~(d) Who is a relative:~~

~~(i) with whom the child has a significant and substantial relationship; and~~

~~(ii) who was unaware, within the first 120 days after the day on which the shelter hearing is held, of the child's removal from the child's parent; or~~]

[~~(c)~~](d) If the child:

(i) has been in the current placement for less than 180 days before the day on which the petitioner files the petition for adoption; and

(ii) is placed with, or is in the custody or guardianship of, an individual who previously informed Child and Family Services or the court that the individual is unwilling or unable to adopt the child.

KEY: adoption
Date of Enactment or Last Substantive Amendment: [~~April 7, 2016~~]2019
Notice of Continuation: October 13, 2016
Authorizing, and Implemented or Interpreted Law: 62A-4a-102; 78A-6-307; 78B-6-102; 78B-6-117; 78B-6-128; 78B-6-133; 78B-6-137

Labor Commission, Occupational Safety and Health
R614-1
General Provisions

NOTICE OF PROPOSED RULE
(Repeal and Reenact)
DAR FILE NO.: 44107
FILED: 09/27/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule change is to remove duplicate and nonsubstantial parts of the rule, to add definitions, to clarify the existing rule, and to incorporate the July 1, 2018, version of the Code of Federal Regulations (CFR) which will include incorporating 29 CFR 1910.1024 and 29 CFR 1926.1124.

SUMMARY OF THE RULE OR CHANGE: First change is in 29 CFR 1910.1024 and 29 CFR 1926.1124 where there are new beryllium standards. These standards will have new permissible exposure limits of 0.2 micrograms of beryllium per cubic meter of air (0.2 micrograms/m3) as an 8-hour time-weighted average and 2.0 micrograms/m3 as a short-term exposure limit determined over a sampling period of 15 minutes. They also include other provisions to protect employees, such as requirements for exposure assessment, methods for controlling exposure, respiratory protection, personal protective clothing and equipment, housekeeping, medical surveillance, hazard communication, and record keeping. Second change is defining disabling, serious, or significant injury. Third change is deleting duplicate definitions (found in incorporated standards or Utah Occupational Safety and Health (OSH) Act). Fourth change is deleting language referring to workers' compensation

coverage and benefits. Fifth change is deleting language either duplicated in Rule R614-1 or incorporated by Section R614-1-4. Sixth change is moving language into appropriate sections of Rule R614-1. Seventh change is removing language containing recommendations, "should" and other nonsubstantial verbiage. Eighth change is removing language related to intoxicated persons and intoxicating liquor. Ninth change is changing and making consistent names, titles, and acronyms. Tenth change is replacing reference from Standard Industrial Classification to North American Industry Classification. Eleventh change is separating and clarifying temporary variance requirements from permanent variance requirements. Twelfth change is removing interpretations of the provisions of Section 34A-6-203 of the Utah OSH Act.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 34A, Chapter 6

MATERIALS INCORPORATED BY REFERENCE:

♦ Adds 29 CFR 1910.1024, published by US Government Printing Office, July 1, 2018
♦ Adds 29 CFR 1926.1124, published by US Government Printing Office, July 1, 2018

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: Incorporation of 29 CFR 1910.1024 and 29 CFR 1926.1124: the fiscal impact on state government is inestimable due to the inability to determine how many employees in this sector will be covered under the beryllium standard. The North American Industry Classification System (NAICS) was used to determine employers that would be affected; the NAICS used by state government does not show work conducted by state government employees. Changes to Rule R614-1, with the exception of incorporation of 29 CFR 1910.1024 and 29 CFR 1926.1124: there will be no fiscal impact.

♦ LOCAL GOVERNMENTS: Incorporation of 29 CFR 1910.1024 and 29 CFR 1926.1124: the fiscal impact on local governments is inestimable due to the inability to determine how many employees in this sector will be covered under the beryllium standard. The North American Industry Classification System was used to determine employers that would be affected; the NAICS used by local governments does not show work conducted by state government employees. Changes to Rule R614-1, with the exception of incorporation of 29 CFR 1910.1024 and 29 CFR 1926.1124: there will be no fiscal impact.

♦ SMALL BUSINESSES: Incorporation of 29 CFR 1910.1024 and 29 CFR 1926.1124: anticipated fiscal cost = $358,561, anticipated fiscal benefit = $5,659,980, and net fiscal benefit = $5,301,419. Changes to Rule R614-1, with the exception of incorporation of 29 CFR 1910.1024 and 29 CFR 1926.1124: there will be no fiscal impact.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Covered under other categories.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Incorporation of 29 CFR 1910.1024 and 29 CFR 1926.1124: the annualized cost for affected non-small and small establishments will be approximately $12,726 and $4,845, respectively. The cost may be higher or lower based on activities conducted by establishments within the affected NAICS. Initial cost for affected persons may be higher due to the implementation of engineering controls and required programs in order to comply with the beryllium standard. Changes to Rule R614-1, with the exception of incorporation of 29 CFR 1910.1024 and 29 CFR 1926.1124: there will be no fiscal impact.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will have a fiscal impact on businesses, however, to remain at least as effective as Federal OSHA and be able to retain Utah's State-Plan status, and to keep the employees of the state safe, these changes to this rule must be adopted.

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

LABOR COMMISSION
OCCUPATIONAL SAFETY AND HEALTH
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:

♦ Cameron Ruppe by phone at 801-530-6898, or by Internet E-mail at cruppe@utah.gov
♦ Holly Lawrence by phone at 801-530-6494, by FAX at 801-530-7606, or by Internet E-mail at hlawrence@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/15/2019

THIS RULE MAY BECOME EFFECTIVE ON: 11/22/2019

AUTHORIZED BY: Jaceson Maughan, 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	$358,561	$358,561	$358,561
Non-Small Businesses	$50,904	$50,904	$50,904
Other Person	$0	$0	$0

Total Fiscal Costs:	**$409,465**	**$409,465**	**$409,465**
Fiscal Benefits			
State Government	$0	$0	$0
Local Government	$0	$0	$0
Small Businesses	$5,659,980	$5,659,980	$5,659,980
Non-Small Businesses	$305,945	$305,945	$305,945
Other Persons	$197,977	$197,977	$197,977
Total Fiscal Benefits:	**$6,163,902**	**$6,163,902**	**$6,163,902**
Net Fiscal Benefits:	**$5,754,437**	**$5,754,437**	**$5,754,437**

***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 repeal and reenactment, clarifies the rule, removes redundant portions, and incorporates the Beryllium standards 29 CFR 1910.1024 and 29 CFR 1926.1124.

As a result of adopting the beryllium standard, businesses affected by the standard will experience a fiscal cost associated with the implementation of controls, rule familiarization, exposure assessment, regulated areas, beryllium work areas, medical surveillance, medical removal, written exposure control plans, protective work clothing and equipment, hygiene areas and practices, housekeeping, training, and respiratory protection programs.

Regulatory Impact to Non-Small Businesses
There are approximately 150 non-small businesses in the industries in question (41 different NAICS) with approximately four of these establishments affected by the adoption of the beryllium standard. Of the NAICS that may be affected, two NAICS are in the construction industry (238320 and 238990). The majority of establishments affected by the beryllium standard are in general industry. (For a complete listing of NAICS Codes used in this analysis, please contact the agency).

The annualized cost per an affected non-small business entity is approximately $12,726. The cost per entity may be higher or lower based on activities conducted by establishments within the affected NAICS.

Monetized Benefits
Workers exposed to beryllium are at increased risk of developing chronic beryllium disease and lung cancer. Adoption of the beryllium standard is estimated to prevent 1 fatality and 0.5 new cases of chronic beryllium disease annually once the full effects are realized. The estimated cost of the rule is $409,465 annually. The monetized benefits, which includes benefits as a result of preventing fatalities and illnesses as well as benefits to other parties, such as manufacturers and vendors who's services will be needed for employers to comply with the beryllium standard, are estimated to be $6,163,902 annually. The rule is estimated to generate an annual net benefit of approximately $5,754,437.

Jaceson R. Maughan, Commissioner

R614. Labor Commission, Occupational Safety and Health.
R614-1. General Provisions.
~~[R614-1-1. Authority.~~

~~A. These rules and all subsequent revisions as approved and promulgated by the Labor Commission, Utah Occupational Safety and Health Division, are authorized pursuant to Title 34A, Chapter 6, Utah Occupational Safety and Health Act.~~

~~B. The intent and purpose of this chapter is stated in Section 34A-6-202 of the Act.~~

~~C. In accordance with legislative intent these rules provide for the safety and health of workers and for the administration of this chapter by the Utah Occupational Safety and Health Division of the Labor Commission.~~

~~R614-1-2. Scope.~~

~~These rules consist of the administrative procedures of the Utah Occupational Safety and Health Division, incorporating by reference applicable federal standards from 29 CFR 1904, 1908, 1910 and 1926, and the Utah initiated occupational safety and health standards found in Utah Administrative Code R614-1 through R614-7.~~

~~R614-1-3. Definitions.~~

~~A. "Access" means the right and opportunity to examine and copy.~~

~~B. "Act" means the Utah Occupational Safety and Health Act of 1973.~~

~~C. "Administrator" means the director of the Division.~~

~~D. "Amendment" means such modification or change in a code, standard, rule, or order intended for universal or general application.~~

~~E. "Analysis using exposure or medical records" means any compilation of data, or any research, statistical or other study based at least in part on information collected from individual employee exposure or medical records or information collected from health insurance claims records, provided that either the analysis has been reported to the employer or no further work is currently being done by the person responsible for preparing the analysis.~~

~~F. "Commission" means the Utah Labor Commission.~~

~~G. "Days" means calendar days, including Saturdays, Sundays, and holidays. The day of receipt of any notice shall not be included, and the last day of any time frame shall be included. If the last day of any time period is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday or legal holiday.~~

~~H. "Designated representative" means any individual or organization to whom an employee gives written authorization to exercise a right of access. For the purpose of access to employee exposure records and analyses using exposure or medical records, a recognized or certified collective bargaining agent shall be treated automatically as a designated representative without regard to written employee authorization.~~

I. "Division" means the Utah Occupational Safety and Health Division (UOSH) within the Commission.

J. "Employee" includes any person suffered or permitted to work by an employer.

1. For Medical Records: "Employee" means a current employee, a former employee, or an employee being assigned or transferred to work where there will be exposure to toxic substances or harmful physical agents. In the case of deceased or legally incapacitated employee, the employee's legal representative may directly exercise all the employee's rights under this section.

K. "Employee exposure record" means a record containing any of the following kinds of information concerning employee exposure to toxic substances or harmful physical agents:

1. Environmental (workplace) monitoring or measuring, including personal, area, grab, wipe, or other form of sampling, as well as related collection and analytical methodologies, calculations, and other background data relevant to interpretations of the results obtained;

2. Biological monitoring results which directly assess the absorption of a substance or agent by body systems (e.g., the level of a chemical in the blood, urine, breath, hair, fingernails, etc.) but not including results which assess the biological effect of a substance or agent;

3. Safety data sheets; or

4. In the absence of the above, any other record which reveals the identity (e.g., chemical, common, or trade name) of a toxic substance or harmful physical agent.

L. Employee medical record

1. "Employee medical record" means a record concerning the health status of an employee which is made or maintained by a physician, nurse, or other health care personnel, or technician including:

a. Medical and employment questionnaires or histories (including job description and occupational exposures);

b. The results of medical examinations (pre-employment, pre-assignment, periodic, or episodic) and laboratory tests (including X-ray examinations and all biological monitoring);

c. Medical opinions, diagnoses, progress notes, and recommendations;

d. Descriptions of treatments and prescriptions; and

e. Employee medical complaints.

2. "Employee medical record" does not include the following:

a. Physical specimens (e.g., blood or urine samples) which are routinely discarded as a part of normal medical practice, and not required to be maintained by other legal requirements;

b. Records concerning health insurance claims if maintained separately from the employer's medical program and its records, and not accessible to the employer by employee name or other direct personal identifier (e.g., social security number, payroll number, etc.); or

c. Records concerning voluntary employee assistance programs (alcohol, drug abuse, or personal counseling programs) if maintained separately from the employer's medical program and its records.

M. "Employer" means:

1. The state;

2. Each county, city, town, and school district in the state; and

3. Every person, firm, and private corporation, including public utilities, having one or more workers or operatives regularly employed in the same business, or in or about the same establishment, under any contract of hire.

4. For medical records: "Employer" means a current employer, a former employer, or a successor employer.

N. "Establishment" means a single physical location where business is conducted or where services or industrial operations are performed. (For example: A factory, mill, store, hotel, restaurant, movie theater, farm, ranch, bank, sales office, warehouse, or central administrative office.) Where distinctly separate activities are performed at a single physical location (such as contract construction activities from the same physical location as a lumber yard), each activity shall be treated as a separate physical establishment, and separate notices shall be posted in each establishment to the extent that such notices have been furnished by the Administrator.

O. "Exposure" or "exposed" means that an employee is subjected to a toxic substance or harmful physical agent in the course of employment through any route of entry (inhalation, ingestion, skin contact or absorption, etc.) and includes past exposure and potential (e.g., accidental or possible) exposure, but does not include situations where the employer can demonstrate that the toxic substance or harmful physical agent is not used, handled, stored, generated, or present in the workplace in any manner different from typical non-occupational situations.

P. "Hearing" means a proceeding conducted by the commission.

Q. "Imminent danger" means a danger exists which reasonably could be expected to cause an occupational disease, death, or serious physical harm immediately, or before the danger could be eliminated through enforcement procedures under this chapter.

R. "Inspection" means any inspection of an employer's factory, plant, establishment, construction site, or other area, workplace or environment where work is performed by an employee of an employer, and includes any inspection conducted pursuant to a complaint filed under R614-1-6.K.1. and 3., any re-inspection, follow-up inspection, accident investigation or other inspection conducted under Section 34A-6-301 of the Act.

S. "National consensus standard" means any occupational safety and health standard or modification:

1. Adopted by a nationally recognized standards-producing organization under procedures where it can be determined by the administrator and division that persons interested and affected by the standard have reached substantial agreement on its adoption;

2. Formulated in a manner which affords an opportunity for diverse views to be considered; and

3. Designated as such a standard by the Secretary of the United States Department of Labor.

T. "Person" means the general public, one or more individuals, partnerships, associations, corporations, legal representatives, trustees, receivers, and the state and its political subdivisions.

U. "Publish" means publication in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

V. "Record" means any item, collection, or grouping of information regardless of the form or process by which it is maintained (e.g., paper document, microfiche, microfilm, X-ray film, or automated data processing.)

W. "Safety and Health Officer" means a person authorized by the Division to conduct inspections.

X. "Secretary" means the Secretary of the United States Department of Labor.

Y. "Specific written consent" means written authorization containing the following:

1. The name and signature of the employee authorizing the release of medical information;

2. The date of the written authorization;

3. The name of the individual or organization that is authorized to release the medical information;

4. The name of the designated representative (individual or organization) that is authorized to receive the released information;

5. A general description of the medical information that is authorized to be released;

6. A general description of the purpose for the release of medical information; and

7. A date or condition upon which the written authorization will expire (if less than one year).

8. A written authorization does not operate to authorize the release of medical information not in existence on the date of written authorization, unless this is expressly authorized, and does not operate for more than one year from the date of written authorization.

9. A written authorization may be revoked in writing prospectively at any time.

Z. "Standard" means an occupational health and safety standard or group of standards which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary to provide safety and healthful employment and places of employment.

AA. "Toxic substance" or "harmful physical agent" means any chemical substance, biological agent (bacteria, virus, fungus, etc.) or physical stress (noise, heat, cold, vibration, repetitive motion, ionizing and non-ionizing radiation, hypo and hyperbaric pressure, etc) which:

1. Is regulated by any Federal law or rule due to a hazard to health;

2. Is listed in the latest printed edition of the National Institute for Occupational Safety and Health (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS) (See R614-1-12B);

3. Has yielded positive evidence of an acute or chronic health hazard in human, animal, or other biological testing conducted by, or known to the employer; or

4. Has a material safety data sheet available to the employer indicating that the material may pose a hazard to human health.

BB. "Variance" means a special, limited modification or change in the code or standard applicable to the particular establishment of the employer or person petitioning for the modification or change.

CC. "Workplace" means any place of employment.

R614-1-4. Incorporation of Federal Standards.

A. The following federal occupational safety and health standards are hereby incorporated:

1. 29 CFR 1904, July 1, 2017, is incorporated by reference, except 29 CFR 1904.36 and the workplace fatality, injury and illness reporting requirements found in 29 CFR 1904.1, 1904.2, 1904.7 and 1904.39. Workplace fatalities, injuries and illnesses shall be reported pursuant to the more specific Utah standards in Utah Code Ann. Subsection 34A-6-301(3)(b)(2) and the Utah Administrative Code R614-1-5(C)(1).

2. 29 CFR 1908, July 1, 2015, is incorporated by reference.

3. 29 CFR 1910.6 and 1910.21 through the end part of 1910, July 1, 2017, are incorporated by reference, except 29 CFR 1910.1024.

4. 29 CFR 1926.6 and 1926.20 through the end of part 1926, of the July 1, 2017, edition are incorporated by reference, except 29 CFR 1926.1124.

R614-1-5. Adoption and Extension of Established Federal Safety Standards and State of Utah General Safety Orders.

A. Scope and Purpose.

1. The provisions of this rule adopt and extend the applicability of: (1) established Federal Safety Standards, (2) R614, and (3) Workers' Compensation Coverage, as in effect July 1, 1973 and subsequent revisions, with respect to every employer, employee and employment within the boundaries of the State of Utah, covered by the Utah Occupational Safety and Health Act of 1973.

2. All standards and rules including emergency and/or temporary, promulgated under the Federal Occupational Safety and Health Act of 1970 shall be accepted as part of the Standards, Rules and Regulations under the Utah Occupational Safety and Health Act of 1973, unless specifically revoked or deleted.

3. All employers will provide workers' compensation benefits as required in Section 34A-2-201.

4. Any person, firm, company, corporation or association employing minors must comply fully with all orders and standards of the Labor Division of the Commission. UOSH standards shall prevail in cases of conflict.

B. Construction Work.

Federal Standards, 29 CFR 1926 and selected applicable sections of R614 are accepted covering every employer and place of employment of every employee engaged in construction work of:

1. New construction and building;

2. Remodeling, alteration and repair;

3. Decorating and painting;

4. Demolition; and

5. Transmission and distribution lines and equipment erection, alteration, conversion or improvement.

C. Reporting Requirements.

1. Each employer shall within 8 hours of occurrence, notify the Division of Utah Occupational Safety and Health of the Commission of any work-related fatalities, of any disabling, serious, or significant injury and of any occupational disease incident. Call (801) 530-6901.

2. Tools, equipment, materials or other evidence that might pertain to the cause of such accident shall not be removed or destroyed until so authorized by the Labor commission or one of its Compliance Officers.

3. Each employer shall investigate or cause to be investigated all work-related injuries and occupational diseases and any sudden or unusual occurrence or change of conditions that pose an unsafe or unhealthful exposure to employees.

4. Each employer shall file a report with the Commission within seven days after the occurrence of an injury or occupational disease, after the employers' first knowledge of the occurrence, or after the employee's notification of the same, on forms prescribed by the Commission, of any work-related fatality or any work-related injury or

occupational disease resulting in medical treatment, loss of consciousness or loss of work, restriction of work, or transfer to another job. Each employer shall file a subsequent report with the Commission of any previously reported injury or occupational disease that later resulted in death. The subsequent report shall be filed with the Commission within seven days following the death or the employer's first knowledge or notification of the death. No report is required for minor injuries, such as cuts or scratches that require first-aid treatment only, unless the treating physician files, or is required to file the physician's initial report of work injury or occupational disease with the Commission. Also, no report is required for occupational disease which manifest after the employee is no longer employed by the employer with which the exposure occurred, or where the employer is not aware of an exposure occasioned by the employment which results in an occupational disease as defined by Section 34A-3-103.

5. Each employer shall provide the employee with a copy of the report submitted to the Commission. The employer shall also provide the employee with a statement, as prepared by the Commission, of his rights and responsibilities related to the industrial injury or occupational disease.

6. Each employer shall maintain a record in a manner prescribed by the Commission of all work-related injuries and all occupational disease resulting in medical treatment, loss of consciousness, loss of work, restriction or work, or transfer to another job.

7. No person shall remove, displace, destroy, or carry away any safety devices or safeguards provided for use in any place of employment, or interfere in any way with the use thereof by other persons, or interfere in any method or process adopted for the protection of employees. No employee shall refuse or neglect to follow and obey reasonable orders that are issued for the protection of health, life, safety, and welfare of employees.

D. Employer, Employee Responsibility.

1. It shall be the duty and responsibility of any employee upon entering his or her place of employment, to examine carefully such working place and ascertain if the place is safe, if the tools and equipment can be used with safety, and if the work can be performed safely. After such examination, it shall be the duty of the employee to make the place, tools, or equipment safe. If this cannot be done, then it becomes his or her duty to immediately report the unsafe place, tools, equipment, or conditions to the foreman or supervisor.

2. Employees must comply with all safety rules of their employer and with all the Rules and Regulations promulgated by UOSH which are applicable to their type of employment.

3. Management shall inspect or designate a competent person or persons to inspect frequently for unsafe conditions and practices, defective equipment and materials, and where such conditions are found to take appropriate action to correct such conditions immediately.

4. Supervisory personnel shall enforce safety regulations and issue such rules as may be necessary to safeguard the health and lives of employees. They shall warn all employees of any dangerous condition and permit no one to work in an unsafe place, except for the purpose of making it safe.

E. General Safety Requirements.

1. Where there is a risk of injury from hair entanglement in moving parts of machinery, employees shall confine their hair to eliminate the hazard.

2. Body protection: Clothing which is appropriate for the work being done should be worn. Loose sleeves, tails, ties, lapels, cuffs, or similar garments which can become entangled in moving machinery shall not be worn where an entanglement hazard exists. Clothing saturated or impregnated with flammable liquids, corrosive substances, irritant, oxidizing agents or other toxic materials shall be removed and shall not be worn until properly cleaned.

3. General. Wrist watches, rings, or other jewelry shall not be worn on the job where they constitute a safety hazard.

4. Safety Committees. It is recommended that a safety committee comprised of management and employee representatives be established. The committee or the individual member of the committee shall not assume the responsibility of management to maintain and conduct a safe operation. The duties of the committee should be outlined by management, and may include such items as reviewing the use of safety apparel, recommending action to correct unsafe conditions, etc.

5. No intoxicated person shall be allowed to go into or loiter around any operation where workers are employed.

6. No employee shall carry intoxicating liquor into a place of employment, except that the place of employment shall be engaged in liquor business and this is a part of his assigned duties.

7. Employees who do not understand or speak the English language shall not be assigned to any duty or place where the lack or partial lack of understanding or speaking English might adversely affect their safety or that of other employees.

8. Good housekeeping is the first law of accident prevention and shall be a primary concern of all supervisors and workers. An excessively littered or dirty work area will not be tolerated as it constitutes an unsafe, hazardous condition of employment.

9. Emergency Posting Required.

a. Good communications are necessary if a fire or disaster situation is to be adequately coped with. A system for alerting and directing employees to safety is an essential step in a safety program.

b. A list of telephone numbers or addresses as may be applicable shall be posted in a conspicuous place so the necessary help can be obtained in case of emergency. This list shall include:

(1) Responsible supervision (superintendent or equivalent)

(2) Doctor

(3) Hospital

(4) Ambulance

(5) Fire Department

(6) Sheriff or Police

10. Lockouts and Tagging.

a. Where there is any possibility of machinery being started or electrical circuits being energized while repairs or maintenance work is being done, the electrical circuits shall be locked open and/or tagged and the employee in charge (the one who places the lock) shall keep the key until the job is completed or he is relieved from the job, such as by shift change or other assignment. If it is expected that the job may be assigned to other workers, he may remove his lock provided the supervisor or other workers apply their lock and tag immediately. Where there is danger of machinery being started or of steam or air creating a hazard to workers while repairs on maintenance work is being done, the employee in charge shall disconnect the lines or lock and tag the main valve closed or blank the line on all steam driven machinery, pressurized lines or lines connected to such equipment if they could create a hazard to workers.

b. After tagging and lockout procedures have been applied, machinery, lines, and equipment shall be checked to insure that they cannot be operated.

c. If locks and tags cannot be applied, conspicuous tags made of nonconducting material and plainly lettered, "EMPLOYEES WORKING" followed by the other appropriate wording, such as "Do not close this switch" shall be used.

d. When in doubt as to procedure, the worker shall consult his supervisor concerning safe procedure.

11. Safety-Type hooks shall be used wherever possible.

12. Emergency Showers, Bubblers, and Eye Washers.

a. Readily accessible, well marked, rapid action safety showers and eye wash facilities must be available in areas where strong acid, caustic or highly oxidizing or irritating chemicals are being handled. (This is not applicable where first aid practices specifically preclude flushing with running water.)

b. Showers should have deluge type heads, easily accessible, plainly marked and controlled by quick opening valves of the type that stay open. The valve handle should be equipped with a pull chain, rope, etc., so the blinded employee will be able to more easily locate the valve control. In addition, it is recommended that the floor platform be so constructed to actuate the quick opening valve. The shower should be capable of supplying large quantities of water under moderately high pressure. Blankets should be located so as to be reasonably accessible to the shower area.

c. All safety equipment should be inspected and tested at regular intervals, preferably daily and especially during freezing weather, to make sure it is in good working condition at all times.

13. Grizzlies Over Chutes, Bins and Tank Openings.

a. Employees shall be furnished with and be required to use approved type safety harnesses and shall be tied off securely so as to suspend him above the level of the product before entering any bin, chute or storage place containing material that might cave or run. Cleaning and barring down in such places shall be started from the top using only bars blunt on one end or having a ring type or D handhold.

b. Employees shall not work on top of material stored or piled above chutes, drawholes or conveyor systems while material is being withdrawn unless protected.

c. Chutes, bins, drawholes and similar openings shall be equipped with grizzlies or other safety devices that will prevent employees from falling into the openings.

d. Bars for grizzly grids shall be so fitted that they will not loosen and slip out of place, and the operator shall not remove a bar temporarily to let large rocks through rather than to break them.

F. All requirements of PSM Standard 29 CFR 1910.119 are hereby extended to include the blister agents, HT, HD, H, Lewisite, and the nerve agents, GA, VX.

R614-1-6. Personal Protective Equipment.

A. When no other method or combination of methods can be provided to prevent employees from becoming exposed to toxic dusts, fumes, gases, flying particles or other objects, dangerous rays or burns from heat, acid, caustic, or any other hazard of a similar nature, the employer must provide each worker with the necessary personal protection equipment, such as respirators, goggles, gas masks, certain types of protective clothing, etc. Provision must also be made to keep all such equipment in good, sanitary working condition at all times.

B. Where there is a risk of injury from hair entanglement in moving parts of machinery, employees shall confine their hair to eliminate the hazard.

C. Except when, in the opinion of the Administrator, their use creates a greater hazard, life lines and safety harnesses shall be provided for and used by workers engaged in window washing, in securing or shifting thrustouts, inspecting or working on overhead machines supporting scaffolds or other high rigging, and on steeply pitched roofs. Similarly, they shall be provided for and used by all exposed to the hazard of falling, and by workmen on poles workers or steel frame construction more than ten (10) feet above solid ground or above a temporary or permanent floor or platform.

D. Every life line and safety harness shall be inspected by the superintendent or his authorized representative and the worker before it is used and at least once a week while continued in use.

E. Wristwatches, rings, or other jewelry shall not be worn on the job where they constitute a safety hazard.

R614-1-7. Inspections, Citations, and Proposed Penalties.

A. The Utah Occupational Safety and Health Act (Title 34A, Chapter 6) requires, that every employer covered under the Act furnish to his employees employment and a place of employment which are free from recognized hazards that are likely to cause death or serious physical harm to his employees. The Act also requires that employers comply with occupational safety and health standards promulgated under the Act, and that employees comply with standards, rules, regulations and orders issued under the Act applicable to employees actions and conduct. The Act authorizes the Utah Occupational Safety and Health Division to conduct inspections, and to issue citations and proposed penalties for alleged violations. The Act, under Section 34A-6-301, also authorizes the Administrator to conduct inspections and to question employers and employees in connection with research and other related activities. The Act contains provisions for adjudication of violations, periods prescribed for the abatement of violations, and proposed penalties by the Labor Commission, if contested by an employer or by an employee or authorized representative of employees, and for a judicial review. The purpose of R614-1-7 is to prescribe rules and general policies for enforcement of the inspection, citations, and proposed penalty provisions of the Act. Where R614-1-7 sets forth general enforcement policies rather than substantive or procedural rules, such policies may be modified in specific circumstances where the Administrator or his designee determines that an alternative course of action would better serve the objectives of the Act.

B. Posting of notices; availability of Act, regulations and applicable standards.

1. Each employer shall post and keep posted notices, to be furnished by the Administrator, informing employees of the protections and obligations provided for in the Act, and that for assistance and information, including copies of the Act and of specific safety and health standards, employees should contact their employer or the office of the Administrator. Such notices shall be posted by the employer in each establishment in a conspicuous place where notices to employees are customarily posted. Each employer shall take steps to insure that such notices are not altered, defaced, or covered by other material.

2. Where employers are engaged in activities which are physically dispersed, such as agriculture, construction, transportation

communications, and electric, gas and sanitary services, the notices required shall be posted at the location where employees report each day. In the case of employees who do not usually work at, or report to, a single establishment, such as traveling salesman, technicians, engineers, etc., such notices shall be posted in accordance with the requirements of R614-1-7.Q.

3. Copies of the Act, all regulations published under authority of Section 34A-6-202 and all applicable standards will be available at the office of the Administrator. If an employer has obtained copies of these materials, he shall make them available upon request to any employee or his authorized representative.

4. Any employer failing to comply with the provisions of this Part shall be subject to citation and penalty in accordance with the provisions of Sections 34A-6-302 and 34A-6-307 of the Act.

C. Authority for Inspection.

1. Safety and Health Officers of the Division are authorized to enter without delay and at reasonable times any factory, plant, establishment, construction site, or other area, workplace or environment where work is performed by an employee of an employer; to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment, and all pertinent conditions, structures, machines, apparatus, devices, equipment and materials therein; to question privately any employer, owner, operator, agent or employee; and to review records required by the Act and regulations published in R614-1-7 and 8, and other records which are directly related to the purpose of the inspection.

2. Prior to inspecting areas containing information which has been classified as restricted by an agency of the United States Government in the interest of national security, Safety and Health Officers shall obtain the appropriate security clearance.

D. Objection to Inspection.

1. Upon a refusal to permit the Safety and Health Officer, in exercise of his official duties, to enter without delay and at reasonable times any place of employment or any place therein, to inspect, to review records, or to question any employer, owner, operator, agent, or employee, in accordance with R614-1-7.B. and C. or to permit a representative of employees to accompany the Safety and Health Officer during the physical inspection of any workplace in accordance with R614-1-7.G. the Safety and Health Officer shall terminate the inspection or confine the inspection to other areas, conditions, structures, machines, apparatus, devices, equipment, materials, records or interview concerning which no objection is raised.

2. The Safety and Health Officer shall endeavor to ascertain the reason for such refusal, and shall immediately report the refusal and the reason therefor to the Administrator. The Administrator shall take appropriate action, including compulsory process, if necessary.

3. Compulsory process shall be sought in advance of an attempted inspection or investigation if, in the judgment of the Administrator circumstances exist which make such preinspection process desirable or necessary. Some examples of circumstances in which it may be desirable or necessary to seek compulsory process in advance of an attempt to inspect or investigate include (but are not limited to):

a. When the employers past practice either implicitly or explicitly puts the Administrator on notice that a warrantless inspection will not be allowed;

b. When an inspection is scheduled far from the local office and procuring a warrant prior to leaving to conduct the inspection would avoid, in case of refusal of entry, the expenditure of significant time and resources to return to the office, obtain a warrant and return to the work-site;

c. When an inspection includes the use of special equipment or when the presence of an expert or experts is needed in order to properly conduct the inspection, and procuring a warrant prior to an attempt to inspect would alleviate the difficulties or costs encountered in coordinating the availability of such equipment or expert.

4. For purposes of this section, the term compulsory process shall mean the institution of any appropriate action, including ex parte application for an inspection warrant or its equivalent. Ex parte inspection warrants shall be the preferred form of compulsory process in all circumstances where compulsory process is relied upon to seek entry to a workplace under this section.

E. Entry not a Waiver.

Any permission to enter, inspect, review records, or question any person, shall not imply a waiver of any cause of action, citation, or penalty under the Act. Safety and Health Officers are not authorized to grant such waivers.

F. Advance notice of Inspections.

1. Advance notice of inspections may not be given, except in the following instances:

a. In cases of apparent imminent danger, to enable the employer to abate the danger as quickly as possible.

b. In circumstances where the inspection can most effectively be conducted after regular business hours or where special preparations are necessary for an inspection.

c. Where necessary to assure the presence of the employer or representative of the employer and employees or the appropriate personnel needed to aid the inspection; and

d. In other circumstances where the Administrator determines that the giving of advance notice would enhance the probability of an effective and thorough inspection.

2. In the instances described in R614-1-7.F.1., advance notice of inspections may be given only if authorized by the Administrator, except that in cases of imminent danger, advance notice may be given by the Safety and Health Officer without such authorization if the Administrator is not immediately available. Where advance notice is given, it shall be the employer's responsibility to notify the authorized representative of the employees of the inspection, if the identity of such representatives is known to the employer. (See R614-1-7.H.2. as to instances where there is no authorized representative of employees.) Upon the request of the employer, the Safety and Health Officer will inform the authorized representative of employees of the inspection, provided that the employer furnishes the Safety and Health Officer with the identity of such representatives and with such other information as is necessary to enable him promptly to inform such representatives of the inspection. A person who fails to comply with his responsibilities under this paragraph, may be subject to citation and penalty under Sections 34A-6-302 and 34A-6-307 of the Act. Advance notice in any of the instances described in R614-1-7.F. shall not be given more than 24 hours before the inspection is scheduled to be conducted, except in cases of imminent danger and other unusual circumstances.

3. The Act provides in Subsection 34A-6-307(5)(b) conditions for which advanced notice can be given and the penalties for not complying.

G. Conduct of Inspections.

1. Subject to the provisions of R614-1-7.C., inspections shall take place at such times and in such places of employment as the Administrator or the Safety and Health Officer may direct. At the beginning of an inspection, Safety and Health Officers shall present their credentials to the owner, operator, or agent in charge at the establishment; explain the nature and purpose of the inspection; and indicate generally the scope of the inspection and the records specified in R614-1-7.C. which they wish to review. However, such designations of records shall not preclude access to additional records specified in R614-1-7.C.

2. Safety and Health Officers shall have authority to take environmental samples and to take photographs or video recordings related to the purpose of the inspection, employ other reasonable investigative techniques, and question privately any employer, owner, operator, agent or employee of an establishment. (See R614-1-7.I. on trade secrets.) As used herein, the term "employ other reasonable investigative techniques" includes, but is not limited to, the use of devices to measure employee exposures and the attachment of personal sampling equipment such as dosimeters, pumps, badges, and other similar devices to employees in order to monitor their exposures.

3. In taking photographs and samples, Safety and Health Officers shall take reasonable precautions to insure that such actions with flash, spark-producing, or other equipment would not be hazardous. Safety and Health Officers shall comply with all employer safety and health rules and practices at the establishment being inspected, and shall wear and use appropriate protective clothing and equipment.

4. The conduct of inspections shall preclude unreasonable disruption of the operations of the employer's establishment.

5. At the conclusion of an inspection, the Safety and Health Officer shall confer with the employer or his representative and informally advise him of any apparent safety or health violations disclosed by the inspection. During such conference, the employer shall be afforded an opportunity to bring to the attention of the Safety and Health Officer any pertinent information regarding conditions in the workplace.

H. Representative of employers and employees.

1. Safety and Health Officer shall be in charge of inspections and questioning of persons. A representative of the employer and a representative authorized by his employees shall be given an opportunity to accompany the Safety and Health Officer during the physical inspection of any workplace for the purpose of aiding such inspection. A Safety and Health Officer may permit additional employer representative and additional representatives authorized by employees to accompany him where he determines that such additional representatives will further aid the inspection. A different employer and employee representative may accompany the Safety and Health Officer during each phase of an inspection if this will not interfere with the conduct of the inspection.

2. Safety and Health Officers shall have authority to resolve all disputes as to who is the representative authorized by the employer and the employees for purpose of this Part. If there is no authorized representative of employees, or if the Safety and Health Officer is unable to determine with reasonable certainty who is such representative, he shall consult with a reasonable number of employees concerning matters of safety and health in the workplace.

3. The representative(s) authorized by employees shall be an employee(s) of the employer. However, if in the judgment of the Safety and Health Officer, good cause has been shown why accompaniment by a third party who is not an employee of the employer (such as an industrial hygienist or safety engineer) is reasonably necessary to the conduct of an effective and thorough physical inspection of the workplace, such third party may accompany the Safety and Health Officer during the inspection.

4. Safety and Health Officers are authorized to deny the right of accompaniment under this Part to any person whose conduct interferes with a fair and orderly inspection. The right of accompaniment in areas containing trade secrets shall be subject to the provisions of R614-1-7.I.3. With regard to information classified by an agency of the U.S. Government in the interest of national security, only persons authorized to have access to such information may accompany a Safety and Health Officer in areas containing such information.

I. Trade secrets.

1. Section 34A-6-306 of the Act provides provisions for trade secrets.

2. At the commencement of an inspection, the employer may identify areas in the establishment which contain or which might reveal a trade secret. If the Safety and Health Officer has no clear reason to question such identification, information obtained in such areas, including all negatives and prints of photographs, and environmental samples, shall be labeled "confidential-trade secret" and shall not be disclosed except in accordance with the provisions of Section 34A-6-306 of the Act.

3. Upon the request of an employer, any authorized representative of employees under R614-1-7.H. in an area containing trade secrets shall be an employee in that area or an employee authorized by the employer to enter that area. Where there is not such representative or employee, the Safety and Health Officer shall consult with a reasonable number of employees who work in that area concerning matters of safety and health.

J. Consultation with employees.

Safety and Health Officers may consult with employees concerning matters of occupational safety and health to the extent they deem necessary for the conduct of an effective and thorough inspection. During the course of an inspection, any employee shall be afforded an opportunity to bring any violation of the Act which he has reason to believe exists in the workplace to the attention of the Safety and Health Officer.

K. Complaints by employees.

1. Any employee or representative of employees who believe that a violation of the Act exists in any workplace where such employee is employed may request an inspection of such workplace by giving notice of the alleged violation to the Administrator or to a Safety and Health Officer. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employee or representative of employees. A copy of the notice shall be provided the employer or his agent by the Administrator or Safety and Health Officer no later than at the time of inspection, except that, upon the request of the person giving such notice, his name and the names of individual employees referred to therein shall not appear in such copy or on any record published, released, or made available by the Administrator.

2. If upon receipt of such notification the Administrator determines that the complaint meets the requirements set forth in R614-1-7.K.1., and that there are reasonable grounds to believe that the alleged violation exists, he shall cause an inspection to be made as soon as practicable. Inspections under this Part shall not be limited to matters referred to in the complaint.

3. Prior to or during any inspection of a workplace, any employee or representative of employees employed in such workplace may notify the Safety and Health Officer, in writing, of any violation of the Act which they have reason to believe exists in such workplace. Any such notice shall comply with requirements of R614-1-7.K.1.

4. Section 34A-6-203 of the Act provides protection for employees while engaged in protected activities.

L. Inspection not warranted; informal review.

1. If the Administrator determines that an inspection is not warranted because there are no reasonable grounds to believe that a violation or danger exists with respect to a complaint under K, he shall notify the complaining party in writing of such determination. The complaining party may obtain review of such determination by submitting a written statement of position with the Administrator. The Administrator, at his discretion, may hold an informal conference in which the complaining party and the employer may orally present their views. After considering all written and oral view presented, the Administrator shall affirm, modify, or reverse the determination of the previous decision and again furnish the complaining party and the employer written notification of his decision and the reasons therefor.

2. If the Administrator determines that an inspection is not warranted because the requirements of R614-1-7.K.1. have not been met, he shall notify the complaining party in writing of such determination. Such determination shall be without prejudice to the filing of a new complaint meeting the requirements of R614-1-7.K.1.

M. Imminent danger.

Whenever a Safety and Health Officer concludes, on the basis of an inspection, that conditions or practices exist in any place of employment which could reasonably be expected to cause death or serious physical harm before the imminence of such danger can be eliminated through the enforcement procedures of the Act, he shall inform the affected employees and employers of the danger, that he is recommending a civil action to restrain such conditions or practices and for other appropriate citations of proposed penalties which may be issued with respect to an imminent danger even though, after being informed of such danger by the Compliance Officer, the employer immediately eliminates the imminence of the danger and initiates steps to abate such danger.

N. Citations.

1. The Administrator shall review the inspection report of the Safety and Health Officer. If, on the basis of the report the Administrator believes that the employer has violated a requirement of Section 34A-6-201 of the Act, of any standard, rule, or order promulgated pursuant to Section 34A-6-202 of the Act, or of any substantive rule published in this chapter, shall issue to the employer a citation. A citation shall be issued even though, after being informed of an alleged violation by the Safety and Health Officer, the employer immediately abates, or initiates steps to abate, such alleged violations. Any citation shall be issued with reasonable promptness after termination of the inspection. No citation may be issued after the expiration of 6 months following the occurrence of any violation.

2. Any citation shall describe with particularity the nature of the alleged violation, including a reference to the provision of the Act, standard, rule, regulations, or order alleged to have been violated. Any citation shall also fix a reasonable time or times for the abatement of the alleged violations.

3. If a citation is issued for an alleged violation in a request for inspection under R614-1-7.K.1. or a notification of violation under R614-1-7.K.3., a copy of the citation shall also be sent to the employee or representative of employees who made such request or notification.

4. Following an inspection, if the Administrator determines that a citation is not warranted with respect to a danger or violation alleged to exist in a request for inspection under R614-1-7.K.1.or a notification of violation under R614-1-7.K.3., the informal review procedures prescribed in R614-1-7.L.1. shall be applicable. After considering all views presented, the Administrator shall either affirm, order a re-inspection, or issue a citation if he believes that the inspection disclosed a violation. The Administrator shall furnish the complaining party and the employer with written notification of his determination and the reasons therefor.

5. Every citation shall state that the issuance of a citation does not constitute a finding that a violation of the Act has occurred unless there is a failure to contest as provided for in the Act or, if contested, unless the citation is affirmed by the Commission.

O. Petitions for modification of abatement date.

1. An employer may file a petition for modification of abatement date when he has made a good faith effort to comply with the abatement requirements of the citation, but such abatement has not been completed because of factors beyond his reasonable control.

2. A petition for modification of abatement date shall be in writing and shall include the following information.

a. All steps taken by the employer, and the dates of such action, in an effort to achieve compliance during the prescribed abatement period.

b. The specific additional abatement time necessary in order to achieve compliance.

c. The reasons such additional time is necessary, including the unavailability, of professional or technical personnel or of materials and equipment, or because necessary construction or alteration of facilities cannot be completed by the original abatement date.

d. All available interim steps being taken to safeguard the employees against the cited hazard during the abatement period.

e. A certification that a copy of the petition has been posted and, if appropriate, served on the authorized representative of affected employees, in accordance with paragraph R614-1-7.O.3.a. and a certification of the date upon which such posting and service was made.

3. A petition for modification of abatement date shall be filed with the Administrator who issued the citation no later than the close of the next working day following the date on which abatement was originally required. A later-filed petition shall be accompanied by the employer's statement of exceptional circumstances explaining the delay.

a. A copy of such petition shall be posted in a conspicuous place where all affected employees will have notice thereof or near such location where the violation occurred. The petition shall remain posted for a period of ten (10) days. Where affected employees are represented by an authorized representative, said representative shall be served with a copy of such petition.

b. Affected employees or their representatives may file an objection in writing to such petition with the aforesaid Administrator. Failure to file such objection within ten (10) working days of the date

of posting of such petition or of service upon an authorized representative shall constitute a waiver of any further right to object to said petition.

c. The Administrator or his duly authorized agent shall have authority to approve any petition for modification of abatement date filed pursuant to paragraphs R614-1-7.O.2. and 3. Such uncontested petitions shall become final orders pursuant to Subsection 34A-6-303(1) of the Act.

d. The Administrator or his authorized representative shall not exercise his approval power until the expiration of ten (10) days from the date of the petition was posted or served pursuant to paragraphs R614-1-7.O.3.a. and b. by the employer.

4. Where any petition is objected to by the affected employees, the petition, citation, and any objections shall be forwarded to the Administrator per R614-1-7.O.3.b. Upon receipt the Administrator shall schedule and notify all interested parties of a formal hearing before the Administrator or his authorized representative(s). Minutes of this hearing shall be taken and become public records of the Commission. Within ten (10) days after conclusion of the hearing, a written opinion by the Administrator will be made, with copies to the affected employees or their representatives, the affected employer and to the Commission.

P. Proposed penalties.

1. After, or concurrent with, the issuance of a citation and within a reasonable time after the termination of the inspection, the Administrator shall notify the employer by certified mail or by personal service by the Safety and Health Officer of the proposed penalty under Section 34A-6-307 of the Act, or that no penalty is being proposed. Any notice of proposed penalty shall state that the proposed penalty shall be deemed to be the final order of the Commission and not subject to review by any court or agency unless, within 30 days from the date of receipt of such notice, the employer notifies the Adjudication Division in writing that he intends to contest the citation or the notification of proposed penalty before the Commission.

2. The Administrator shall determine the amount of any proposed penalty, giving due consideration to the appropriateness of the penalty with respect to the size of the business, of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations, in accordance with the provisions of Section 34A-6-307 of the Act.

3. Appropriate penalties may be proposed with respect to an alleged violation even though after being informed of such alleged violation by the Safety and Health Officer, the employer immediately abates, or initiates steps to abate, such alleged violation. Penalties shall not be proposed for violations which have no direct or immediate relationship to safety or health.

Q. Posting of citations.

1. Upon receipt of any citation under the Act, the employer shall immediately post such citation, or copy thereof, unedited, at or near each place of alleged violation referred to in the citation occurred, except as hereinafter provided. Where, because of the nature of the employer's operations, it is not practicable to post the citation at or near each place of alleged violation, such citation shall be posted, unedited, in a prominent place where it will be readily observable by all affected employees. For example, where employees are engaged in activities which are physically dispersed (see R614-1-7.B.), the citation may be posted at the location to which employees report each day. Where employees do not primarily work at or report to a single location (see R614-1-7.B.2.), the citation must be posted at the location from which the employees commence their activities. The employer shall take steps to ensure that the citation is not altered, defaced, or covered by other material.

2. Each citation or a copy thereof, shall remain posted until the violation has been abated, or for 3 working days which ever is later. The filing by the employer of a notice of intention to contest under R614-1-7.R. shall not affect his posting responsibility unless and until the Commission issues a final order vacating the citation.

3. An employer, to whom a citation has been issued, may post a notice in the same location where such citation is posted indicating that the citation is being contested before the Commission, such notice may explain the reasons for such contest. The employer may also indicate that specified steps have been taken to abate the violation.

4. Any employer failing to comply with the provisions of R614-1-7.Q.1. and 2. shall be subject to citation and penalty in accordance with the provisions of Section 34A-6-307 of the Act.

R. Employer and employee hearings before the Commission.

1. Any employer to whom a citation or notice of proposed penalty has been issued, may under Section 34A-6-303 of the Act, notify the Adjudication Division in writing that the employer intends to contest such citation or proposed penalty before the Commission. Such notice of intention to contest must be received by the Adjudication Division within 30 days of the receipt by the employer of the notice of proposed penalty. Every notice of intention to contest shall specify whether it is directed to the citation or to the proposed penalty, or both. The Adjudication Division shall handle such notice in accordance with the rules of procedures prescribed by the Commission.

2. An employee or representative of employee of an employer to whom a citation has been issued may, under Section 34A-6-303(3) of the Act, file a written notice with the Adjudication Division alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable. Such notice must be received by the Adjudication Division within 30 days of the receipt by the employer of the notice of proposed penalty or notice that no penalty is being proposed. The Adjudication Division shall handle such notice in accordance with the rules of procedure prescribed by the Commission.

S. Failure to correct a violation for which a citation has been issued.

1. If an inspection discloses that an employer has failed to correct an alleged violation for which a citation has been issued within the period permitted for its correction, the Administrator shall notify the employer by certified mail or by personal service by the Safety and Health Officer of such failure and of the additional penalty proposed under Section 34A-6-307 of the Act by reason of such failure. The period for the correction of a violation for which a citation has been issued shall not begin to run until the entry of a final order of the Commission in the case of any review proceedings initiated by the employer in good faith and not solely for delay or avoidance of penalties.

2. Any employer receiving a notification of failure to correct a violation and of proposed additional penalty may, under Section 34A-6-303(3) of the Act, notify the Adjudication Division in writing that he intends to contest such notification or proposed additional penalty before the Commission. Such notice of intention to contest shall be postmarked within 30 days of receipt by the employer of the notification of failure to correct a violation and of proposed additional

penalty. The Adjudication Division shall handle such notice in accordance with the rules of procedures prescribed by the Commission.

3. Each notification of failure to correct a violation and of proposed additional penalty shall state that it shall be deemed to be the final order of the Commission and not subject to review by any court or agency unless, within 30 days from the date of receipt of such notification, the employer notifies the Adjudication Division in writing that he intends to contest the notification or the proposed additional penalty before the Commission.

T. Informal conferences.

At the request of an affected employer, employee, or representative of employees, the Administrator may hold an informal conference for the purpose of discussing any issues raised by an inspection, citation, notice of proposed penalty, or notice of intention to contest. The Administrator shall provide in writing the reasons for any settlement of issues at such conferences. If the conference is requested by the employer, an affected employee or his representative shall be afforded an opportunity to participate, at the discretion of the Administrator. If the conference is requested by an employee or representative of employees, the employer shall be afforded an opportunity to participate, at the discretion of the Administrator. Any party may be represented by counsel at such conference. No such conference or request for such conference shall operate as a stay of any 30 day period for filing a notice of intention to contest as prescribed in R614-1-7.R.

U. Multi-Employer worksites.

1. Pursuant to Section 34A-6-201 of the Act, violation of an applicable standard adopted under Section 34A-6-202 of the Act at a multi-employer worksite may result in a citation issued to more than one employer.

2. An employer on a multi-employer worksite may be considered a creating, exposing, correcting, or controlling employer. An employer may be cited should:

a. It meet the definition of a creating employer and be found to have failed to exercise the duty of care required by this Rule for a creating employer: or

b. It meet the definition of an exposing, correcting, or controlling employer and be found to have failed to exercise the duty of care required by this Rule for that category of employer.

c. Even if an employer meets its duty of reasonable care applicable to one category of employer, it may still be cited should it meet the definition of another category of employer and be found to have failed to exercise the duty of care required by this Rule for that category of employer. No employer will be cited for the same violation under multiple categories of employers.

3. Creating Employer. A creating employer is one that created a hazardous condition on the worksite. A creating employer may be cited if:

a. Its own employees are exposed or if the employees of another employer at the site are exposed to this hazard; and

b. The employer did not exercise reasonable care by taking prompt and effective steps to alert employees of other employers of the hazard and to correct or remove the hazard or, if the creating employer does not have the ability or authority to correct or remove the hazard, to notify the controlling or correcting employer of the hazard.

4. Exposing Employer. An exposing employer is one that exposed its own employees to a hazard. If the exposing employer created the hazard, it is citable as the creating employer, not the exposing employer.

a. If the exposing employer did not create the hazard, it may be cited as the exposing employer if:

i. It knew of the hazard or failed to exercise reasonable care to discover the hazard; and

ii. Upon obtaining knowledge of the hazard, it failed to take prompt and reasonable precautions, consistent with its authority on the worksite, to protect its employees.

b. An exposing employer will be deemed to have exercised reasonable care to discover a hazard if it demonstrates that it has regularly and diligently inspected the worksite.

c. If the exposing employer has the authority to correct or remove the hazard, it must correct or remove the hazard with reasonable diligence. If the exposing employer lacks such authority, it may still be cited if:

i. It failed to make a good faith effort to ask the creating and/or controlling employer to correct the hazard;

ii. It failed to inform its employees of the hazard; and

iii. It failed to take reasonable alternative measures, consistent with its authority on the worksite, to protect its employees.

5. Correcting Employer. A correcting employer is one responsible for correcting a hazardous condition, such as installing or maintaining safety and health devices or equipment, or implementing appropriate health and safety procedures. A correcting employer must exercise reasonable care in preventing and discovering hazards and ensure such hazards are corrected in a prompt manner, which shall be determined in light of the scale, nature and pace of the work, and the amount of activity of the worksite.

6. Controlling Employer. A controlling employer is one with general supervisory authority over a worksite. This authority may be established either through contract or practice and includes the authority to correct safety and health violations or require others to do so, but it is separate from the responsibilities and care to be exercised by a correcting employer.

a. A controlling employer will not be cited if it has exercised reasonable care to prevent and detect violations on the worksite. The extent of the measures used by a controlling employer to satisfy this duty, however, is less than the extent required of an employer when protecting its own employees. A controlling employer is not required to inspect for hazards or violations as frequently or to demonstrate the same knowledge of applicable standards or specific trade expertise as the employer under its control.

b. When determining the duty of reasonable care applicable to a controlling employer on a multi-employer worksite, the factors that may be considered include, but are not limited to:

i. The nature of the worksite and industry in which the work is being performed;

ii. The scale, nature and pace of the work, including the pace and frequency at which the worksite hazards change as the work progresses;

iii. The amount of activity at the worksite, including the number of employers under its control and the number of employees working on the worksite;

iv. The implementation and monitoring of safety and health precautions for the entire worksite requiring that other employers on the worksite comply with their respective obligations and standards of care for the safety of employees, a graduated system of discipline for

non-compliant employees and/or employers, regular worksite safety meetings, and when appropriate for atypical hazards, the providing of adequate safety training by employers for atypical hazards present on the worksite; and

v. The frequency of worksite inspections, particularly at the commencement of a project or the commencement of work on the project by other employers that come under its control. As work progresses, the frequency and sufficiency of such inspections shall be determined in relation to other employers' compliance with their respective obligations and standards of care as required by this Rule.

c. When evaluating whether a controlling employer has demonstrated reasonable care in preventing and discovering violations, the following factors, though not inclusive, shall be considered;

i. Whether the controlling employer conducted worksite inspections with sufficient frequency as contemplated by subsection 6(b);

ii. The controlling employer's implementation and monitoring of an effective system for identifying a hazardous condition and promptly notifying employers under its control of the hazard so as to ensure compliance with their respective duties of care under this Rule;

iii. Whether the controlling employer implements a graduated system of discipline for non-compliant employees and/or employers with their respective safety and health requirements;

iv. Whether the controlling employer performs follow-up inspections to ensure hazards are corrected; and

v. Other actions demonstrating the implementation and monitoring of safety and health precautions for the entire worksite.

7. In accordance with Section 34A-6-110, nothing in this Rule shall:

a. be deemed to limit or repeal requirements imposed by statute or otherwise recognized by law; or

b. be construed or held to supersede or in any manner affect workers' compensation or enlarge or diminish or affect the common-law or statutory rights, duties, or liabilities of employers and employees under any law with respect to injuries, occupational or other diseases, or death of employees arising out of, or in the course of employment.

R614-1-8. Recording and Reporting Occupational Injuries and Illnesses.

A. The rules in this section implement Sections 34A-6-108 and 34A-6-301(3) of the Act. These sections provide for record-keeping and reporting by employers covered under the Act, for developing information regarding the causes and prevention of occupational accidents and illnesses, and for maintaining a program of collection, compilation, and analysis of occupational safety and health statistics. Regardless of size or type of operation, accidents and fatalities must be reported to UOSH in accordance with the requirements of R614-1-5.C.

NOTE: Utah has adopted and will enforce the Federal Recordkeeping Standard 29CFR1904.

Utah Specific Recordkeeping requirements follow:

B. Supplementary record.

Each employer shall have available for inspection at each establishment within 6 working days after receiving information that a recordable case has occurred, a supplementary record for that establishment. The record shall be completed in the detail prescribed in the instructions accompanying federal OSHA Form No. 301, Utah Industrial Accidents Form 122. Workers' compensation, insurance, or other reports are acceptable alternative records if they contain the information required by the federal OSHA Form No. 301, Utah Industrial Accidents Form 122. If no acceptable alternative record is maintained for other purposes, Federal OSHA Form No. 301, Utah Industrial Accidents Form 122 shall be used or the necessary information shall be otherwise maintained.

C. Retention of records.

Preservation of records.

a. This section applies to each employer who makes, maintains or has access to employee exposure records or employee medical records.

b. "Employee exposure record" means a record of monitoring or measuring which contains qualitative or quantitative information indicative of employee exposures to toxic materials or harmful physical agents. This includes both individual exposure records and general research or statistical studies based on information collected from exposure records.

c. "Employee medical record" means a record which contains information concerning the health status of an employee or employees exposed or potentially exposed to toxic materials or harmful physical agents. These records may include, but are not limited to:

(1) The results of medical examinations and tests;

(2) Any opinions or recommendations of a physician or other health professional concerning the health of an employee or employees; and

(3) Any employee medical complaints relating to workplace exposure. Employee medical records include both individual medical records and general research or statistical studies based on information collected from medical records.

d. Preservation of records. Each employer who makes, maintains, or has access to employee exposure records or employee medical records shall preserve these records.

e. Availability of records. The employer shall make available, upon request to the Administrator, or a designee, and to the Director of the Division of Health, or a designee, all employee exposure records and employee medical records for examination and copying.

D. Access to records.

1. Records provided for in R614-1-8.A.,E., and F. shall be available for inspection and copying by Compliance Officers during any occupational safety and health inspection provided for under R614-1-7 and Section 34A-6-301 of the Act.

2. The log and summary of all recordable occupational injuries and illnesses (OSHA No. 200) (the log) provided for in R614-1-8.A. shall, upon request, be made available by the employer to any employee, former employee, and to their representatives for examination and copying in a reasonable manner and at reasonable times. The employee, former employee, and their representatives shall have access to the log for any establishment in which the employee is or has been employed.

3. Nothing in this section shall be deemed to preclude employees and employee representatives from collectively bargaining to obtain access to information relating to occupational injuries and illnesses in addition to the information made available under this section.

4. Access to the log provided under this section shall pertain to all logs retained under requirements of R614-1-8.G.

E. Reporting of fatality or accidents. (Refer to Utah Occupational Safety and Health Rule, R614-1-5.C.)

F. Falsification or failure to keep records or reports.

1. Section 34A-6-307 of the Act provides penalties for false information and recordkeeping.

2. Failure to maintain records or file reports required by this part, or in the details required by forms and instructions issued under this part, may result in the issuance of citations and assessment of penalties as provided for in Sections 34A-6-302 and 34A-6-307 of the Act.

G. Description of statistical program.

1. Section 34A-6-108 of the Act directs the Administrator to develop and maintain a program of collection, compilation, and analysis of occupational safety and health statistics. The program shall consist of periodic surveys of occupational injuries and illnesses.

2. The sample design encompasses probability procedures, detailed stratification by industry and size, and a systematic selection within Stratification. Stratification and sampling will be carried out in order to provide the most efficient sample for eventual state estimates. Some industries will be sampled more heavily than others depending on the injury rate level based on previous experience. The survey should produce adequate estimates for most four-digit Standard Industrial Classification (SIC) industries in manufacturing and for three-digit classification (SIC) in non-manufacturing. Full cooperation with the U. S. Department of Labor in statistical programs is intended.

R614-1-9. Rules of Practice for Temporary or Permanent Variance from the Utah Occupational Safety and Health Standards. (Also Adopted and Published as Chapter XXIII of the Utah Occupational Safety and Health Field Operations Manual.)

A. Scope.

1. This rule contains Rules of Practice for Administrative procedures to grant variances and other relief under Section 34A-6-202 of the Act. General information pertaining to employer-employee rights, obligations and procedures are included.

B. Application for, or petition against Variances and other relief.

1. The applicable parts of Section 34A-6-202 of the Act shall govern application and petition procedure.

2. Any employer or class of employers desiring a variance from a standard must make a formal written request including the following information:

a. The name and address of applicant;

b. The address of the place or places of employment involved;

c. A specification of the standard or portion thereof from which the applicant seeks a variance;

d. A statement by the applicant, supported by opinions from qualified persons having first-hand knowledge of the facts of the case, that he is unable to comply with the standard or portion thereof and a detailed statement of the reasons therefore;

e. A statement of the steps the applicant has taken and will take, with specific dates where appropriate, to protect employees against the hazard covered by the existing standard;

f. A statement of when the applicant expects to be able to comply with the standard and of what steps he has taken and will take, with specific dates where appropriate, to come into compliance with the standards (applies to temporary variances);

g. A statement of the facts the applicant would show to establish that (applies to newly promulgated standards);

(1) The applicant is unable to comply with a standard by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the standard or because necessary construction or alteration of facilities cannot be completed by the effective date;

(2) He is taking all available steps to safeguard his employees against the hazards covered by the standards; and

(3) He has an effective program for coming into compliance with the standard as quickly as practicable;

h. Any request for a hearing, as provided in this rule;

i. A statement that the applicant has informed his affected employees of the application for variance by giving a copy thereof to their authorized representative, posting a summary statement of the application at the place or places where notices to employees are normally posted specifying where a copy may be examined; and

j. A description of how affected employees have been informed of their rights to petition the Administrator for a hearing.

3. The applicant shall designate the method he will use to safeguard his employees until a variance is granted or denied.

4. Whenever a proceeding on a citation or a related issue concerning a proposed penalty or period of abatement has been contested and is pending before an Administrative Law Judge or any subsequent review under the Administrative Procedures Act, until the completion of such proceeding, the Administrator may deny a variance application on a subject or an issue concerning a citation which has been issued to the employer.

C. Hearings.

1. The Administrator may conduct hearings upon application or petition in accordance with Section 34A-6-202(4) of the Act if:

a. Employee(s), the public, or other interested groups petition for a hearing; or

b. The Administrator deems it in the public or employee interest.

2. When a hearing is considered appropriate, the Administrator shall set the date, time, and place for such hearing. He shall provide timely notification to the applicant for variance and the petitioners. In the notice of hearing to the applicant, the applicant will be directed to notify his employees of the hearing.

3. Notice of hearings shall be published in the Administrative Rulemaking Bulletin. This shall include a statement that the application request may be inspected at the UOSH Division Office.

4. A copy of the Notification of Hearing along with other pertinent information shall be sent to the U.S. Department of Labor, Regional Administrator for OSHA.

D. Inspection for Variance Application.

1. A variance inspection will be required by the Administrator or his designee prior to final determination of either acceptance or denial.

2. A variance inspection is a single purpose, pre-announced, non-compliance inspection and shall include employee or employer representative participation or interview where necessary.

E. Interim order.

1. The purpose of an interim order is to permit an employer to proceed in a non-standard operation while administrative procedures

~~are being completed. Use of this interim procedure is dependent upon need and employee safety.~~

~~2. Following a variance inspection, and after determination and assurance that employees are to be adequately protected, the Administrator may immediately grant, in writing, an interim order. To expedite the effect of the interim order, it may be issued at the work-site by the Administrator. The interim order will remain in force pending completion of the administrative promulgation action and the formal granting or denying of a temporary/permanent variance as requested.~~

~~F. Decision of the Administrator.~~

~~1. The Administrator may deny the application if:~~

~~a. It does not meet the requirements of paragraph R614-1-8.B.;~~

~~b. It does not provide adequate safety in the workplace for affected employees; or~~

~~c. Testimony or information provided by the hearing or inspection does not support the applicant's request for variance as submitted.~~

~~2. Letters of notification denying variance applications shall be sent to the applicant, and will include posting requirements to inform employees, affected associations, and employer groups.~~

~~a. A copy of correspondence related to the denial request shall be sent to the U.S. Department of Labor, Regional Administrator for OSHA.~~

~~b. The letter of denial shall be explicit in detail as to the reason(s) for such action.~~

~~3. The Administrator may grant the request for variances provided that:~~

~~a. Data supplied by the applicant, the UOSHA inspection and information and testimony affords adequate protection for the affected employee(s);~~

~~b. Notification of approval shall follow the pattern deseribed in R614-1-9.C.2. and 3.;~~

~~c. Limitations, restrictions, or requirements which become part of the variance shall be documented in the letter granting the variance.~~

~~4. The Administrator's decision shall be deemed final subject to Section 34A-6-202(6).~~

~~G. Recommended Time Table for Variance Action.~~

~~1. Publication of agency intent to grant a variance. This includes public comment and hearing notification in the Utah Administrative Rulemaking Bulletin: within 30 days after receipt.~~

~~2. Public comment period: within 20 days after publication.~~

~~3. Public hearing: within 30 days after publication~~

~~4. Notification of U.S. Department of Labor Regional Administrator for OSHA: 10 days after agency publication of intent.~~

~~5. Final Order: 120 days after receipt of variance application if publication of agency intent is made.~~

~~6. Rejection of variance application without publication of agency intent: 20 days after receipt of application.~~

~~a. Notification of U.S. Department of Labor Regional Administrator for OSHA: 20 days after receipt of application.~~

~~H. Public Notice of Granted Variances, Tolerances, Exemptions, and Limitations.~~

~~1. Every final action granting variance, exemption, or limitation under this rule shall be published as required under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the time table set forth in R614-1-9.G.~~

~~I. Acceptance of federally Granted Variances.~~

~~1. Where a variance has been granted by the U.S. Department of Labor, Occupational Safety and Health Administration, following Federal Promulgation procedures, the Administrator shall take the following action:~~

~~a. Compare the federal OSHA standard for which the variance was granted with the equivalent UOSH standard.~~

~~b. Identify possible application in Utah.~~

~~c. If the UOSH standard under consideration for application of the variance has exactly or essentially the same intent as the federal standard and there is the probability of a multi-state employer doing business in Utah, then the Administrator shall accept the variance (as federally accepted) and promulgate it for Utah under the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~

~~d. If the variance has no apparent application to Utah industry, or to a multi-state employer in Utah, or if it conflicts with Utah Legislative intent, or established policy or procedure, the federal variance shall not be accepted. In such case, the Regional Administrator will be so notified.~~

~~J. Revocation of a Variance.~~

~~1. Any variance (temporary or permanent) whether approved by the state or one accepted by State based on Federal approval, may be revoked by the Administrator if it is determined through on-site inspection that:~~

~~a. The employer is not complying with provisions of the variance as granted;~~

~~b. Adequate employee safety is not afforded by the original provisions of the variance; or~~

~~c. A more stringent standard has been promulgated, is in force, and conflicts with prior considerations given for employee safety.~~

~~2. A federally approved national variance may be revoked by the state for a specific work-site or place of employment within the state for reasons cited in R614-1-9.J.1. Such revocations must be in writing and give full particulars and reasons prompting the action. Full rights provided under the law, such as hearings, etc., must be afforded the employer.~~

~~3. Normally, permanent variances may be revoked or changed only after being in effect for at least six months.~~

~~K. Coordination.~~

~~1. All variances issued by the Administrator will be coordinated with the U.S. Department of Labor, OSHA to insure consistency and avoid improper unilateral action.~~

R614-1-10. Discrimination.

~~A. General.~~

~~1. The Act provides, among other things, for the adoption of occupational safety and health standards, research and development activities, inspections and investigations of work places, and record keeping requirements. Enforcement procedures initiated by the Commission; review proceedings as required by Title 63G, Chapter 4, Administrative Procedures Act; and judicial review are provided by the Act.~~

~~2. This rule deals essentially with the rights of employees afforded under section 34A-6-203 of the Act. Section 34A-6-203 of the Act prohibits reprisals, in any form, against employees who exercise rights under the Act.~~

~~3. The purpose is to make available in one place interpretations of the various provisions of Section 34A-6-203 of the~~

Act which will guide the Administrator in the performance of his duties thereunder unless and until otherwise directed by authoritative decisions of the courts, or concluding, upon reexamination of an interpretation, that it is incorrect.

B. Persons prohibited from discriminating.

Section 34A-6-203 defines employee protections under the Act, because the employee has exercised rights under the Act. Section 34A-6-103(11) of the Act defines "person". Consequently, the prohibitions of Section 34A-6-203 are not limited to actions taken by employers against their own employees. A person may be chargeable with discriminatory action against an employee of another person. Section 34A-6-203 would extend to such entities as organizations representing employees for collective bargaining purposes, employment agencies, or any other person in a position to discriminate against an employee. (See, Meek v. United States, F. 2d 679 (6th Cir., 1943); Bowe v. Judson C. Burnes, 137 F 2d 37 (3rd Cir., 1943).)

C. Persons protected by section 34A-6-203.

1. All employees are afforded the full protection of Section 34A-6-203. For purposes of the Act, an employee is defined in Section 34A-6-103(6). The Act does not define the term "employ". However, the broad remedial nature of this legislation demonstrates a clear legislative intent that the existence of an employment relationship, for purposes of Section 34A-6-203, is to be based upon economic realities rather than upon common law doctrines and concepts. For a similar interpretation of federal law on this issue, see, U.S. v. Silk, 331 U.S. 704 (1947); Rutherford Food Corporation v. McComb, 331 U.S. 722 (1947).

2. For purposes of Section 34A-6-203, even an applicant for employment could be considered an employee. (See, NLRB v. Lamar Creamery, 246 F. 2d 8 (5th Cir., 1957).) Further, because Section 34A-6-203 speaks in terms of any employee, it is also clear that the employee need not be an employee of the discriminator. The principal consideration would be whether the person alleging discrimination was an "employee" at the time of engaging in protected activity.

3. In view of the definitions of "employer" and "employee" contained in the Act, employees of a State or political subdivision thereof would be within the coverage of Section 34A-6-203.

D. Unprotected activities distinguished.

1. Actions taken by an employer, or others, which adversely affect an employee may be predicated upon nondiscriminatory grounds. The proscriptions of Section 34A-6-203 apply when the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in activities protected by the Act does not automatically render him immune from discharge or discipline for legitimate reasons, or from adverse action dictated by non-prohibited considerations. (See, NLRB v. Dixie Motor Coach Corp., 128 F. 2d 201 (5th Cir., 1942).)

2. To establish a violation of Section 34A-6-203, the employee's engagement in protected activity need not be the sole consideration behind discharge or other adverse action. If protected activity was a substantial reason for the action, or if the discharge or other adverse action would not have taken place "but for" engagement in protected activity, Section 34A-6-203 has been violated. (See, Mitchell v. Goodyear Tire and Rubber Co., 278 F. 2d 562 (8th Cir., 1960); Goldberg v. Bama Manufacturing, 302 F. 2d 152 (5th Cir., 1962).) Ultimately, the issue as to whether a discharge was because of protected activity will have to be determined on the basis of the facts in the particular case.

E. Specific protections - complaints under or related to the Act.

1. Discharge of, or discrimination against an employee because the employee has filed "any complaint under or related to this Act" is prohibited by Section 34A-6-203. An example of a complaint made "under" the Act would be an employee request for inspection pursuant to Section 34A-6-301(6). However, this would not be the only type of complaint protected by Section 34A-6-203. The range of complaints "related to" the Act is commensurate with the broad remedial purposes of this legislation and the sweeping scope of its application, which entails the full extent of the commerce power. ((See Cong. Rec., vol. 116 P. 42206 December 17, 1970).)

2. Complaints registered with Federal agencies which have the authority to regulate or investigate occupational safety and health conditions are complaints "related to" this Act. Likewise, complaints made to State or local agencies regarding occupational safety and health conditions would be "related to" the Act. Such complaints, however, must relate to conditions at the workplace, as distinguished from complaints touching only upon general public safety and health.

3. Further, the salutary principles of the Act would be seriously undermined if employees were discouraged from lodging complaints about occupational safety and health matters with their employers. Such complaints to employers, if made in good faith, therefore would be related to the Act, and an employee would be protected against discharge or discrimination caused by a complaint to the employer.

F. Proceedings under or related to the act.

1. Discharge of, or discrimination against, any employee because the employee has exercised the employee's rights under or related to this Act is also prohibited by Section 34A-6-203. Examples of proceedings which would arise specifically under the Act would be inspections of work-sites under Section 34A-6-301 of the Act, employee contest of abatement date under Section 34A-6-303 of the Act, employee initiation of proceedings for promulgation of an occupational safety and health standard under Section 34A-6-202 of the Act and Title 63G, Chapter 3, employee application for modification of revocation of a variance under Section 34A-6-202(4)(c) of the Act and R614-1-9., employee judicial challenge to a standard under Section 34A-6-202(6) of the Act, and employee appeal of an order issued by an Administrative Law Judge, Commissioner, or Appeals Board under Section 34A-6-304. In determining whether a "proceeding" is "related to" the Act, the considerations discussed in R614-1-10.G. would also be applicable.

2. An employee need not himself directly institute the proceedings. It is sufficient if he sets into motion activities of others which result in proceedings under or related to the Act.

G. Testimony.

Discharge of, or discrimination against, any employee because the employee "has testified or is about to testify" in proceedings under or related to the Act is also prohibited by Section 34A-6-203. This protection would of course not be limited to testimony in proceedings instituted or caused to be instituted by the employee, but would extend to any statements given in the course of judicial, quasi-judicial, and administrative proceedings, including inspections, investigations, and administrative rulemaking or adjudicative functions. If the employee is giving or is about to give testimony in any proceeding under or related to the Act, he would be protected against discrimination resulting from such testimony.

H. Exercise of any right afforded by the Act.

1. In addition to protecting employees who file complaints, institute proceedings under or related to the Act it also prohibited by Section 34A-6-203 discrimination occurring because of the exercise "of any right afforded by this Act." Certain rights are explicitly provided in the Act; for example, there is a right to participate as a party in enforcement proceedings (34A-6-303). Certain other rights exist by necessary implications. For example, employees may request information from the Utah Occupational Safety and Health Administration; such requests would constitute the exercise of a right afforded by the Act. Likewise, employees interviewed by agents of the Administrator in the course of inspections or investigations could not subsequently be discriminated against because of their cooperation.

2. Review of the Act and examination of the legislative history discloses that, as a general matter, there is no right afforded by the Act which would entitle employees to walk off the job because of potential unsafe conditions at the workplace. Hazardous conditions which may be violative of the Act will ordinarily be corrected by the employer, once brought to his attention. If corrections are not accomplished, or if there is dispute about the existence of a hazard, the employee will normally have opportunity to request inspection of the workplace pursuant to Section 34A-6-301 of the Act, or to seek the assistance of other public agencies which have responsibility in the field of safety and health. Under such circumstances, therefore, an employer would not ordinarily be in violation of Section 34A-6-203 by taking action to discipline an employee for refusing to perform normal job activities because of alleged safety or health hazards.

a. Occasions might arise when an employee is confronted with a choice between not performing assigned tasks or subjecting himself to serious injury or death arising from a hazardous condition at the workplace. If the employee, with no reasonable alternative, refuses in good faith to expose himself to the dangerous condition, he would be protected against subsequent discrimination. The condition causing the employee's apprehension of death or injury must be of such a nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a real danger of death or serious injury and that there is insufficient time, due to the urgency of the situation, to eliminate the danger through resort to regular statutory enforcement channels. In addition, in such circumstances, the employee, where possible, must also have sought from his employer, and been unable to obtain, a correction of the dangerous condition.

I. Procedures - Filing of complaint for discrimination.

1. Who may file. A complaint of Section 34A-6-203 discrimination may be filed by the employee himself, or by a representative authorized to do so on his behalf.

2. Nature of filing. No particular form of complaint is required.

3. Place of filing. Complaint should be filed with the Administrator, Division of Occupational Safety and Health, Labor Commission, 160 East 300 South, Salt Lake City, Utah 84114-6650, Telephone 530-6901.

4. Time for filing.

a. Section 34A-6-203(2)(b) provides protection for an employee who believes that he has been discriminated against.

b. A major purpose of the 30-day period in this provision is to allow the Administrator to decline to entertain complaints which have become stale. Accordingly, complaints not filed within 30 days of an alleged violation will ordinarily be presumed to be untimely.

c. However, there may be circumstances which would justify tolling of the 30-day period on recognized equitable principles or because of strongly extenuating circumstances, e.g., where the employer has concealed, or misled the employee regarding the grounds for discharge or other adverse action; where the employee has, within the 30-day period, resorted in good faith to grievance-arbitration proceedings under a collective bargaining agreement or filed a complaint regarding the same general subject with another agency; where the discrimination is in the nature of a continuing violation. In the absence of circumstances justifying a tolling of the 30-day period, untimely complaints will not be processed.

J. Notification of administrator's determination.

The Administrator is to notify a complainant within 90 days of the complaint of his determination whether prohibited discrimination has occurred. This 90-day provision is considered directory in nature. While every effort will be made to notify complainants of the Administrator's determination within 90 days, there may be instances when it is not possible to meet the directory period set forth in this section.

K. Withdrawal of complaint.

Enforcement of the provisions of Section 34A-6-203 is not only a matter of protecting rights of individual employees, but also of public interest. Attempts by an employee to withdraw a previously filed complaint will not necessarily result in termination of the Administrator's investigation. The Administrator's jurisdiction cannot be foreclosed as a matter of law by unilateral action of the employee. However, a voluntary and uncoerced request from a complainant to withdraw his complaint will be given careful consideration and substantial weight as a matter of policy and sound enforcement procedure.

L. Arbitration or other agency proceedings.

1. An employee who files a complaint under Section 34A-6-203(2) of the Act may also pursue remedies under grievance arbitration proceedings in collective bargaining agreements. In addition, the complainant may concurrently resort to other agencies for relief, such as the National Labor Relations Board. The Administrator's jurisdiction to entertain Section 34A-6-203 complaints, to investigate, and to determine whether discrimination has occurred, is independent of the jurisdiction of other agencies or bodies. The Administrator may file action in district court regardless of the pendency of other proceedings.

2. However, the Administrator also recognizes the policy favoring voluntary resolution of disputes under procedures in collective bargaining agreements. (See, e.g., Boy's Market, Inc. v. Retail Clerks, 398 U.S. 235 (1970); Republic Steel Corp. v. Maddox, 379 U.S. 650 (1965); Carey v. Westinghouse Electric Co., 375 U.S. 261 (1964); Collier Insulated Wire, 192 NLRB No. 150 (1971).) By the same token, due deference should be paid to the jurisdiction of other forums established to resolve disputes which may also be related to Section 34A-6-203 complaints.

3. Where a complainant is in fact pursuing remedies other than those provided by Section 34A-6-203, postponement of the Administrator's determination and deferral to the results of such proceedings may be in order. (See, Burlington Truck Lines, Inc., v. U.S., 371 U.S. 156 (1962).)

4. Postponement of determination. Postponement of determination would be justified where the rights asserted in other proceedings are substantially the same as rights under Section 34A-6-203 and those proceedings are not likely to violate the rights

guaranteed by Section 34A-6-203. The factual issues in such proceedings must be substantially the same as those raised by Section 34A-6-203 complaint, and the forum hearing the matter must have the power to determine the ultimate issue of discrimination. (See, Rios v. Reynolds Metals Co., F. 2d (5th Cir., 1972), 41 U.S.L.W. 1049 (October 10, 1972): Newman v. Aveo Corp., 451 F. 2d 743 (6th Cir., 1971).)

5. Deferral to outcome of other proceedings. A determination to defer to the outcome of other proceedings initiated by a complainant must necessarily be made on a case-to-case basis, after careful scrutiny of all available information. Before deferring to the results of other proceedings, it must be clear that those proceedings dealt adequately with all factual issues, that the proceedings were fair, regular, and free of procedural infirmities, and that the outcome of the proceedings was not repugnant to the purpose and policy of the Act. In this regard, if such other actions initiated by a complainant are dismissed without adjudicative hearing thereof, such dismissal will not ordinarily be regarded as determinative of the Section 34A-6-203 complaint.

M. Employee refusal to comply with safety rules.

Employees who refuse to comply with occupational safety and health standards or valid safety rules implemented by the employer in furtherance of the Act are not exercising any rights afforded by the Act. Disciplinary measures taken by employers solely in response to employee refusal to comply with appropriate safety rules and regulations, will not ordinarily be regarded as discriminatory action prohibited by Section 34A-6-203. This situation should be distinguished from refusals to work, as discussed in R614-1-10.H.

R614-1-11. Rules of Agency Practice and Procedure Concerning UOSH Access to Employee Medical Records.

A. Policy.

UOSH access to employee medical records will in certain circumstances be important to the agency's performance of its statutory functions. Medical records, however, contain personal details concerning the lives of employees. Due to the substantial personal privacy interests involved, UOSH authority to gain access to personally identifiable employee medical information will be exercised only after the agency has made a careful determination of its need for this information, and only with appropriate safeguards to protect individual privacy. Once this information is obtained, UOSH examination and use of it will be limited to only that information needed to accomplish the purpose for access. Personally identifiable employee medical information will be retained by UOSH only for so long as needed to accomplish the purpose for access, will be kept secure while being used, and will not be disclosed to other agencies or members of the public except in narrowly defined circumstances. This section establishes procedures to implement these policies.

B. Scope.

1. Except as provided in paragraphs R614-1-11.B.3. through 6. below, this rule applies to all requests by UOSH personnel to obtain access to records in order to examine or copy personally identifiable employee medical information, whether or not pursuant to the access provision of R614-1-12.D.

2. For the purposes of this rule, "personally identifiably employee medical information" means employee medical information accompanied by either direct identifiers (name, address, social security number, payroll number, etc.) or by information which could reasonably be used in the particular circumstances indirectly to identify specific employees (e.g., exact age, height, weight, race, sex, date of initial employment, job title, etc.).

3. This rule does not apply to UOSH access to, or the use of, aggregate employee medical information or medical records on individual employees which is not a personally identifiable form. This section does not apply to records required by R614-1-8 to death certificates, or to employee exposure records, including biological monitoring records defined by R614-1-3.M. or by specific occupational safety and health standards as exposure records.

4. This rule does not apply where UOSH compliance personnel conduct an examination of employee medical records solely to verify employer compliance with the medical surveillance record keeping requirements of an occupational safety and health standard, or with R614-1-12. An examination of this nature shall be conducted on-site and, if requested, shall be conducted under the observation of the record holder. The UOSH compliance personnel shall not record and take off-site any information from medical records other than documentation of the fact of compliance or non-compliance.

5. This rule does not apply to agency access to, or the use of, personally identifiable employee medical information obtained in the course of litigation.

6. This rule does not apply where a written directive by the Administrator authorizes appropriately qualified personnel to conduct limited reviews of specific medical information mandated by an occupational safety and health standard, or of specific biological monitoring test results.

7. Even if not covered by the terms of this rule, all medically related information reported in a personally identifiable form shall be handled with appropriate discretion and care befitting all information concerning specific employees. There may, for example, be personal privacy interests involved which militate against disclosure of this kind of information to the public.

C. Responsible persons.

1. UOSH Administrator. The Administrator of the Division of Occupational Safety and Health of the Labor Commission shall be responsible for the overall administration and implementation of the procedures contained in this rule, including making final UOSH determinations concerning:

a. Access to personally identifiable employee medical information, and

b. Inter-agency transfer or public disclosure of personally identifiable employee medical information.

2. UOSH Medical Records Officer. The Administrator shall designate a UOSH official with experience or training in the evaluation, use, and privacy protection of medical records to be the UOSH Medical Records Officer. The UOSH Medical Records Officer shall report directly to the Administrator on matters concerning this section and shall be responsible for:

a. Making recommendations to the Administrator as to the approval or denial of written access orders.

b. Assuring that written access orders meet the requirements of paragraphs R614-1-11.D.2. and 3. of this rule.

c. Responding to employee, collective bargaining agent, and employer objections concerning written access orders.

d. Regulating the use of direct personal identifiers.

e. Regulating internal agency use and security of personally identifiable employee medical information.

f. Assuring that the results of agency analyses of personally identifiable medical information are, where appropriate, communicated to employees.

g. Preparing an annual report of UOSH's experience under this rule.

h. Assuring that advance notice is given of intended inter-agency transfers or public disclosures.

3. Principal UOSH Investigator. The Principal UOSH Investigator shall be the UOSH employee in each instance of access to personally identifiable employee medical information who is made primarily responsible for assuring that the examination and use of this information is performed in the manner prescribed by a written access order and the requirements of this section. When access is pursuant to a written access order, the Principal UOSH Investigator shall be professionally trained in medicine, public health, or allied fields (epidemiology, toxicology, industrial hygiene, bio-statistics, environmental health, etc.)

D. Written access orders.

1. Requirement for written access order. Except as provided in paragraph R614-1-11.D.4. below, each request by a UOSH representative to examine or copy personally identifiable employee medical information contained in a record held by an employer or other record holder shall be made pursuant to a written access order which has been approved by the Administrator upon the recommendation of the UOSH Medical Records Officer. If deemed appropriate, a written access order may constitute, or be accompanied by an administrative subpoena.

2. Approval criteria for written access order. Before approving a written access order, the Administrator and the UOSH Medical Records Officer shall determine that:

a. The medical information to be examined or copied is relevant to a statutory purpose and there is a need to gain access to this personally identifiable information.

b. The personally identifiable medical information to be examined or copied is limited to only that information needed to accomplish the purpose for access, and

c. The personnel authorized to review and analyze the personally identifiable medical information are limited to those who have a need for access and have appropriate professional qualifications.

3. Content of written access order. Each written access order shall state with reasonable particularity:

a. The statutory purposes for which access is sought.

b. The general description of the kind of employee medical information that will be examined and why there is a need to examine personally identifiable information.

c. Whether medical information will be examined on-site, and what type of information will be copied and removed off-site.

d. The name, address, and phone number of the Principal UOSH Investigator and the names of any other authorized persons who are expected to review and analyze the medical information.

e. The name, address, and phone number of the UOSH Medical Records Officer, and

f. The anticipated period of time during which UOSH expects to retain the employee medical information in a personally identifiable form.

4. Special situations. Written access orders need not be obtained to examine or copy personally identifiable employee medical information under the following circumstances:

a. Specific written consent. If the specific written consent of an employee is obtained pursuant to R614-1-12.D., and the agency or an agency employee is listed on the authorization as the designated representative to receive the medical information, then a written access order need not be obtained. Whenever personally identifiable employee medical information is obtained through specific written consent and taken off-site, a Principal UOSH Investigator shall be promptly named to assure protection of the information, and the UOSH Medical Records Officer shall be notified of this person's identity. The personally identifiable medical information obtained shall thereafter be subject to the use and security requirements of paragraphs R614-1-11.H.

b. Physician consultations. A written access order need not be obtained where a UOSH staff or contract physician consults with an employer's physician concerning an occupational safety or health issue. In a situation of this nature, the UOSH physician may conduct on-site evaluation of employee medical records in consultation with the employer's physician, and may make necessary personal notes of his or her findings. No employee medical records however, shall be taken off-site in the absence of a written access order or the specific written consent of an employee, and no notes of personally identifiable employee medical information made by the UOSH physician shall leave his or her control without the permission of the UOSH Medical Records Officer.

E. Presentation of written access order and notice to employees.

1. The Principal UOSH Investigator, or someone under his or her supervision, shall present at least two (2) copies each of the written access order and an accompanying cover letter to the employer prior to examining or obtaining medical information subject to a written access order. At least one copy of the written access order shall not identify specific employees by direct personal identifier. The accompanying cover letter shall summarize the requirements of this section and indicate that questions or objections concerning the written access order may be directed to the Principal UOSH Investigator or to the UOSH Medical Records Officer.

2. The Principal UOSH Investigator shall promptly present a copy of the written access order (which does not identify specific employees by direct personal identifier) and its accompanying cover letter to each collective bargaining agent representing employees whose medical records are subject to the written access order.

3. The Principal UOSH Investigator shall indicate that the employer must promptly post a copy of the written access order which does not identify specific employees by direct personal identifier, as well as post its accompanying cover letter.

4. The Principal UOSH Investigator shall discuss with any collective bargaining agent and with the employer the appropriateness of individual notice to employees affected by the written access order. Where it is agreed that individual notice is appropriate, the Principal UOSH Investigator shall promptly provide to the employer an adequate number of copies of the written access order (which does not identify specific employees by direct personal identifier) and its accompanying cover letter to enable the employer either to individually notify each employee or to place a copy in each employee's medical file.

F. Objections concerning a written access order. All employees, collective bargaining agents, and employer written objections concerning access to records pursuant to a written access order shall be transmitted to the UOSH Medical Records Officer.

~~Unless the agency decides otherwise, access to the record shall proceed without delay notwithstanding the lodging of an objection. The UOSH Medical Records Officer shall respond in writing to each employee's and collective bargaining agent's written objection to UOSH access. Where appropriate, the UOSH Medical Records Officer may revoke a written access order and direct that any medical information obtained by it by returned to the original record holder or destroyed. The principal UOSH Investigator shall assure that such instructions by the UOSH Medical Records Officer are promptly implemented.~~

~~G. Removal of direct personal identifiers. Whenever employees medical information obtained pursuant to a written access order is taken off-site with direct personal identifiers included, the Principal UOSH Investigator shall, unless otherwise authorized by the UOSH Medical Records Officer, promptly separate all direct personal identifiers from the medical information, and code the medical information and the list of direct identifiers with a unique identifying number of each employee. The medical information with its numerical code shall thereafter be used and kept secured as though still in a directly identifiable form. The Principal UOSH Investigator shall also hand deliver or mail the list of direct personal identifiers with their corresponding numerical codes to the UOSH Medical Records Officer. The UOSH Medical Records Officer shall thereafter limit the use and distribution of the list of coded identifiers to those with a need to know its contents.~~

~~H. Internal agency use of personally identifiable employee medical information.~~

~~1. The Principal UOSH Investigator shall in each instance of access be primarily responsible for assuring that personally identifiable employee medical information is used and kept secured in accordance with this section.~~

~~2. The Principal UOSH Investigator, the UOSH Medical Records Officer, the Administrator, and any other authorized person listed on a written access order may permit the examination or use of personally identifiable employee medical information by agency employees and contractors who have a need for access, and appropriate qualifications for the purpose for which they are using the information. No UOSH employee or contractor is authorized to examine or otherwise use personally identifiable employee medical information unless so permitted.~~

~~3. Where a need exists, access to personally identifiable employee medical information may be provided to attorneys in the office of the State Attorney General, and to agency contractors who are physicians or who have contractually agreed to abide by the requirements of this section and implementing agency directives and instructions.~~

~~4. UOSH employees and contractors are only authorized to use personally identifiable employee medical information for the purposes for which it was obtained, unless the specific written consent of the employee is obtained as to a secondary purpose, or the procedures of R614-1-11.D. through G. are repeated with respect to the secondary purpose.~~

~~5. Whenever practicable, the examination of personally identifiable employee medical information shall be performed on-site with a minimum of medical information taken off-site in a personally identifiable form.~~

~~I. Security procedures.~~

~~1. Agency files containing personally identifiable employee medical information shall be segregated from other agency files. When not in active use, files containing this information shall be kept secured in a locked cabinet or vault.~~

~~2. The UOSH Medical Records Officer and the Principal UOSH Investigator shall each maintain a log of uses and transfers of personally identifiable employee medical information and lists of coded direct personal identifiers, except as to necessary uses by staff under their direct personal supervision.~~

~~3. The photocopying or other duplication of personally identifiable employee medical information shall be kept to the minimum necessary to accomplish the purposes for which the information was obtained.~~

~~4. The protective measures established by this rule apply to all worksheets, duplicate copies, or other agency documents containing personally identifiable employee medical information.~~

~~5. Intra-agency transfers of personally identifiable employee medical information shall be by hand delivery, United States mail, or equally protective means. Inter-office mailing channels shall not be used.~~

~~J. Retention and destruction of records.~~

~~1. Consistent with UOSH records disposition programs, personally identifiable employee medical information and lists of coded direct personal identifiers shall be destroyed or returned to the original record holder when no longer needed for the purposes for which they were obtained.~~

~~2. Personally identifiable employee medical information which is currently not being used actively but may be needed for future use shall be transferred to the UOSH Medical Records Officer. The UOSH Medical Records Officer shall conduct an annual review of all centrally-held information to determine which information is no longer needed for the purposes for which it was obtained.~~

~~K. Results of an agency analysis using personally identifiable employee medical information.~~

~~1. The UOSH Medical Records Officer shall, as appropriate, assure that the results of an agency analysis using personally identifiable employee medical information are communicated to the employees whose personal medical information was used as a part of the analysis.~~

~~2. Annual report. The UOSH Medical Records Officer shall on an annual basis review UOSH's experience under this section during the previous year, and prepare a report to the UOSH Administrator which shall be made available to the public. This report shall discuss:~~

~~a. The number of written access orders approved and a summary of the purposes for access;~~

~~b. The nature and disposition of employee; collective bargaining agent, and employer written objections concerning UOSH access to personally identifiable employee medical information; and~~

~~c. The nature and disposition of requests for inter-agency transfer or public disclosure of personally identifiable employee medical information.~~

~~L. Inter-agency transfer and public disclosure.~~

~~1. Personally identifiable employee medical information shall not be transferred to another agency or office outside of UOSH (other than to The Attorney General's Office) or disclosed to the public (other than to the affected employee or the original record holder) except when required by law or when approved by the Administrator.~~

~~2. Except as provided in paragraph R614-1-11.L.3. below, the Administrator shall not approve a request for an inter-agency~~

transfer of personally identifiable employee medical information, which has not been consented to by the affected employees, unless the request is by a public health agency which:

a. Needs the requested information in a personally identifiable form for a substantial public health purpose;

b. Will not use the requested information to make individual determinations concerning affected employees which could be to their detriment;

c. Has regulations or established written procedures providing protection for personally identifiable medical information substantially equivalent to that of this section; and

d. Satisfies an exemption to the Privacy Act to the extent that the Privacy Act applies to the requested information (See 5 U.S.C. 552a(b); 29 CFR 70a.3).

3. Upon the approval of the Administrator, personally identifiable employee medical information may be transferred to:

a. The National Institute for Occupational Safety and Health (NIOSH).

b. The Department of Justice when necessary with respect to a specific action under the federal Occupational Safety and Health Act of 1970 and Utah Occupational Safety and Health Act of 1973.

4. The Administrator shall not approve a request for public disclosure of employee medical information containing direct personal identifiers unless there are compelling circumstances affecting the health or safety of an individual.

5. The Administrator shall not approve a request for public disclosure of employee medical information which contains information which could reasonably be used indirectly to identify specific employees when the disclosure would constitute a clearly unwarranted invasion of personal privacy.

6. Except as to inter-agency transfers to NIOSH or the State Attorney General's Office, the UOSH Medical Records Officer shall assure that advance notice is provided to any collective bargaining agent representing affected employees and to the employer on each occasion that UOSH intends to either transfer personally identifiable employee medical information to another agency or disclose it to a member of the public other than to an affected employee. When feasible, the UOSH Medical Records Officer shall take reasonable steps to assure that advance notice is provided to affected employees when the employee medical information to be released or disclosed contains direct personal identifiers.

M. Effective date.

This rule shall become effective on January 15, 1981.

R614-1-12. Access to Employee Exposure and Medical Records.

A. Purpose.

To provide employees and their designated representatives a right of access to relevant exposure and medical records, and to provide representatives of the Administrator a right of access to these records in order to fulfill responsibilities under the Utah Occupational Safety and Health Act. Access by employees, their representatives, and the Administrator is necessary to yield both direct and indirect improvements in the detection, treatment, and prevention of occupational disease. Each employer is responsible for assuring compliance with this Rule, but the activities involved in complying with the access to medical records provisions can be carried out, on behalf of the employer, by the physician or other health care personnel in charge of employee medical records. Except as expressly provided, nothing in this Rule is intended to affect existing legal and ethical obligations concerning the maintenance and confidentiality of employee medical information, the duty to disclose information to a patient/employee or any other aspect of the medical-care relationship, or affect existing legal obligations concerning the protection of trade secret information.

B. Scope.

1. This rule applies to each general industry, maritime, and construction employer who makes, maintains, contracts for, or has access to employee exposure or medical records, or analyses thereof, pertaining to employees exposed to toxic substances or harmful physical agents.

2. This rule applies to all employee exposure and medical records, and analyses thereof, of employees exposed to toxic substances or harmful physical agents, whether or not the records are related to specific occupational safety and health standards.

3. This rule applies to all employee exposure and medical records, and analyses thereof, made or maintained in any manner, including on an in-house or contractual (e.g., fee-for-service) basis. Each employer shall assure that the preservation and access requirements of this rule are complied with regardless of the manner in which records are made or maintained.

C. Preservation of records.

1. Unless a specific occupational safety and health standard provides a different period of time, each employer shall assure the preservation and retention of records as follows:

a. Employee medical records. Each employee medical record shall be preserved and maintained for a least the duration of employment plus thirty (30) years, except that health insurance claims records maintained separately from the employer's medical program and its records need not be retained for any specified period.

b. Employee exposure records. Each employee exposure record shall be preserved and maintained for at least thirty (30) years, except that:

(1) Background data to environmental (workplace) monitoring or measuring, such a laboratory reports and worksheets, need only be retained for one (1) year so long as the sampling results, the collection methodology (sampling plan), a description of the analytical and mathematical methods used, and a summary of other background data relevant to interpretation of the results obtained, are retained for at least thirty (30) years; and

(2) Material safety data sheets and paragraph R614-1-3.M.4. records concerning the identity of a substance or agent need not be retained for any specified period as long as some record of the identity (chemical name if known) of the substance or agent, where it was used, and when it was used is retained for at least thirty (30) years; and

c. Analyses using exposure or medical records. Each analysis using exposure or medical records shall be preserved and maintained for at least thirty (30) years.

2. Nothing in this rule is intended to mandate the form, manner, or process by which an employer preserves a record so long as the information contained in the record is preserved and retrievable, except that X-ray films shall be preserved in their original state.

D. Access to records.

1. Whenever an employee or designated representative requests access to a record, the employer shall assure that access is provided in a reasonable time, place, and manner, but in no event later than fifteen (15) days after the request for access is made.

2. Whenever an employee or designated representative requests a copy of a record, the employer shall, within the period of time previously specified, assure that either:

a. A copy of the record is provided without cost to the employee or representative;

b. The necessary mechanical copying facilities (e.g., photocopying) are made available without cost to the employee or representative for copying the record; or

c. The record is loaned to the employee or representative for a reasonable time to enable a copy to be made.

3. Whenever a record has been previously provided without cost to an employee or designated representative, the employer may charge reasonable, non-discriminatory administrative costs (i.e., search and copy expenses but not including overhead expenses) for a request by the employee or designated representative for additional copies of the record, except that:

a. An employer shall not charge for an initial request for a copy of new information that has been added to a record which was previously provided; and

b. An employer shall not charge for an initial request by a recognized or certified collective bargaining agent for a copy of an employee exposure record or an analysis using exposure or medical records.

4. Nothing in this rule is intended to preclude employees and collective bargaining agents from collectively bargaining to obtain access to information in addition to that available under this rule.

5. Employee and designated representative access.

a. Employee exposure records. Each employer shall, upon request, assure the access of each employee and designated representative to employee exposure records relevant to the employee. For the purpose of this rule exposure records relevant to the employee consist of:

(1) Records of the employee's past or present exposure to toxic substances or harmful physical agents,

(2) Exposure records of other employees with past or present job duties or working conditions related to or similar to those of the employee,

(3) Records containing exposure information concerning the employee's workplace or working conditions, and

(4) Exposure records pertaining to workplaces or working conditions to which the employee is being assigned or transferred.

b. Employee medical records.

(1) Each employer shall, upon request, assure the access of each employee to employee medical records of which the employee is the subject, except as provided in R614-1-12.D.4.

(2) Each employer shall, upon request, assure the access of each designated representative to the employee medical records of any employee who has given the designated representative specific written consent. R614-1-12A., Appendix A to R614-1-12., contains a sample form which may be used to establish specific written consent for access to employee medical records.

(3) Whenever access to employee medical records is requested, a physician representing the employer may recommend that the employee or designated representative:

(a) Consult with the physician for the purposes of reviewing and discussing the records requested;

(b) Accept a summary of material facts and opinions in lieu of the records requested;, or

(c) Accept release of the requested records only to a physician or other designated representative.

(4) Whenever an employee requests access to his or her employee medical records, and a physician representing the employer believes that direct employee access to information contained in the records regarding a specific diagnosis of a terminal illness or a psychiatric condition could be detrimental to the employees health, the employer may inform the employee that access will only be provided to a designated representative of the employee having specific written consent, and deny the employee's request for direct access to this information only. Where a designated representative with specific written consent requests access to information so withheld, the employer shall assure the access of the designated representative to this information, even when it is known that the designated representative will give the information to the employee.

(5) Nothing in this rule precludes physician, nurse, or other responsible health care personnel maintaining employee medical records from deleting from requested medical records the identity of a family member, personal friend, or fellow employee who has provided confidential information concerning an employee's health status.

c. Analysis using exposure or medical records.

(1) Each employer shall, upon request, assure the access of each employee and designated representative to each analysis using exposure or medical records concerning the employee's working conditions or workplace.

(2) Whenever access is requested to an analysis which reports the contents of employee medical records by either direct identifier (name, address, social security number, payroll number, etc.) or by information which could reasonably be used under the circumstances indirectly to identify specific employees (exact age, height, weight, race, sex, date of initial employment, job title, etc.) the employer shall assure that personal identifiers are removed before access is provided. If the employer can demonstrate that removal of personal identifiers from an analysis is not feasible, access to the personally identifiable portions of analysis need not be provided.

(3) UOSH access.

(a) Each employer shall, upon request, assure the immediate access of representatives of the Administrator to employee exposure and medical records and to analysis using exposure or medical records. Rules of agency practice and procedure governing UOSH access to employee medical records are contained in R614-1-8.

(b) Whenever UOSH seeks access to personally identifiable employee medical information by presenting to the employer a written access order pursuant to R614-1-8, the employer shall prominently post a copy of the written access order and its accompanying cover letter for at least fifteen (15) working days.

E. Trade Secrets.

1. Except as provided in paragraph R614-1-12.E.2., nothing in this rule precludes an employer from deleting from records requested by an employee or designated representative any trade secret data which discloses manufacturing processes, or discloses the percentage of a chemical substance in a mixture, as long as the employee or designated representative is notified that information has been deleted. Whenever deletion of trade secret information substantially impairs evaluation of the place where or the time when exposure to a toxic substance or harmful physical agent occurred, the employer shall provide alternative information which is sufficient to permit the employee to identify where and when exposure occurred.

2. Notwithstanding any trade secret claims, whenever access to records is requested, the employer shall provide access to chemical or physical agent identities including chemical names, levels of exposure, and employee health status data contained in the requested records.

3. Whenever trade secret information is provided to an employee or designated representative, the employer may require, as a condition of access, that the employee or designated representative agree in writing not to use the trade secret information for the purpose of commercial gain and not to permit misuse of the trade secret information by a competitor or potential competitor of the employer.

F. Employee information.

1. Upon an employee's first entering into employment, and at least annually thereafter, each employer shall inform employees exposed to toxic substances or harmful physical agents of the following;

a. The existence, location, and availability of any records covered by this rule;

b. The person responsible for maintaining and providing access to records; and

c. Each employee's right of access to these records.

2. Each employer shall make readily available to employees a copy of this rule and its appendices, and shall distribute to employees any informational materials concerning this rule which are made available to the employer by the Administrator.

G. Transfer of Records

1. Whenever an employer is ceasing to do business, the employer shall transfer all records subject to this Rule to the successor employer. The successor employer shall receive and maintain these records.

2. Whenever an employer is ceasing to do business and there is no successor employer to receive and maintain the records subject to this standard, the employer shall notify affected employees of their rights of access to records at least three (3) months prior to the cessation of the employer's business.

3. Whenever an employer either is ceasing to do business and there is no successor employer to receive and maintain the records, or intends to dispose of any records required to be preserved for at least thirty (30) years, the employer shall:

a. Transfer the records to the Director of the National Institute for Occupational Safety and Health (NIOSH) if so required by a specific occupational safety and health standard; or

b. Notify the Director of NIOSH in writing of the impending disposal of records at least three (3) months prior to the disposal of the records.

4. Where an employer regularly disposes of records required to be preserved for at least thirty (30) years, the employer may, with at least (3) months notice, notify the Director of NIOSH on an annual basis of the records intended to be disposed of in the coming year.

a. Appendices. The information contained in the appendices to this rule is not intended, by itself, to create any additional obligations not otherwise imposed by this rule nor detract from any existing obligation.

H. Effective date. This rule shall become effective on December 5, 1980. All obligations of this rule commence on the effective date except that the employer shall provide the information required under R614-1-12.F.1. to all current employees within sixty (60) days after the effective date.

R614-1-12A. Appendix A to R614-1-12 SAMPLE.

Authorization letter for the Release of Employee Medical Record Information to Designated Representative.

I, (full name of worker/patient), hereby authorize (individual or organization holding the medical records), to release to (individual or organization authorized to receive the medical information), the following medical information from my personal medical records: (Describe generally the information desired to be released).

I give my permission for this medical information to be used for the following purpose: ....., but I do not give permission for any other use or re-disclosure of this information.

(Note---Several extra lines are provided below so that you can place additional restrictions on this authorization letter if you want to. You may, however, leave these lines blank. On the other hand, you may want to (1) specify a particular expiration date for this letter (if less than one year): (2) describe medical information to be created in the future that you intend to be covered by this authorization letter, or (3) describe portions of the medical information in you records which you do not intend to be released as a result of this letter.)

Full name of Employee or Legal Representative

Signature of Employee or Legal Representative

Date of Signature

R614-1-12B. Appendix B to R614-1-12 Availability of NIOSH Registry of Toxic Effects of Chemical Substances (RTECS).

R614-1-12 applies to all employee exposure and medical records, and analysis thereof, of employees exposed to toxic substances or harmful physical agents (see R614-1-12.B.2.). The term "toxic substance" or "harmful physical agent" is defined by paragraph R614-1-3.FF. to encompass chemical substances, biological agents, and physical stresses for which there is evidence of harmful health effects. The standard uses the latest printed edition of the National Institute for Occupational Safety and Health (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS) as one of the chief sources of information as to whether evidence of harmful health effects exists. If a substance is listed in the latest printed RTECS, the standard applies to exposure and medical records (and analysis of these records) relevant to employees exposed to the substances.

It is appropriate to note that the final standard does not require that employers purchase a copy of RTECS and many employers need not consult RTECS to ascertain whether their employee exposure or medical records are subject to the standard. Employers who do not currently have the latest printed edition of the NIOSH RTECS, however, may desire to obtain a copy. The RTECS is issued in an annual printed edition as mandated by Rule 20(a)(6) of the Occupational Safety and Health Act (29 U.S.C. 669 (a)(6)). The 1978 edition is the most recent printed edition as of May 1, 1980. Its Forward and Introduction describes the RTECS as follows:

"The annual publication of a list of known toxic substances is a NIOSH mandate under the Occupational Safety and Health Act of 1970. It is intended to provide basic information on the known toxic and biological effects of chemical substances for the use of employers, employees, physicians, industrial hygienists, toxicologists, researchers, and, in general, anyone concerned with the proper and safe handling of chemicals. In turn, this information may contribute to a better understanding of potential occupational hazards by everyone involved and ultimately may help to bring about a more healthful workplace environment.

~~"This registry contains 142,247 listings of chemical substances: 33,929 are names of different chemicals with their associated toxicity data and 90,318 are synonyms. This edition includes approximately 7,500 new chemical compounds that did not appear in the 1977 Registry.~~

~~"The Registry's purposes are many, and it serves a variety of users. It is a single source document for basic toxicity information and for other data, such as chemical identifiers and information necessary for the preparation of safety directives and hazard evaluations for chemical substances. The various types of toxic effects linked to literature citations provide researchers and occupational health scientists with an introduction to the toxicological literature, making their own review of the toxic hazards of a given substance easier. By presenting data on the lowest reported doses that produce effects by several routes of entry in various species, the Registry furnishes valuable information to those responsible for preparing safety data sheets for chemical substances in the workplace. Chemical and production engineers can use the Registry to identify the hazards which may be associated with chemical intermediates in the development of final products, and thus can more readily select substitutes or alternate processes which may be less hazardous.~~

~~"In this edition of the Registry, the editors intend to identify "all known toxic substances" which may exist in the environment and to provide pertinent data on the toxic effects from known does entering an organism by any route described. Data may be used for the evaluation of chemical hazards in the environment, whether they be in the workplace, recreation area, or living quarters.~~

~~"It must be reemphasized that the entry of a substance in the Registry does not automatically mean that it must be avoided. A listing does mean, however, that the substance has the documented potential of being harmful if misused, and care must be exercised to prevent tragic consequences."~~

~~The RTECS 1978 printed edition may be purchased for $13.00 from the Superintendent of Documents, U.S. Government Printing Office (GPO), Washington, D.C. 20402 (202-783-3238) (GPO Stock No. 017-033-00346-7). The 1979 printed edition is anticipated to be issued in the summer of 1980. Some employers may also desire to subscribe to the quarterly update to the RTECS which is published in a microfiche edition. An annual subscription to the quarterly microfiche may be purchase from the GPO for $14.00 (Order the "Microfiche Edition. Registry of Toxic Effects of Chemical Substances"). Both the printed edition and the microfiche edition of RTECS are available for review at many university and public libraries throughout the country. The latest RTECS editions may also be examined at OSHA Technical Data Center, Room N2439-Rear, United States Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 (202-523-9700), or any OSHA Regional or Area Office (See major city telephone directories under United States Government-Labor Department).~~]

R614-1-1. Authority.

A. These rules and all subsequent revisions, as approved and promulgated by the Labor Commission (commission), Utah Occupational Safety and Health Division (UOSH), are authorized pursuant to the Utah Occupational Safety and Health Act, Utah Code Ann. 34A-6-101 et seq., of 1973 (Utah OSH Act).

B. The intent and purpose of this chapter is stated in section 34A-6-102 of the Utah OSH Act.

C. In accordance with legislative intent, these rules provide for the safety and health of workers and for the administration of this chapter by UOSH.

R614-1-2. Scope.

These rules consist of administrative procedures of UOSH, incorporating by reference applicable federal standards from 29 CFR 1904, 1908, 1910 and 1926, and the Utah initiated occupational safety and health standards found in Utah Administrative Code (UAC) R614-1 through R614-10.

R614-1-3. Definitions.

A. "Access" means the right and opportunity to examine and copy.

B. "Adjudication" means the Adjudication Division within the Labor Commission.

C. "Administrator" means the director of UOSH.

D. "AG's Office" means the Utah Office of the Attorney General.

E. "CFR" means the Code of Federal Regulations.

F. "Commission" means the Labor Commission.

G. "CSHO" means a compliance safety and health officer authorized by UOSH to conduct inspections and investigations.

H. "Days" means calendar days, including Saturdays, Sundays, and holidays. The day of receipt of any notice shall not be included, and the last day of any time frame shall be included. If the last day of any time period is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday or legal holiday.

I. "Disabling, serious or significant injury" means any injury resulting in:

1. Admittance to the hospital; or

2. Permanent or temporary impairment, where function of any part of the body is substantially reduced or made useless and which would require treatment by a physician or other licensed health care professional. Examples of a disabling, serious or significant injury include, but are not limited to, amputation, fracture, deep laceration, severe burn (thermal, chemical, etc.), electrical burn, sight impairment, loss of consciousness and concussion.

J. "Division" means UOSH.

K. Employee medical record.

1. "Employee medical record" means a record concerning the health status of an employee which is made or maintained by a physician, nurse, or other health care personnel, or technician including:

a. Medical and employment questionnaires or histories (including job description and occupational exposures);

b. The results of medical examinations (pre-employment, pre-assignment, periodic, or episodic) and laboratory tests including (X-ray examinations and all biological monitoring not defined as an "employee exposure record" in 29 CFR 1910.1020(c)(5));

c. Medical opinions, diagnoses, progress notes, and recommendations;

d. Descriptions of treatments and prescriptions; and

e. Employee medical complaints.

2. "Employee medical record" does not include the following:

a. Physical specimens (e.g., blood or urine samples) which are routinely discarded as a part of normal medical practice;

b. Records concerning health insurance claims if maintained separately from the employer's medical program and its records, and not accessible to the employer by employee name or other direct personal identifier (e.g., social security number, payroll number, etc.);

c. Records created solely in preparation for litigation which are privileged from discovery under the applicable rules of procedure or evidence; or

d. Records concerning voluntary employee assistance programs (alcohol, drug abuse, or personal counseling programs) if maintained separately from the employer's medical program and its records.

L. "Establishment" means a single physical location where business is conducted or where services or industrial operations are performed. (For example: A factory, mill, store, hotel, restaurant, movie theater, farm, ranch, bank, sales office, warehouse, or central administrative office.) Where distinctly separate activities are performed at a single physical location (such as contract construction activities from the same physical location as a lumber yard), each activity shall be treated as a separate physical establishment, and separate notices shall be posted in each establishment to the extent that such notices have been furnished by UOSH.

M. "Exposure" or "exposed" means that an employee is subjected to a toxic substance or harmful physical agent in the course of employment through any route of entry (inhalation, ingestion, skin contact, absorption, etc.) and includes past exposure and potential (e.g., accidental or possible) exposure, but does not include situations where the employer can demonstrate that the toxic substance or harmful physical agent is not used, handled, stored, generated, or present in the workplace in any manner different from typical non-occupational situations.

N. "Hearing" means a proceeding conducted by the commission.

O. "Imminent danger" means a danger exists which reasonably could be expected to cause an occupational disease, death, or serious physical harm immediately, or before the danger could be eliminated through enforcement procedures under the Utah OSH Act.

P. "Inspection" means any inspection of an employer's factory, plant, establishment, construction site, or other area, workplace or environment where work is performed by an employee of an employer, and includes any inspection conducted pursuant to a complaint filed under UAC R614-1-6.K.1. and 3., any re-inspection, follow-up inspection, accident investigation or other inspection conducted under section 34A-6-301(1) of the Utah OSH Act.

Q. "OSHA" means the federal Occupational Safety and Health Administration (OSHA).

R. "Serious injury" -- refer to definition for "disabling, serious or significant injury."

S. "Standard" means an occupational health and safety standard or group of standards which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary to provide safety and healthful employment and places of employment.

T. "Toxic substance or harmful physical agent" means any chemical substance, biological agent (bacteria, virus, fungus, etc.) or physical stress (noise, heat, cold, vibration, repetitive motion, ionizing and non-ionizing radiation, hypo or hyperbaric pressure, etc.) which:

1. Is listed in the latest printed edition of the National Institute for Occupational Safety and Health (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS) which is incorporated by reference as specified in 29 CFR 1910.6;

2. Has yielded positive evidence of an acute or chronic health hazard in human, animal, or other biological testing conducted by, or known to the employer; or

3. Is the subject of a safety data sheet kept by or known to the employer indicating that the material may pose a hazard to human health.

U. "UAC" means Utah Administrative Code.

V. "UOSH" means the Utah Occupational Safety and Health Division within the Labor Commission.

W. "Utah OSH Act" means the Utah Occupational Safety and Health Act, Utah Code Ann. 34A-6-101 et seq., of 1973.

R614-1-4. Incorporation of Federal Standards.

A. The following federal occupational safety and health standards are hereby incorporated:

1. 29 CFR 1904, July 1, 2018, is incorporated by reference, except 29 CFR 1904.36 and the workplace fatality, injury and illness reporting requirements found in 29 CFR 1904.1, 1904.2, 1904.7 and 1904.39. Workplace fatalities, injuries and illnesses shall be reported pursuant to the more specific Utah standards in subsection 34A-6-301(3)(b)(ii) of the Utah OSH Act and UAC R614-1-5(B)(1).

2. 29 CFR 1908, July 1, 2015, is incorporated by reference.

3. 29 CFR 1910.6 and 1910.21 through the end of part 1910, of the July 1, 2018, edition are incorporated by reference.

4. 29 CFR 1926.6 and 1926.20 through the end of part 1926, of the July 1, 2018, edition are incorporated by reference.

R614-1-5. Adoption and Extension of Established Federal Safety Standards and State of Utah General Safety Orders.

A. Scope and Purpose.

1. The provisions of this rule adopt and extend the applicability of established Federal Safety Standards and UAC R614 with respect to every employer, employee and employment in the state of Utah, covered by the Utah OSH Act.

2. All standards and rules, including emergency and/or temporary, promulgated under the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1590 et seq., 29 U.S.C. 651 et seq.) shall be accepted as part of the standards, rules and regulations under the Utah OSH Act, unless specifically revoked or deleted.

B. Reporting Requirements.

1. Each employer shall within 8 hours of occurrence, notify UOSH of any work-related fatalities, of any disabling, serious, or significant injury and of any occupational disease incident. Call (801) 530-6901.

2. Tools, equipment, materials or other evidence that might pertain to the cause of such accident shall not be removed or destroyed until so authorized by UOSH or one of its CSHOs.

3. Each employer shall investigate or cause to be investigated all work-related injuries and occupational diseases and any sudden or unusual occurrence or change of conditions that pose an unsafe or unhealthful exposure to employees.

C. Employer and Employee Responsibility.

1. It shall be the duty and responsibility of any employee upon entering his or her place of employment, to examine carefully

such working place and ascertain if the place is safe, if the tools and equipment can be used with safety, and if the work can be performed safely. After such examination, it shall be the duty of the employee to make the place, tools, or equipment safe. If this cannot be done, then it becomes his or her duty to immediately report the unsafe place, tools, equipment, or conditions to the foreman or supervisor.

2. Employees must comply with all safety rules of their employer and with all the rules and regulations promulgated by UOSH which are applicable to their type of employment.

3. Management shall inspect or designate a competent person or persons to inspect frequently for unsafe conditions and practices, defective equipment and materials, and where such conditions are found, it shall take appropriate action to correct such conditions immediately.

4. Management shall warn all employees of any dangerous condition and permit no one to work in an unsafe place, except for the purpose of making it safe.

5. Each employer shall instruct its employees in a language and vocabulary that the employees can understand. Employees shall only be assigned to duties or locations where they have the necessary skills and comprehension to work in a safe manner.

D. General Safety Requirements.

1. No person shall remove, displace, bypass, destroy, or carry away any safety devices or safeguards provided for use in any place of employment, or interfere in any way with the use thereof by other persons, or interfere in any method or process adopted for the protection of employees.

2. Where there is a risk of injury from hair entanglement in moving parts of machinery, employees shall confine their hair to eliminate the hazard.

3. Loose gloves, sleeves, tails, ties, lapels, cuffs, or similar garments which can become entangled in moving machinery shall not be worn where an entanglement hazard exists. Clothing saturated or impregnated with flammable liquids, corrosive substances, irritant, oxidizing agents or other toxic materials shall be removed and shall not be worn until properly cleaned.

4. Wrist watches, rings, or other jewelry shall not be worn on the job where they constitute a safety hazard.

5. Emergency Posting Required.

A list of telephone numbers or addresses as may be applicable shall be posted in a conspicuous place so the necessary help can be obtained in case of emergency. This list shall include:

a. Responsible supervision (superintendent or equivalent)

b. Doctor

c. Hospital

d. Ambulance

e. Fire Department

f. Sheriff or Police

6. Lockout and Tagout.

a. UOSH has incorporated, by reference, 29 CFR 1910.147, The Control of Hazardous Energy (Lockout/Tagout). See UAC R614-1-4.1.

b. The employee performing servicing or maintenance on machines or equipment required to be locked out under 29 CFR 1910.147 shall have exclusive control of the lockout device until the job is completed or such employee is relieved from the job, such as by shift change or other assignment.

7. Safety latch-type hooks shall be used wherever possible.

8. Grizzlies Over Chutes, Bins and Tank Openings.

a. Employees shall be provided with and use approved type safety harnesses and shall be tied off securely so as to be suspended above the level of the product before entering any bin, chute or storage place containing material that might cave or run. Cleaning and barring down in such places shall be started from the top using only bars blunt on one end or having a ring type or D handhold.

b. Employees shall not work on top of material stored or piled above chutes, drawholes or conveyor systems while material is being withdrawn unless protected.

c. Chutes, bins, drawholes and similar openings shall be equipped with grizzlies or other safety devices that will prevent employees from falling into the openings.

d. Bars for grizzly grids shall be so fitted that they will not loosen and slip out of place, and the operator shall not remove a bar temporarily to let large rocks through rather than to break them.

E. Process Safety Management.

All requirements of the process safety management (PSM) standard 29 CFR 1910.119 are hereby extended to include blister agents sulfur mustard (H, HD, HT), nitrogen mustard (HN-1, HN-2, HN-3), Lewisite (L) and halogenated oximes (CX) and the nerve agents tabun (GA), sarin (GB), soman (GD) and VX.

R614-1-6. Inspections, Citations, and Proposed Penalties.

A. The purpose of UAC R614-1-6 is to prescribe rules and general policies for enforcement of the inspection, citation, and proposed penalty provisions of the Utah OSH Act. Where UAC R614-1-6 sets forth general enforcement policies rather than substantive or procedural rules, such policies may be modified in specific circumstances where the administrator or its designee determines that an alternative course of action would better serve the objectives of the Utah OSH Act.

B. Posting of Notices; Availability of the Utah OSH Act, Regulations and Applicable Standards.

1. Each employer shall post and keep posted notices, to be furnished by UOSH, informing employees of the protections and obligations provided for in the Utah OSH Act, and that for assistance and information, including copies of the Utah OSH Act and of specific safety and health standards, employees should contact their employer or the UOSH office. Such notices shall be posted by the employer in each establishment in a conspicuous place where notices to employees are customarily posted. Each employer shall take steps to ensure that such notices are not altered, defaced, or covered by other material.

2. Where employers are engaged in activities which are physically dispersed, such as agriculture, construction, transportation communications, and electric, gas and sanitary services, the notices required shall be posted at the location where employees report each day. In the case of employees who do not usually work at, or report to, a single establishment, such as traveling salesmen, technicians, engineers, etc., such notices shall be posted in accordance with the requirements of UAC R614-1-6.Q.

3. Copies of the Utah OSH Act, all regulations published under authority of section 34A-6-202 of the Utah OSH Act and all applicable standards will be available at the UOSH office. If an employer has obtained copies of these materials, it shall make them available upon request to any employee or its authorized representative.

4. Any employer failing to comply with the provisions of this rule shall be subject to citation and penalty in accordance with the

provisions of sections 34A-6-302 and 34A-6-307 of the Utah OSH Act.

C. Authority for Inspection.

1. CSHOs are authorized to conduct inspections and investigations of any workplace covered under the Utah OSH Act, in accordance with subsection 34A-6-301(1) of the Utah OSH Act, and to review records required by the Utah OSH Act, regulations published in UAC R614, federal standards incorporated by UAC R614-1-4, and other records which are directly related to the purpose of the inspection.

2. Prior to inspecting areas containing information which has been classified by an agency of the United States Government in the interest of national security, CSHOs shall obtain the appropriate security clearance.

D. Objection to Inspection.

1. Upon a refusal to permit the CSHO in exercise of his or her official duties, to enter without delay and at reasonable times any place of employment or any place therein, to inspect, to review records, or to question any employer, owner, operator, agent, or employee, in accordance with UAC R614-1-6.C.1., or to permit a representative of employees to accompany the CSHO during the physical inspection of any workplace in accordance with UAC R614-1-6.H., the CSHO shall terminate the inspection or confine the inspection to other areas, conditions, structures, machines, apparatus, devices, equipment, materials, records or interviews concerning which no objection is raised.

2. The CSHO shall endeavor to ascertain the reason for such refusal, and shall immediately report the refusal and the reason therefor to the administrator. The administrator shall take appropriate action, including compulsory process, if necessary.

3. Compulsory process shall be sought in advance of an attempted inspection or investigation if, in the judgment of the administrator, circumstances exist which make such pre-inspection process desirable or necessary. Some examples of circumstances in which it may be desirable or necessary to seek compulsory process in advance of an attempt to inspect or investigate include, but are not limited to:

a. When the employer's past practice either implicitly or explicitly puts the administrator on notice that a warrantless inspection will not be allowed:

b. When an inspection is scheduled far from the UOSH office and procuring a warrant prior to leaving to conduct the inspection would avoid, in case of refusal of entry, the expenditure of significant time and resources to return to the office, obtain a warrant and return to the worksite;

c. When an inspection includes the use of special equipment or when the presence of an expert or experts is needed in order to properly conduct the inspection, and procuring a warrant prior to an attempt to inspect would alleviate the difficulties or costs encountered in coordinating the availability of such equipment or expert.

4. For purposes of this section, the term compulsory process shall mean the institution of any appropriate action, including ex parte application for an inspection warrant or its equivalent. Ex parte inspection warrants shall be the preferred form of compulsory process in all circumstances where compulsory process is relied upon to seek entry to a workplace under this section.

E. Entry not a Waiver.

Any permission to enter, inspect, review records, or question any person, shall not imply a waiver of any cause of action, citation, or penalty under the Utah OSH Act. CSHOs are not authorized to grant such waivers.

F. Advance Notice of Inspections.

1. Advance notice of inspections may not be given, except in the following situations:

a. In cases of apparent imminent danger, to enable the employer to abate the danger as quickly as possible;

b. In circumstances where the inspection can most effectively be conducted after regular business hours or where special preparations are necessary for an inspection;

c. Where necessary to assure the presence of representatives of the employer and employees or the appropriate personnel needed to aid the inspection; and

d. In other circumstances where the administrator determines that the giving of advance notice would enhance the probability of an effective and thorough inspection.

2. In the situations described in UAC R614-1-6.F.1., advance notice of inspections may be given only if authorized by the administrator, except that in cases of imminent danger, advance notice may be given by the CSHO without such authorization if the administrator is not immediately available. When advance notice is given, it shall be the employer's responsibility promptly to notify the authorized representative of employees of the inspection, if the identity of such representative is known to the employer. (See UAC R614-1-6.H.2. as to instances where there is no authorized representative of employees.) Upon the request of the employer, the CSHO will inform the authorized representative of employees of the inspection, provided that the employer furnishes the CSHO with the identity of such representative and with such other information as is necessary to enable the CSHO promptly to inform such representative of the inspection. An employer who fails to comply with its obligation under this paragraph promptly to inform the authorized representative of employees of the inspection or to furnish such information as is necessary to enable the CSHO promptly to inform such representative of the inspection, may be subject to citation and penalty under sections 34A-6-302 and 34A-6-307 of the Utah OSH Act. Advance notice in any of the situations described in UAC R614-1-6.F.1. shall not be given more than 24 hours before the inspection is scheduled to be conducted, except in cases of imminent danger situations and other unusual circumstances.

3. Subsection 34A-6-307(5)(b) of the Utah OSH Act provides for criminal penalties where any person gives advance notice of any inspection conducted under the Utah OSH Act without authority from the administrator or administrator's representatives.

G. Conduct of Inspections.

1. Subject to the provisions of UAC R614-1-6.C., inspections shall take place at such times and in such places of employment as the administrator or the CSHO may direct. At the beginning of an inspection, CSHOs shall present their credentials to the owner, operator, or agent in charge at the establishment; explain the nature and purpose of the inspection; and indicate generally the scope of the inspection and the records which they wish to review as specified in UAC R614-1-6.C.1. However, such designations of records shall not preclude access to additional records that may be related to the purpose of the inspection.

2. CSHOs shall have authority to take environmental samples and to take or obtain photographs or video recordings related to the purpose of the inspection, employ other reasonable investigative techniques, and question privately any employer, owner, operator,

agent or employee of an establishment. (See UAC R614-1-6.I. on trade secrets.) As used herein, the term "employ other reasonable investigative techniques" includes, but is not limited to, the use of devices to measure employee exposures and the attachment of personal sampling equipment such as dosimeters, pumps, badges, and other similar devices to employees in order to monitor their exposures.

3. In taking photographs and samples, CSHOs shall take reasonable precautions to ensure that such actions with flash, spark-producing, or other equipment will not be hazardous. CSHOs shall comply with all employer safety and health rules and practices at the establishment being inspected, and shall wear and use appropriate protective clothing and equipment.

4. The conduct of inspections shall preclude unreasonable disruption of operations of the employer's establishment.

5. At the conclusion of an inspection, the CSHO shall confer with the employer or its representative and informally advise such of any apparent safety or health violations disclosed by the inspection. During such conference, the employer shall be afforded an opportunity to bring to the attention of the CSHO any pertinent information regarding conditions in the workplace.

6. Inspections shall be conducted in accordance with the requirements of UAC R614-1-6.

H. Representative of Employers and Employees.

1. CSHOs shall be in charge of inspections and questioning of persons. A representative of the employer and a representative authorized by its employees shall be given an opportunity to accompany the CSHO during the physical inspection of any workplace for the purpose of aiding such inspection. A CSHO may permit additional employer representatives and additional representatives authorized by employees to accompany the CSHO where the CSHO determines that such additional representatives will further aid the inspection. A different employer and employee representative may accompany the CSHO during each phase of an inspection if this will not interfere with the conduct of the inspection.

2. CSHOs shall have authority to resolve all disputes as to who is the representative authorized by the employer and employees for the purpose of this rule. If there is no authorized representative of employees, or if the CSHO is unable to determine with reasonable certainty who is such representative, the CSHO shall consult with a reasonable number of employees concerning matters of safety and health in the workplace.

3. The representative(s) authorized by employees shall be an employee(s) of the employer. However, if in the judgment of the CSHO, good cause has been shown why accompaniment by a third party who is not an employee of the employer (such as an industrial hygienist or safety engineer) is reasonably necessary to the conduct of an effective and thorough physical inspection of the workplace, such third party may accompany the CSHO during the inspection.

4. CSHOs are authorized to deny the right of accompaniment under this rule to any person whose conduct interferes with a fair and orderly inspection. The right of accompaniment in areas containing trade secrets shall be subject to the provisions of UAC R614-1-6.I.3. With regard to information classified by an agency of the U.S. Government in the interest of national security, only persons authorized to have access to such information may accompany a CSHO in areas containing such information.

I. Trade secrets.

1. Section 34A-6-306 of the Utah OSH Act provides provisions for trade secrets.

2. At the commencement of an inspection, the employer may identify areas in the establishment which contain or which might reveal a trade secret. If the CSHO has no clear reason to question such identification, information obtained in such areas, including all negatives and prints of photographs, and environmental samples, shall be labeled "confidential-trade secret" and shall not be disclosed except in accordance with the provisions of section 34A-6-306 of the Utah OSH Act.

3. Upon the request of an employer, any authorized representative of employees under UAC R614-1-6.H. in an area containing trade secrets shall be an employee in that area or an employee authorized by the employer to enter that area. Where there is no such representative or employee, the CSHO shall consult with a reasonable number of employees who work in that area concerning matters of safety and health.

J. Consultation with Employees.

CSHOs may consult with employees concerning matters of occupational safety and health to the extent they deem necessary for the conduct of an effective and thorough inspection. During the course of an inspection, any employee who believes a violation of the Utah OSH Act exists in the workplace shall be afforded an opportunity to bring such violation to the attention of the CSHO.

K. Complaints by Employees.

1. Any employee or representative of employees who believes a violation of the Utah OSH Act exists in any workplace where such employee is employed may request an inspection of such workplace by giving notice of the alleged violation to the administrator or to a CSHO. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employee or representative of employees. A copy of the notice shall be provided to the employer or its agent by the administrator or CSHO no later than at the time of inspection, except that, upon the request of the person giving such notice, the person's name and the names of individual employees referred to therein shall not appear in such copy or on any record published, released, or made available by the administrator.

2. If upon receipt of such notification the administrator determines that the complaint meets the requirements set forth in UAC R614-1-6.K.1., and that there are reasonable grounds to believe that the alleged violation exists, the administrator shall cause an inspection to be made as soon as practicable. Inspections under this rule shall not be limited to matters referred to in the complaint.

3. Prior to or during any inspection of a workplace, any employee or representative of employees employed in such workplace may notify the CSHO, in writing, of any violation of the Utah OSH Act which they have reason to believe exists in such workplace. Any such notice shall comply with requirements of UAC R614-1-6.K.1.

L. Inspection not Warranted; Informal Review.

1. If the administrator determines an inspection is not warranted because there are no reasonable grounds to believe a violation or danger exists with respect to a complaint filed under UAC R614-1-6.K., the administrator shall notify the complaining party in writing of such determination. The complaining party may obtain review of such determination by submitting a written statement of position with the administrator. The administrator, at its discretion, may hold an informal conference in which the complaining party and the employer may orally present their views. After considering all written and oral view presented, the administrator shall affirm, modify, or reverse the determination of the previous decision and again furnish

the complaining party and the employer written notification of its decision and the reasons therefor.

2. If the administrator determines that an inspection is not warranted because the requirements of UAC R614-1-6.K.1. have not been met, the administrator shall notify the complaining party in writing of such determination. Such determination shall be without prejudice to the filing of a new complaint meeting the requirements of UAC R614-1-6.K.1.

M. Imminent Danger.

Section 34A-6-305 of the Utah OSH Act contains provisions for addressing imminent danger conditions and practices in any place of employment.

N. Citations.

1. The administrator shall review the inspection report of the CSHO. If, on the basis of the report the administrator believes the employer has violated a requirement of section 34A-6-201 of the Utah OSH Act, of any standard, rule, or order promulgated pursuant to section 34A-6-202 of the Utah OSH Act, or of any substantive rule published in this chapter, the administrator shall issue to the employer a citation. A citation shall be issued even though after being informed of an alleged violation by the CSHO, the employer immediately abates or initiates steps to abate such alleged violation. Any citation shall be issued with reasonable promptness after termination of the inspection. No citation may be issued after the expiration of 6 months following the occurrence of any violation.

2. Any citation shall describe with particularity the nature of the alleged violation, including a reference to the provision(s) of the Utah OSH Act, standard, rule, regulation, or order alleged to have been violated. Any citation shall also fix a reasonable time or times for the abatement of the alleged violations.

3. If a citation is issued for a violation alleged in a request for inspection under UAC R614-1-6.K.1. or a notification of violation under UAC R614-1-6.K.3., a copy of the citation shall be sent to the employee or representative of employees who made such request or notification.

4. Following an inspection, if the administrator determines a citation is not warranted with respect to a danger or violation alleged to exist in a request for inspection under UAC R614-1-6.K.1. or a notification of violation under UAC R614-1-6.K.3., the informal review procedures prescribed in UAC R614-1-6.L.1. shall be applicable. After considering all views presented, the administrator shall affirm the determination, order a re-inspection, or issue a citation if it believes the inspection disclosed a violation. The administrator shall furnish the complaining party and the employer with written notification of its determination and the reasons therefor.

5. Every citation shall state that the issuance of a citation does not constitute a finding that a violation of the Utah OSH Act has occurred unless there is a failure to contest as provided for in the Utah OSH Act or, if contested, unless the citation is affirmed by the commission.

O. Petitions for Modification of Abatement Date.

1. An employer may file a petition for modification of abatement date when it has made a good faith effort to comply with the abatement requirements of the citation, but such abatement has not been completed because of factors beyond its reasonable control.

2. A petition for modification of abatement date shall be in writing and shall include the following information:

a. All steps taken by the employer, and the dates of such action, in an effort to achieve compliance during the prescribed abatement period;

b. The specific additional abatement time necessary in order to achieve compliance;

c. The reasons such additional time is necessary, including the unavailability of professional or technical personnel or of materials and equipment, or because necessary construction or alteration of facilities cannot be completed by the original abatement date;

d. All available interim steps being taken to safeguard the employees against the cited hazard during the abatement period; and

e. A certification that a copy of the petition has been posted and, if appropriate, served on the authorized representative of affected employees, in accordance with UAC R614-1-6.O.3.a. and a certification of the date upon which such posting and service was made.

3. A petition for modification of abatement date shall be filed with the administrator no later than the close of the next working day following the date on which abatement was originally required. A later-filed petition shall be accompanied by the employer's statement of exceptional circumstances explaining the delay.

a. A copy of such petition shall be posted in a conspicuous place where all affected employees will have notice thereof or near such location where the violation occurred. The petition shall remain posted for a period of ten (10) working days. Where affected employees are represented by an authorized representative, said representative shall be served with a copy of such petition.

b. Affected employees or their representatives may file an objection in writing to such petition with the administrator. Failure to file such objection within ten (10) working days of the date of posting of such petition or of service upon an authorized representative shall constitute a waiver of any further right to object to said petition.

c. The administrator or its authorized representative shall have authority to approve any petition for modification of abatement date filed pursuant to paragraphs UAC R614-1-6.O.2. and 3. Such uncontested petitions shall become final orders pursuant to subsection 34A-6-303(1) of the Utah OSH Act.

d. The administrator or its authorized representative shall not exercise its approval power until the expiration of ten (10) working days from the date the petition was posted or served by the employer pursuant to UAC R614-1-6.O.3.a.

4. Where any petition is objected to by the affected employees, the petition, citation, and any objections shall be forwarded to the administrator per UAC R614-1-6.O.3.b.

P. Proposed Penalties.

1. After, or concurrent with, the issuance of a citation and within a reasonable time after the termination of the inspection, the administrator shall notify the employer by certified mail or by personal service of the proposed penalty under section 34A-6-307 of the Utah OSH Act, or that no penalty is being proposed. Any notice of proposed penalty shall state that the proposed penalty shall be deemed to be the final order of the commission and not subject to review by any court or agency unless, within 30 days from the date of receipt of such notice, the employer notifies the Adjudication Division (Adjudication) within the commission in writing that it intends to contest the citation or the notification of proposed penalty before the commission.

2. The administrator shall determine the amount of any proposed penalty, giving due consideration to the appropriateness of the penalty with respect to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations, in accordance with the provisions of section 34A-6-307 of the Utah OSH Act.

3. Appropriate penalties may be proposed with respect to an alleged violation even though after being informed of such alleged violation by the CSHO, the employer immediately abates, or initiates steps to abate, such alleged violation. Penalties shall not be proposed for violations which have no direct or immediate relationship to safety or health.

Q. Posting of Citations.

1. Upon receipt of any citation under the Utah OSH Act, the employer shall immediately post such citation, or copy thereof, unedited, at or near each place an alleged violation referred to in the citation occurred, except as hereinafter provided. Where, because of the nature of the employer's operations, it is not practicable to post the citation at or near each place of alleged violation, such citation shall be posted, unedited, in a prominent place where it will be readily observable by all affected employees. For example, where employees are engaged in activities which are physically dispersed (see UAC R614-1-6.B.2.), the citation may be posted at the location to which employees report each day. Where employees do not primarily work at or report to a single location, the citation must be posted at the location from which the employees commence their activities. The employer shall take steps to ensure that the citation is not altered, defaced, or covered by other material.

2. Each citation, or a copy thereof, shall remain posted until the violation has been abated, or for 3 working days, whichever is later. The filing by the employer of a notice of intention to contest under UAC R614-1-6.R. shall not affect its posting responsibility unless and until the commission issues a final order vacating the citation.

3. An employer to whom a citation has been issued may post a notice in the same location where such citation is posted indicating that the citation is being contested before the commission, and such notice may explain the reasons for such contest. The employer may also indicate that specified steps have been taken to abate the violation.

4. Any employer failing to comply with the provisions of UAC R614-1-6.Q.1. and 2. shall be subject to citation and penalty in accordance with the provisions of section 34A-6-307 of the Utah OSH Act.

R. Employer and Employee Contests before the Commission.

1. Any employer to whom a citation or notice of proposed penalty has been issued, may under section 34A-6-303 of the Utah OSH Act, notify Adjudication in writing that the employer intends to contest such citation or proposed penalty before the commission. Such notice of intention to contest must be received by Adjudication within 30 days of the receipt by the employer of the citation and notice of proposed penalty. Every notice of intention to contest shall specify whether it is directed to the citation or to the proposed penalty, or both. Adjudication shall handle such notice in accordance with the rules of procedures prescribed by the commission.

2. An employee or representative of employee of an employer to whom a citation has been issued may, under section 34A-6-303(3) of the Utah OSH Act, file a written notice with Adjudication alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable. Such notice must be received by Adjudication within 30 days of the issuance of the citation by UOSH. Adjudication shall handle such notice in accordance with the rules of procedure prescribed by the commission.

S. Failure to Correct a Violation for which a Citation has been Issued.

1. If an inspection discloses that an employer has failed to correct an alleged violation for which a citation has been issued within the period permitted for its correction, the administrator shall notify the employer by certified mail or by personal service by the CSHO of such failure and of the additional penalty proposed under section 34A-6-307 of the Utah OSH Act by reason of such failure. The period for the correction of a violation for which a citation has been issued shall not begin to run until the entry of a final order of the commission in the case of any review proceedings initiated by the employer in good faith and not solely for delay or avoidance of penalties.

2. Any employer receiving a notification of failure to correct a violation and of proposed additional penalty may, under section 34A-6-303(3) of the Utah OSH Act, notify Adjudication in writing that it intends to contest such notification or proposed additional penalty before the commission. Such notice of intention to contest shall be received by Adjudication within 30 days of receipt by the employer of the notification of failure to correct a violation and of proposed additional penalty. Adjudication shall handle such notice in accordance with the rules of procedures prescribed by the commission.

3. Each notification of failure to correct a violation and of proposed additional penalty shall state that it shall be deemed to be the final order of the commission and not subject to review by any court or agency unless, within 30 days from the date of receipt of such notification, the employer notifies Adjudication in writing that it intends to contest the notification or the proposed additional penalty before the commission.

T. Informal Conferences.

At the request of an affected employer, employee, or representative of employees, the administrator may hold an informal conference for the purpose of discussing any issues raised by an inspection, citation, notice of proposed penalty, or notice of intention to contest. The administrator shall provide in writing the reasons for any settlement of issues at such conferences. If the conference is requested by the employer, an affected employee or employee representative shall be afforded an opportunity to participate, at the discretion of the administrator. If the conference is requested by an employee or representative of employees, the employer shall be afforded an opportunity to participate, at the discretion of the administrator. Any party may be represented by counsel at such conference. No such conference or request for such conference shall operate as a stay of any 30-day period for filing a notice of intention to contest as prescribed in UAC R614-1-6.R.

U. Multi-Employer Worksites.

1. Pursuant to section 34A-6-201 of the Utah OSH Act, violation of an applicable standard adopted under section 34A-6-202 of the Utah OSH Act at a multi-employer worksite may result in a citation issued to more than one employer.

2. An employer on a multi-employer worksite may be considered a creating, exposing, correcting, or controlling employer. An employer may be cited should:

a. It meet the definition of a creating employer and be found to have failed to exercise the duty of care required by this rule for a creating employer: or

b. It meet the definition of an exposing, correcting, or controlling employer and be found to have failed to exercise the duty of care required by this rule for that category of employer.

c. Even if an employer meets its duty of reasonable care applicable to one category of employer, it may still be cited should it meet the definition of another category of employer and be found to have failed to exercise the duty of care required by this rule for that category of employer. No employer will be cited for the same violation under multiple categories of employers.

3. Creating Employer. A creating employer is one that created a hazardous condition on the worksite. A creating employer may be cited if:

a. Its own employees are exposed or if the employees of another employer at the site are exposed to this hazard; and

b. The employer did not exercise reasonable care by taking prompt and effective steps to alert employees of other employers of the hazard and to correct or remove the hazard or, if the creating employer does not have the ability or authority to correct or remove the hazard, to notify the controlling or correcting employer of the hazard.

4. Exposing Employer. An exposing employer is one that exposed its own employees to a hazard. If the exposing employer created the hazard, it is citable as the creating employer, not the exposing employer.

a. If the exposing employer did not create the hazard, it may be cited as the exposing employer if:

i. It knew of the hazard or failed to exercise reasonable care to discover the hazard; and

ii. Upon obtaining knowledge of the hazard, it failed to take prompt and reasonable precautions, consistent with its authority on the worksite, to protect its employees.

b. An exposing employer will be deemed to have exercised reasonable care to discover a hazard if it demonstrates that it has regularly and diligently inspected the worksite.

c. If the exposing employer has the authority to correct or remove the hazard, it must correct or remove the hazard with reasonable diligence. If the exposing employer lacks such authority, it may still be cited if:

i. It failed to make a good faith effort to ask the creating and/or controlling employer to correct the hazard;

ii. It failed to inform its employees of the hazard; and

iii. It failed to take reasonable alternative measures, consistent with its authority on the worksite, to protect its employees.

5. Correcting Employer. A correcting employer is one responsible for correcting a hazardous condition, such as installing or maintaining safety and health devices or equipment, or implementing appropriate health and safety procedures. A correcting employer must exercise reasonable care in preventing and discovering hazards and ensure such hazards are corrected in a prompt manner, which shall be determined in light of the scale, nature and pace of the work, and the amount of activity of the worksite.

6. Controlling Employer. A controlling employer is one with general supervisory authority over a worksite. This authority may be established either through contract or practice and includes the authority to correct safety and health violations or require others to do so, but it is separate from the responsibilities and care to be exercised by a correcting employer.

a. A controlling employer will not be cited if it has exercised reasonable care to prevent and detect violations on the worksite. The extent of the measures used by a controlling employer to satisfy this duty, however, is less than the extent required of an employer when protecting its own employees. A controlling employer is not required to inspect for hazards or violations as frequently or to demonstrate the same knowledge of applicable standards or specific trade expertise as the employer under its control.

b. When determining the duty of reasonable care applicable to a controlling employer on a multi-employer worksite, the factors that may be considered include, but are not limited to:

i. The nature of the worksite and industry in which the work is being performed;

ii. The scale, nature and pace of the work, including the pace and frequency at which the worksite hazards change as the work progresses;

iii. The amount of activity at the worksite, including the number of employers under its control and the number of employees working on the worksite;

iv. The implementation and monitoring of safety and health precautions for the entire worksite requiring that other employers on the worksite comply with their respective obligations and standards of care for the safety of employees, a graduated system of discipline for non-compliant employees and/or employers, regular worksite safety meetings, and when appropriate for atypical hazards, the providing of adequate safety training by employers for atypical hazards present on the worksite; and

v. The frequency of worksite inspections, particularly at the commencement of a project or the commencement of work on the project by other employers that come under its control. As work progresses, the frequency and sufficiency of such inspections shall be determined in relation to other employers' compliance with their respective obligations and standards of care as required by this rule.

c. When evaluating whether a controlling employer has demonstrated reasonable care in preventing and discovering violations, the following factors, though not inclusive, shall be considered;

i. Whether the controlling employer conducted worksite inspections with sufficient frequency as contemplated by subsection 6(b);

ii. The controlling employer's implementation and monitoring of an effective system for identifying a hazardous condition and promptly notifying employers under its control of the hazard so as to ensure compliance with their respective duties of care under this Rule;

iii. Whether the controlling employer implements a graduated system of discipline for non-compliant employees and/or employers with their respective safety and health requirements;

iv. Whether the controlling employer performs follow-up inspections to ensure hazards are corrected; and

v. Other actions demonstrating the implementation and monitoring of safety and health precautions for the entire worksite.

7. In accordance with section 34A-6-110 of the Utah OSH Act, nothing in this rule shall be:

a. Deemed to limit or repeal requirements imposed by statute or otherwise recognized by law; or

b. Construed or held to supersede or in any manner affect workers' compensation or enlarge or diminish or affect the common-law or statutory rights, duties, or liabilities of employers and employees under any law with respect to injuries, occupational or other diseases, or death of employees arising out of, or in the course of employment.

R614-1-7. Recording and Reporting Occupational Injuries and Illnesses.

A. UOSH has incorporated, by reference, 29 CFR 1904, Recording and Reporting Occupational Injuries and Illnesses, with a few exceptions. Refer to UAC R614-1-4.A.1.

B. Regardless of size or type of operation, accidents and fatalities must be reported to UOSH in accordance with the requirements of UAC R614-1-5.B.

C. Equivalent Form for OSHA 301 Injury and Illness Report Form (OSHA 301 form).

For Employers Required to keep OSHA Injury and Illness Logs, Employer's First Report of Injury or Illness form (Utah Industrial Accidents Form 122), workers' compensation, insurance, or other reports may be used as an equivalent form for the OSHA 301 form if it contains the same information, is readable and understandable, and is completed using the same instructions as the OSHA 301 form it replaces.

D. Statistical Program.

1. Section 34A-6-108 of the Utah OSH Act directs the division to develop and maintain a program of collection, compilation, and analysis of occupational safety and health statistics. The program shall consist of periodic surveys of occupational injuries and illnesses.

2. The sample design encompasses probability procedures, detailed stratification by industry and size, and a systematic selection within stratification. Stratification and sampling will be carried out in order to provide the most efficient sample for eventual state estimates. Some industries will be sampled more heavily than others depending on the injury rate level based on previous experience. The survey should produce adequate estimates using the North American Industry Classification System (NAICS) where each industry sector and subsector is placed into the appropriate group of either goods-producing industries or service-providing industries. Full cooperation with the United States Department of Labor in statistical programs is intended.

R614-1-8. Rules of Practice for Temporary or Permanent Variance from the Utah Occupational Safety and Health Standards.

A. Scope.

This rule contains rules of practice for administrative procedures to grant variances and other relief under section 34A-6-202 of the Utah OSH Act. General information pertaining to employer-employee rights, obligations and procedures are included.

B. Application for, or Petition against Variances and Other Relief.

1. The applicable parts of section 34A-6-202 of the Utah OSH Act shall govern application and petition procedure.

2. Temporary variance.

a. Any employer or class of employers desiring a temporary variance from a standard, or portion thereof, authorized by subsection 34A-6-202(2)(c) of the Utah OSH Act must file a written application with the administrator which shall include the following information:

(1) The name and address of applicant;

(2) The address of the place or places of employment involved;

(3) A specification of the standard or portion thereof from which the applicant seeks a variance;

(4) A representation by the applicant, supported by representations from qualified persons having first-hand knowledge of the facts represented, that the applicant is unable to comply with the standard or portion thereof by its effective date and a detailed statement of the reasons therefor;

(5) A statement of the steps the applicant has taken and will take, with specific dates where appropriate, to protect employees against the hazard covered by the standard;

(6) A statement of when the applicant expects to be able to comply with the standard and of what steps it has taken and will take, with specific dates where appropriate, to come into compliance with the standard;

(7) A statement of the facts the applicant would show to establish that

i. The applicant is unable to comply with a standard by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the standard or because necessary construction or alteration of facilities cannot be completed by the effective date;

ii. The applicant is taking all available steps to safeguard its employees against the hazards covered by the standard; and

iii. The applicant has an effective program for coming into compliance with the standard as quickly as practicable;

(8) Any request for a hearing, as provided in this rule;

(9) A statement that the applicant has informed its affected employees of the application by giving a copy thereof to their authorized representative, posting a statement, which gives a summary of the application and specifying where a copy may be examined, at the place or places where notices to employees are normally posted, and by other appropriate means; and

(10) A description of how affected employees have been informed of the application and their right to petition the administrator for a hearing.

b. A temporary order may be granted only after notice to employees and an opportunity for a public hearing; provided, the administrator may issue one interim order effective until a decision is made, formally granting or denying a temporary variance, after public hearing.

(1) The purpose of an interim order is to permit an employer to proceed in a non-standard operation while administrative procedures are being completed. Use of this interim procedure is dependent upon need and employee safety.

(2) After determination and assurance that employees are to be adequately protected, the administrator may immediately grant, in writing, an interim order. To expedite the effect of the interim order, it may be issued at the worksite by the administrator.

3. Permanent variance.

a. Any employer desiring a permanent variance of a standard issued under section 34A-6-202 of the Utah OSH Act must apply to the division for a rule or order for such variance. The written application must include the following information:

(1) The name and address of applicant;

(2) The address of the place or places of employment involved;

(3) A description of the conditions, practices, means, methods, operations, or processes used or proposed to be used by the applicant;

(4) A statement showing how the conditions, practices, means, methods, operations, or processes used or proposed to be used would provide employment and places of employment to employees which are as safe and healthful as those required by the standard from which a variance is sought;

(5) The methods it will use to safeguard its employees until a variance is granted or denied;

(6) A certification that the applicant has informed its employees of the application by

i. Giving a copy thereof to their authorized representative;

ii. Posting a statement giving a summary of the application and specifying where a copy may be examined, at the place or places where notices to employees are normally posted (or in lieu of such summary, the posting of the application itself); and

iii. By other appropriate means;

(7) Any request for a hearing, as provided in this rule; and

(8) A description of how employees have been informed of the application and their right to petition the administrator for a hearing.

4. Whenever a proceeding on a citation or a related issue concerning a proposed penalty or period of abatement has been contested and is pending before an administrative law judge or any subsequent review under the Administrative Procedures Act, until the completion of such proceeding, the administrator may deny a variance application on a subject or an issue concerning a citation which has been issued to the employer.

C. Hearings.

1. The administrator may conduct hearings upon application or petition in accordance with section 34A-6-202(4) of the Utah OSH Act if:

a. Employee(s), the public, or other interested groups petition for a hearing; or

b. The administrator deems it in the public or employee interest.

2. When a hearing is considered appropriate, the administrator shall set the date, time, and place for such hearing and shall provide timely notification to the applicant and the petitioners. In the notice of hearing to the applicant, the applicant will be directed to notify its employees of the hearing.

3. Notice of hearings for proposed rules under section 34A-6-202(4) of the Utah OSH Act shall be published in the Utah State Bulletin. This shall include a statement that the application request may be inspected at the UOSH Office.

4. A copy of the Notice of Hearing, along with other pertinent information, shall be sent to the regional administrator for the federal Occupational Safety and Health Administration (OSHA).

D. Inspection for Variance Application.

1. A variance inspection may be required by the administrator or its designee prior to final determination of either acceptance or denial of a temporary or permanent variance.

2. A variance inspection is a single purpose, pre-announced, non-compliance inspection and shall include employee or employer representative participation or interviews where necessary.

E. Defective Applications.

1. If an application for variance does not meet the requirements of UAC R614-1-8.B., the administrator may deny the application.

2. Prompt notice of the denial of an application shall be given to the applicant.

3. The notice of denial shall include, or be accompanied by, a brief statement of the grounds for denial.

4. A denial of an application pursuant to this paragraph shall be without prejudice to the filing of another application.

5. A copy of the notice of denial shall be sent to the regional administrator for OSHA.

F. Adequate Applications.

1. The administrator may grant the request for variance provided that:

a. Data supplied by the applicant, the UOSH variance inspection, as applicable, and information and testimony affords adequate protection for the affected employee(s);

b. Notification of approval shall follow the pattern described in UAC R614-1-9.C.2. and 3.;

c. Limitations, restrictions, or requirements which become part of the variance shall be documented in the letter granting the variance.

2. The administrator's decision shall be deemed final subject to section 34A-6-202(6) of the Utah OSH Act.

G. Public Notice of a Granted Variance, Limitation, Variation, Tolerance or Exemption.

1. This paragraph does not apply to orders issued under section 34A-6-202 of the Utah OSH Act.

2. Final actions granting a variance, limitation, variation, tolerance or exemption under this rule shall be published in the Utah State Bulletin pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act. Every such final action shall specify the alternative to the standard involved which the particular variance permits.

H. Acceptance of Federally Granted Variances.

1. Where a variance has been granted by OSHA, following federal promulgation procedures, the administrator shall take the following action:

a. Compare the federal OSHA standard for which the variance was granted with the equivalent UOSH standard.

b. Identify possible application in Utah.

c. If the UOSH standard under consideration for application of the variance has exactly or essentially the same intent as the federal standard and there is the probability of a multi-state employer doing business in Utah, then the administrator shall accept the variance and promulgate it for Utah under the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

d. If the variance has no apparent application to Utah industry, or to a multi-state employer in Utah, or if it conflicts with Utah legislative intent, or established policy or procedure, the federal variance shall not be accepted. In such case, the regional administrator for OSHA will be so notified.

I. Revocation of a Variance.

1. Any variance (temporary or permanent), whether approved by UOSH or accepted by UOSH based on federal approval, may be revoked by the administrator if it is determined through on-site inspection that:

a. The employer is not complying with provisions of the variance as granted;

b. Adequate employee safety is not afforded by the original provisions of the variance; or

c. A more stringent standard has been promulgated, is in force, and conflicts with prior considerations given for employee safety.

2. A federally approved national variance may be revoked by UOSH for a specific worksite or place of employment within Utah for reasons cited in UAC R614-1-8.I.1. Such revocations must be in writing and give full particulars and reasons prompting the action. Full rights provided under the law, such as hearings, etc., must be afforded the employer.

3. Permanent variances may be revoked or changed only after being in effect for at least six months.

J. Coordination.

All variances issued by the administrator will be coordinated with OSHA to ensure consistency and avoid improper unilateral action.

R614-1-9. Retaliation.

A. Section 34A-6-203 of the Utah OSH Act provides protection for employees who engage in protected activities under or related to the Utah OSH Act.

B. Notification of Division's Findings.

Within 90 days of receipt of a whistleblower complaint, the division is to issue to the complainant and the respondent an order of the division's findings of whether a violation has or has not occurred, in accordance with section 34A-6-203(2)(c) of the Utah OSH Act. This 90-day provision is considered directory in nature whereas there may be instances when it is not possible to meet the directory period set forth in this rule.

C. Employee Refusal to Comply with Safety Rules.

Employees who refuse to comply with occupational safety and health standards or valid safety rules implemented by the employer in furtherance of the Utah OSH Act are not exercising any rights afforded by the Utah OSH Act. Disciplinary measures taken by employers solely in response to employee refusal to comply with appropriate safety rules and regulations will not ordinarily be regarded as retaliatory action prohibited by section 34A-6-203 of the Utah OSH Act.

R614-1-10. Rules of Agency Practice and Procedure Concerning UOSH Access to Employee Medical Records.

A. Policy.

UOSH access to employee medical records will in certain circumstances be important to the agency's performance of its statutory functions. Medical records, however, contain personal details concerning the lives of employees. Due to the substantial personal privacy interests involved, UOSH authority to gain access to personally identifiable employee medical information will be exercised only after the agency has made a careful determination of its need for this information and only with appropriate safeguards to protect individual privacy. Once this information is obtained, UOSH examination and use of it will be limited to only that information needed to accomplish the purpose for access. Personally identifiable employee medical information will be retained by UOSH only for so long as needed to accomplish the purpose for access, will be kept secure while being used, and will not be disclosed to other agencies or members of the public except in narrowly defined circumstances. This section establishes procedures to implement these policies.

B. Scope and Application.

1. Except as provided in paragraphs B.6. through 10. below, this rule applies to all requests by UOSH personnel to obtain access to records in order to examine or copy personally identifiable employee medical information, whether or not pursuant to the access provision of 29 CFR 1910.1020(e).

2. For the purpose of this rule, "employer" means a current employer, a former employer, or a successor employer.

3. For the purposes of this rule, "personally identifiable employee medical information" means employee medical information accompanied by either direct identifiers (name, address, social security number, payroll number, etc.) or by information which could reasonably be used in the particular circumstances indirectly to identify specific employees (e.g., exact age, height, weight, race, sex, date of initial employment, job title, etc.).

4. For the purpose of this rule, "record" means any item, collection, or grouping of information regardless of the form or process by which it is maintained (e.g., paper document, electronic document, microfiche, microfilm, X-ray film, or automated data processing).

5. Specific written consent.

a. For the purpose of this rule, "specific written consent" means written authorization containing the following:

(1) The name and signature of the employee authorizing the release of medical information;

(2) The date of the written authorization;

(3) The name of the individual or organization that is authorized to release the medical information;

(4) The name of the designated representative (individual or organization) that is authorized to receive the released information;

(5) A general description of the medical information that is authorized to be released;

(6) A general description of the purpose for the release of medical information; and

(7) A date or condition upon which the written authorization will expire (if less than one year).

b. A written authorization does not operate to authorize the release of medical information not in existence on the date of written authorization, unless this is expressly authorized, and does not operate for more than one year from the date of written authorization.

c. A written authorization may be revoked in writing at any time.

6. This rule does not apply to UOSH access to, or the use of, aggregate employee medical information or medical records on individual employees which is not in a personally identifiable form.

7. This rule does not apply to records required by 29 CFR 1904, to death certificates, or to employee exposure records, including biological monitoring records, as defined by 29 CFR 1910.1020(c)(5), or by specific occupational safety and health standards as exposure records.

8. This rule does not apply where CSHOs conduct an examination of employee medical records solely to verify employer compliance with the medical surveillance recordkeeping requirements of an occupational safety and health standard, or with 29 CFR 1910.1020. An examination of this nature shall be conducted on-site and, if requested, shall be conducted under the observation of the record holder. CSHOs shall not record and take off-site any information from medical records other than documentation of the fact of compliance or non-compliance.

9. This rule does not apply to agency access to, or the use of, personally identifiable employee medical information obtained in the course of litigation.

10. This rule does not apply where a written directive by the administrator authorizes appropriately qualified personnel to conduct limited reviews of specific medical information mandated by an occupational safety and health standard, or of specific biological monitoring test results.

11. Even if not covered by the terms of this rule, all medically related information reported in a personally identifiable form shall be handled with appropriate discretion and care befitting all information concerning specific employees. There may, for example, be personal privacy interests involved which militate against disclosure of this kind of information to the public.

C. Responsible Persons.

1. Administrator. The administrator shall be responsible for the overall administration and implementation of the procedures contained in this rule, including making final UOSH determinations concerning:

a. Access to personally identifiable employee medical information, and

b. Inter-agency transfer or public disclosure of personally identifiable employee medical information.

2. UOSH medical records officer. The administrator shall designate a UOSH official with experience or training in the evaluation, use, and privacy protection of medical records to be the UOSH medical records officer. The UOSH medical records officer shall report directly to the administrator on matters concerning this section and shall be responsible for:

a. Making recommendations to the administrator as to the approval or denial of written access orders;

b. Assuring that written access orders meet the requirements of paragraphs D.2. and 3. of this rule;

c. Responding to employee, collective bargaining agent, and employer objections concerning written access orders;

d. Regulating the use of direct personal identifiers;

e. Regulating internal agency use and security of personally identifiable employee medical information;

f. Assuring that the results of agency analyses of personally identifiable medical information are, where appropriate, communicated to employees;

g. Preparing an annual report of UOSH's experience under this rule; and

h. Assuring that advance notice is given of intended inter-agency transfers or public disclosures.

3. Principal UOSH investigator. The principal UOSH investigator shall be the UOSH employee in each instance of access to personally identifiable employee medical information who is made primarily responsible for assuring that the examination and use of this information is performed in the manner prescribed by a written access order and the requirements of this section. When access is pursuant to a written access order, the principal UOSH investigator shall be professionally trained in medicine, public health, or allied fields (epidemiology, toxicology, industrial hygiene, biostatistics, environmental health, etc.).

D. Written Access Orders.

1. Requirement for written access order. Except as provided in paragraph D.4. below, each request by a UOSH representative to examine or copy personally identifiable employee medical information contained in a record held by an employer or other record holder shall be made pursuant to a written access order which has been approved by the administrator upon the recommendation of the UOSH medical records officer. If deemed appropriate, a written access order may constitute, or be accompanied by an administrative subpoena.

2. Approval criteria for written access order. Before approving a written access order, the administrator and the UOSH medical records officer shall determine that:

a. The medical information to be examined or copied is relevant to a statutory purpose and there is a need to gain access to this personally identifiable information;

b. The personally identifiable medical information to be examined or copied is limited to only that information needed to accomplish the purpose for access; and

c. The personnel authorized to review and analyze the personally identifiable medical information are limited to those who have a need for access and have appropriate professional qualifications.

3. Content of written access order. Each written access order shall state with reasonable particularity:

a. The statutory purposes for which access is sought;

b. A general description of the kind of employee medical information that will be examined and why there is a need to examine personally identifiable information;

c. Whether medical information will be examined on-site, and what type of information will be copied and removed off-site;

d. The name, address, and phone number of the principal UOSH investigator and the names of any other authorized persons who are expected to review and analyze the medical information;

e. The name, address, and phone number of the UOSH medical records officer; and

f. The anticipated period of time during which UOSH expects to retain the employee medical information in a personally identifiable form.

4. Special situations. Written access orders need not be obtained to examine or copy personally identifiable employee medical information under the following circumstances:

a. Specific written consent. If specific written consent of an employee is obtained pursuant to 29 CFR 1910.1020(e)(2)(ii), and the agency or an agency employee is listed on the authorization as the designated representative to receive the medical information, then a written access order need not be obtained. Whenever personally identifiable employee medical information is obtained through specific written consent and taken off-site, a principal UOSH investigator shall be promptly named to assure protection of the information, and the UOSH medical records officer shall be notified of this person's identity. The personally identifiable medical information obtained shall thereafter be subject to the use and security requirements of paragraphs UAC R614-1-10.H. and I.

b. Physician consultations. A written access order need not be obtained where a UOSH staff or contract physician consults with an employer's physician concerning an occupational safety or health issue. In a situation of this nature, the UOSH physician may conduct on-site evaluation of employee medical records in consultation with the employer's physician, and may make necessary personal notes of his or her findings. No employee medical records however, shall be taken off-site in the absence of a written access order or the specific written consent of an employee, and no notes of personally identifiable employee medical information made by the UOSH physician shall

leave his or her control without the permission of the UOSH medical records officer.

E. Presentation of Written Access Order and Notice to Employees.

1. The principal UOSH investigator, or someone under his or her supervision, shall present at least two (2) copies each of the written access order and an accompanying cover letter to the employer prior to examining or obtaining medical information subject to a written access order. At least one copy of the written access order shall not identify specific employees by direct personal identifier. The accompanying cover letter shall summarize the requirements of this section and indicate that questions or objections concerning the written access order may be directed to the principal UOSH investigator or to the UOSH medical records officer.

2. The principal UOSH investigator shall promptly present a copy of the written access order (which does not identify specific employees by direct personal identifier) and its accompanying cover letter to each collective bargaining agent representing employees whose medical records are subject to the written access order.

3. The principal UOSH investigator shall indicate that the employer must promptly post a copy of the written access order which does not identify specific employees by direct personal identifier, as well as post its accompanying cover letter.

4. The principal UOSH investigator shall discuss with any collective bargaining agent and with the employer the appropriateness of individual notice to employees affected by the written access order. Where it is agreed that individual notice is appropriate, the principal UOSH investigator shall promptly provide to the employer an adequate number of copies of the written access order (which does not identify specific employees by direct personal identifier) and its accompanying cover letter to enable the employer either to individually notify each employee or to place a copy in each employee's medical file.

F. Objections Concerning a Written Access Order. All employees, collective bargaining agents, and employer written objections concerning access to records pursuant to a written access order shall be transmitted to the UOSH medical records officer. Unless the agency decides otherwise, access to the record shall proceed without delay notwithstanding the lodging of an objection. The UOSH medical records officer shall respond in writing to each employee's and collective bargaining agent's written objection to UOSH access. Where appropriate, the UOSH medical records officer may revoke a written access order and direct that any medical information obtained by it be returned to the original record holder or destroyed. The principal UOSH investigator shall assure that such instructions by the UOSH medical records officer are promptly implemented.

G. Removal of Direct Personal Identifiers. Whenever employees' medical information obtained pursuant to a written access order is taken off-site with direct personal identifiers included, the principal UOSH investigator shall, unless otherwise authorized by the UOSH medical records officer, promptly separate all direct personal identifiers from the medical information, and code the medical information and the list of direct identifiers with a unique identifying number of each employee. The medical information with its numerical code shall thereafter be used and kept secured as though still in a directly identifiable form. The principal UOSH investigator shall also hand deliver or mail the list of direct personal identifiers with their corresponding numerical codes to the UOSH medical records officer. The UOSH medical records officer shall thereafter limit the use and distribution of the list of coded identifiers to those with a need to know its contents.

H. Internal Agency Use of Personally Identifiable Employee Medical Information.

1. The principal UOSH investigator shall in each instance of access be primarily responsible for assuring that personally identifiable employee medical information is used and kept secured in accordance with this section.

2. The principal UOSH investigator, the UOSH medical records officer, the administrator, and any other authorized person listed on a written access order may permit the examination or use of personally identifiable employee medical information by agency employees and contractors who have a need for access, and appropriate qualifications for the purpose for which they are using the information. No UOSH employee or contractor is authorized to examine or otherwise use personally identifiable employee medical information unless so permitted.

3. Where a need exists, access to personally identifiable employee medical information may be provided to attorneys in the Utah Office of the Attorney General (AG's Office), and to agency contractors who are physicians or who have contractually agreed to abide by the requirements of this section and implementing agency directives and instructions.

4. UOSH employees and contractors are only authorized to use personally identifiable employee medical information for the purposes for which it was obtained, unless the specific written consent of the employee is obtained as to a secondary purpose, or the procedures of UAC R614-1-10.D. through G. are repeated with respect to the secondary purpose.

5. Whenever practicable, the examination of personally identifiable employee medical information shall be performed on-site with a minimum of medical information taken off-site in a personally identifiable form.

I. Security Procedures.

1. Agency files containing personally identifiable employee medical information shall be segregated from other agency files. When not in active use, files containing this information shall be kept secured in a locked cabinet or vault.

2. The UOSH medical records officer and the principal UOSH investigator shall each maintain a log of uses and transfers of personally identifiable employee medical information and lists of coded direct personal identifiers, except as to necessary uses by staff under their direct personal supervision.

3. The photocopying or other duplication of personally identifiable employee medical information shall be kept to the minimum necessary to accomplish the purposes for which the information was obtained.

4. The protective measures established by this rule apply to all worksheets, duplicate copies, or other agency documents containing personally identifiable employee medical information.

5. Intra-agency transfers of personally identifiable employee medical information shall be by hand delivery, United States mail, or equally protective means. Inter-office mailing channels shall not be used.

J. Retention and Destruction of Records.

1. Consistent with UOSH records disposition programs, personally identifiable employee medical information and lists of

coded direct personal identifiers shall be destroyed or returned to the original record holder when no longer needed for the purposes for which they were obtained.

2. Personally identifiable employee medical information which is currently not being used actively but may be needed for future use shall be transferred to the UOSH medical records officer. The UOSH medical records officer shall conduct an annual review of all centrally-held information to determine which information is no longer needed for the purposes for which it was obtained.

K. Results of an Agency Analysis Using Personally Identifiable Employee Medical Information.

The UOSH medical records officer shall, as appropriate, assure that the results of an agency analysis using personally identifiable employee medical information are communicated to the employees whose personal medical information was used as a part of the analysis.

L. Annual Report. The UOSH medical records officer shall on an annual basis review UOSH's experience under this section during the previous year, and prepare a report to the administrator which shall be made available to the public. This report shall discuss:

1. The number of written access orders approved and a summary of the purposes for access;

2. The nature and disposition of employee, collective bargaining agent, and employer written objections concerning UOSH access to personally identifiable employee medical information; and

3. The nature and disposition of requests for inter-agency transfer or public disclosure of personally identifiable employee medical information.

M. Inter-Agency Transfer and Public Disclosure.

1. Personally identifiable employee medical information shall not be transferred to another agency or office outside of UOSH (other than to the AG's Office) or disclosed to the public (other than to the affected employee or the original record holder) except when required by law or when approved by the administrator.

2. Except as provided in paragraph M.3. below, the administrator shall not approve a request for an inter-agency transfer of personally identifiable employee medical information, which has not been consented to by the affected employees, unless the request is by a public health agency which:

a. Needs the requested information in a personally identifiable form for a substantial public health purpose;

b. Will not use the requested information to make individual determinations concerning affected employees which could be to their detriment;

c. Has regulations or established written procedures providing protection for personally identifiable medical information substantially equivalent to that of this section; and

d. Satisfies an exemption to the Government Records Access and Management Act (GRAMA) to the extent that the GRAMA applies to the requested information (See Part 2, Access to Records, of Utah Code Ann. Title 63G, Chapter 2).

3. Upon the approval of the administrator, personally identifiable employee medical information may be transferred to:

a. The National Institute for Occupational Safety and Health (NIOSH) and

b. The AG's Office when necessary with respect to a specific action under the Utah OSH Act.

4. The administrator shall not approve a request for public disclosure of employee medical information containing direct personal identifiers unless there are compelling circumstances affecting the health or safety of an individual.

5. The administrator shall not approve a request for public disclosure of employee medical information which contains information which could reasonably be used indirectly to identify specific employees when the disclosure would constitute a clearly unwarranted invasion of personal privacy.

6. Except as to inter-agency transfers to NIOSH or the AG's Office, the UOSH medical records officer shall assure that advance notice is provided to any collective bargaining agent representing affected employees and to the employer on each occasion that UOSH intends to either transfer personally identifiable employee medical information to another agency or disclose it to a member of the public other than to an affected employee. When feasible, the UOSH medical records officer shall take reasonable steps to assure that advance notice is provided to affected employees when the employee medical information to be released or disclosed contains direct personal identifiers.

KEY: safety
Date of Enactment or Last Substantive Amendment: [~~October 15, 2018~~]2019
Notice of Continuation: October 19, 2017
Authorizing, and Implemented or Interpreted Law: 34A-6

Natural Resources; Oil, Gas and Mining; Oil and Gas
R649-1-1
Definitions

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 44110
FILED: 10/01/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to establish definitions of terms utilized with the Title R649 Oil and Gas Program rules. These rule changes will amend four definitions as the result of S.B. 191, which passed during the 2017 General Session, and H.B. 419, which passed during the 2018 General Session.

SUMMARY OF THE RULE OR CHANGE: Rule R649-1 establishes definitions for terms within the Title R649-1 Oil and Gas Program rules. These changes amend the definition for "authority for expenditure," "dry hole," "joint operating agreement," and "notice of opportunity to participate."

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 40-6-1 et seq.

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: These rule changes are not expected to have any fiscal impact on state government revenues or expenditures because these rule changes add definitions to help clarify other rules.
♦ LOCAL GOVERNMENTS: These rule changes are not expected to have any fiscal impact on local governments' revenues or expenditures because these rule changes add definitions to help clarify other rules.
♦ SMALL BUSINESSES: These rule changes are not expected to have any fiscal impact on small businesses' revenues or expenditures because these rule changes add definitions to help clarify other rules.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: These rule changes are not expected to have any fiscal impact on persons other than small businesses', businesses', or local government entities' revenues or expenditures because these rule changes add definitions to help clarify other rules.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will not be added compliance costs for companies who are oil and gas operators.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These rule changes will have no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
OIL, GAS AND MINING; OIL AND GAS
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Natasha Ballif by phone at 801-538-5336, or by Internet E-mail at natashaballif@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/11/2019

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 10/23/2019 10:00 AM, Price Field Office, 345 N. Carbonville Road, Price, UT
♦ 12/11/2019 10:00 AM, Utah DNR, 1594 W. North Temple, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/18/2019

AUTHORIZED BY: John Baza, 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 above. Inestimable impacts for Non-Small Businesses are described below.**

Appendix 2: Regulatory Impact on Non-Small Businesses
There are four non-small businesses and 303 small businesses in the oil and gas operating industry (NAICS 213112) in Utah. These businesses will not be affected by these rule changes as these changes in definitions will not directly affect them.

The head of the Division of Oil, Gas, and Mining, John Baza, has reviewed and approved this fiscal analysis.

R649. Natural Resources; Oil, Gas and Mining; Oil and Gas.
R649-1. Oil and Gas Definitions.
R649-1-1. Definitions.
"Authorized Agent" means a representative of the director as authorized by the board.

"Aquifer" means a geological formation including a group of formations or part of a formation that is capable of yielding a significant amount of water to a well or spring.

"Artificial Liner" means a pit liner made of material other than clay or other in-situ material and which meets the requirements of R649-9-3, Permitting of Disposal Pits.

"Authority for Expenditure" or "AFE" is a detailed written statement made in good faith by an operator memorializing the total estimated costs to be incurred in the drilling, testing, completion and equipping of a well for oil and gas operations including a good faith estimate for any and all dry hole costs potentially attributable to the subject well.

"Barrel" means 42 (US) gallons at 60 degrees Fahrenheit at atmospheric pressure.

"Board" means the Board of Oil, Gas and Mining.

"Carrier, Transporter or Taker" means any person moving or transporting oil or gas away from a well or lease or from any pool.

"Casing Pressure" means the pressure within the casing or between the casing and tubing at the wellhead.

"Central Disposal Facility" means a facility that is used by one or more producers for disposal of exempt E and P wastes and for which the operator of the facility receives no monetary remuneration, other than operating cost sharing.

"Class II Injection Well" means a well that is used for:

1. The disposal of fluids that are brought to the surface in connection with conventional oil or natural gas production and that may be commingled with wastewater produced from the operation of a gas plant that is an integral part of production operations, unless that wastewater is classified as a hazardous waste at the time of injection, or

2. Enhanced recovery of oil or gas, or

3. Storage of hydrocarbons that are liquids at standard temperature and pressure conditions.

"Closed System" means but is not limited to, the use of a combination of solids control equipment (i.e., shale shakers, flowline cleaners, desanders, desilters, mud cleaners, centrifuges, agitators, and necessary pumps and piping) incorporated in a series on the rig's steel mud tanks, or a self contained unit that eliminates the use of a reserve pit for the purpose of dumping and dilution of drilling fluids for the removal of entrained drill solids. A closed system for the purpose of these rules may with Division approval include the use of a small pit to receive cuttings, but does not include the use of trenches for the collection of fluids of any kind.

"Coalbed Methane" means natural gas that is produced, or may be produced, from coalbeds and rock strata associated with the coalbed.

"Commercial Disposal Facility" means a disposal well, pit or treatment facility whose owner(s) or operator(s) receives compensation from others for the temporary storage, treatment, and disposal of produced water, drilling fluids, drill cuttings, completion fluids, and any other exempt E and P wastes, and whose primary business objective is to provide these services.

"Completion of a Well" means that the well has been adequately worked to be capable of producing oil or gas or that well testing as required by the division has been concluded.

"Confining Strata" refers to a body of material that is relatively impervious to the passage of liquids or gases and that occurs either below, above, or lateral to a more permeable material in such a way that it confines or limits the movement of liquids or gases that may be present.

"Correlative Rights" means the opportunity of each owner in a pool to produce his just and equitable share of the oil and gas in the pool without waste.

"Cubic Foot" of gas means the volume of gas contained in one cubic foot of space at a standard pressure base of 14.73 psia and a standard temperature base of 60 degrees Fahrenheit.

"Day" means a period of 24 consecutive hours.

"Development Wells" means all oil and gas producing wells other than wildcat wells.

"Director" means the executive and administrative head of the division.

"Disposal Facility" means an injection well, pit, treatment facility or combination thereof that receives E and P Wastes for the purpose of disposal. This includes both commercial and noncommercial facilities.

"Disposal Pit" means a lined or unlined pit approved for the disposal and/or storage of E and P Wastes.

"Division" means the Division of Oil, Gas and Mining.

"Drilling Fluid" means a circulating fluid usually called mud, that is introduced in a drill hole to lubricate the action of the rotary bit, remove the drilling cuttings, and control formation pressures.

"Dry hole" means a completed well which is not producing and/or capable of producing oil and/or gas in paying quantities.

"E and P Waste" means Exploration and Production Waste, and is defined as those wastes resulting from the drilling of and production from oil and gas wells as determined by the Environmental Protection Agency (EPA), prior to January 1, 1992, to be exempt from Subtitle C of the Resource Conservation and Recovery Act (RCRA).

"Emergency Pit" means a pit used for containing fluids at an operating well during an actual emergency or for a temporary period of time.

"Enhanced Recovery" means the process of introducing fluid or energy into a pool for the purpose of increasing the recovery of hydrocarbons from the pool.

"Enhanced Recovery Project" means the injection of liquids or hydrocarbon or non-hydrocarbon gases directly into a reservoir for the purpose of augmenting reservoir energy, modifying the properties of the fluids or gases in the reservoir, or changing the reservoir conditions to increase the recoverable oil, gas, or oil and gas through the joint use of two or more well bores.

"Entity" means a well or a group of wells that have identical division of interest, have the same operator, produce from the same formation, have product sales from a common tank, LACT meter, gas meter, or are in the same participating area of a properly designated unit. Entity number assignments are made by the division in cooperation with other state government agencies.

"Field" means the general area underlaid by one or more pools.

"Gas" means natural gas or natural gas liquids or other gas or any mixture thereof defined as follows:

1. "Natural Gas" means those hydrocarbons, other than oil and other than natural gas liquids separated from natural gas, that occur naturally in the gaseous phase in the reservoir and are produced and recovered at the wellhead in gaseous form. Natural gas includes coalbed methane.

2. "Natural Gas Liquids" means those hydrocarbons initially in reservoir natural gas, regardless of gravity, that are separated in gas processing plants from the natural gas as liquids at the surface through the process of condensation, absorption, adsorption, or other methods.

3. "Other Gas" means hydrogen sulfide (H_2S), carbon dioxide (CO_2), helium (He), nitrogen (N), and other nonhydrocarbon gases that occur naturally in the gaseous phase in the reservoir or are injected into the reservoir in connection with pressure maintenance, gas cycling, or other secondary or enhanced recovery projects.

"Gas-Oil Ratio" means the ratio of the number of cubic feet of natural gas produced to the number of barrels of oil concurrently produced during any stated period. The term GOR is synonymous with gas-oil ratio.

"Gas Processing Plant" means a facility in which liquefiable hydrocarbons are removed from natural gas, including wet gas or casinghead gas, and the remaining residue gas is conditioned for delivery for sale, recycling or other use.

"Gas Well" means any well capable of producing gas in substantial quantities that is not an oil well.

"Ground Water" means water in a zone of saturation below the ground surface.

"Hearing" means any matter heard before the board or its designated hearing examiner.

"Horizontal Well" means a well bore drilled laterally at an angle of at least eighty (80) degrees to the vertical or with a horizontal projection exceeding one hundred (100) feet measured from the initial point of penetration into the productive formation through the terminus of the lateral in the same common source of supply.

"Illegal Oil or Illegal Gas" means oil or gas that has been produced from any well within the state in violation of Chapter 6 of Title 40, or any rule or order of the board.

"Illegal Product" means any product derived in whole or in part from illegal oil or illegal gas.

"Incremental Production" means that part of production that is achieved from an enhanced recovery project that would not have economically occurred under the reservoir conditions existing before the project and that has been approved by the division as incremental production.

"Injection or Disposal Well" means any Class II Injection Well used for the injection of air, gas, water or other substance into any underground stratum.

"Interest Owner" means a person owning an interest (working interest, royalty interest, payment out of production, or any other interest) in oil or gas, or in the proceeds thereof.

"Joint Operating Agreement" or "JOA" is an agreement between or among interested parties for the operation of a tract or leasehold for oil, gas, and other minerals.

"Load Oil" means any oil or liquid hydrocarbon that is used in any remedial operation in an oil or gas well.

"Log or Well Log" means the written record progressively describing the strata, water, oil or gas encountered in drilling a well with such additional information as is usually recorded in the normal procedure of drilling including electrical, radioactivity, or other similar conventional logs, a lithologic description of samples and drill stem test information.

"Multiple Zone Completion" means a well completion in which two or more separate zones, mechanically segregated one from the other, are produced simultaneously from the same well.

"Notice of Opportunity to Participate" means the written notice of opportunity to participate in a well for oil and gas operations required by Utah Code Subsection 40-6-2(11) to be provided to an owner and which includes an offer to lease if the owner is an unleased owner, and an offer for the owner to directly participate financially, in proportion to the owner's interest in the drilling, testing, completion, equipping and operation of the subject well and which includes: (i) the approximate surface and, bottom hole location of the subject well by county, township, range, section, quarter-quarter section or substantially equivalent lot, and footages from directional section lines; (ii) the proposed well name; (iii) the proposed total distance from the surface of the ground to the terminus measured along the vertical and lateral components if the well is a horizontal well; (iv) the proposed total depth; (v) the objective productive zone(s) and the approximate depth and locations of producing intervals in the borehole; (vi) the approximate date upon which the subject well was or will be spud; (vii) a joint operating agreement proposed in good faith by the operator for operation of the drilling unit upon which the subject well is to be drilled; (viii) an AFE for the subject well; (ix) a statement that a refusal to agree to either lease or participate in the subject well may result in the imposition of a statutory risk compensation award allowed under Utah Code Subsection 40-6-6.5(4)(d)(i)(D) of between 150% and 400% as determined by the board; and (x) a statement that any initial compulsory pooling order may apply to subsequent wells within the drilling unit including, but not limited to, any statutory risk compensation award imposed under Utah law pursuant to Utah Code Subsection 40-6-6.5(12).

"Oil" means crude oil or condensate or any mixture thereof, defined as follows:

1. "Crude Oil" means those hydrocarbons, regardless of gravity, that occur naturally in the liquid phase in the reservoir and are produced and recovered at the wellhead in liquid form.

2. "Condensate" means those hydrocarbons, regardless of gravity, that occur naturally in the gaseous phase in the reservoir that are separated from the natural gas as liquids through the process of condensation either in the reservoir, in the well bore or at the surface in field separators.

3. "Oil and Gas" shall not include gaseous or liquid substances derived from coal, oil shale, tar sands or other hydrocarbons classified as synthetic fuel.

"Oil and Gas Field" means a geographical area overlying an oil and gas pool.

"Oil Well" means any well capable of producing oil in substantial quantities.

"Operator or Designated Agent" means the person who has been designated by the owners or the board to operate a well or unit.

"Owner" means the person who has the right to drill into and produce from a reservoir and to appropriate the oil and gas that he produces, either for himself or for himself and others.

"Person" means and includes any natural person, bodies politic and corporate, partnerships, associations and companies.

"Pit" means an earthen surface impoundment constructed to retain fluids and oil field wastes.

"Pollution" means such contamination or other alteration of the physical, chemical or biological properties of any waters of the state, or the discharge of any liquid, gaseous or solid substance into any waters of the state in such manner as will create a nuisance or render such waters harmful, detrimental or injurious to the public

health, safety or welfare; to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses; or to livestock, wild animals, birds, fish or other aquatic life.

"Pool" means an underground reservoir containing a common accumulation of oil or gas or both. Each zone of a general structure that is completely separated from any other zone in the structure is a separate pool. "Common source of supply" and "reservoir" are synonymous with "pool."

"Pressure Maintenance" means the injection of gas, water or other fluids into a reservoir, either to increase or maintain the existing pressure in such reservoir or to retard the natural decline in the reservoir pressure.

"Produced Water" means water produced in conjunction with the conventional production of oil and/or gas.

"Producer" means the owner or operator of a well capable of producing oil or gas.

"Producing Well" means a well capable of producing oil or gas.

"Product" means any commodity made from oil and gas.

"Production Facilities" means all storage, separation, treating, dehydration, artificial lift, power supply, compression, pumping, metering, monitoring, flowline, and other equipment directly associated with oil wells, gas wells or injection wells, prior to any processing plant or refinery.

"Purchaser or Transporter" means any person who, acting alone or jointly with any other person, by means of his own, an affiliated, or designated carrier, transporter or taker, shall directly or indirectly purchase, take or transport by any means whatsoever, or who shall otherwise remove from any well or lease, oil or gas produced from any pool, excepting royalty portions of oil or gas taken in kind by an interest owner who is not the operator.

"Recompletion" means any completion in a new perforated interval or pool within an established wellbore and approved as a recompletion by the division.

"Refinery" means a facility, other than a gas processing plant, where controlled operations are performed by which the physical and chemical characteristics of petroleum or petroleum products are changed.

"Reserve Pit" means a pit used to retain fluid during the drilling, completion, and testing of a well.

"Seismic Operator" means a person who conducts seismic exploration for oil or gas, whether for himself or as a contractor for others.

"Shut-in Well" means a well that is completed, is shown to be capable of production in paying quantities, and is not presently being operated.

"Spud In" means the first boring of a hole in the drilling of a well by any type of rig.

"State" means the State of Utah.

"Stratigraphic Test or Core Hole" means any hole drilled for the sole purpose of obtaining geological information. The general rules applicable to the drilling of a well will apply to the drilling of a stratigraphic test or core hole.

"Temporarily Abandoned Well" means a well that is completed, is shown not capable of production in paying quantities, and is not presently being operated.

"Temporary Spacing Unit" means a specified area of land designated by the board for purposes of determining well density and location. A temporary spacing unit shall not be a drilling unit as provided for in U.C.A. 40-6-6, Drilling Units, and does not provide a basis for pooling the interest therein as does a drilling unit.

"Underground Source of Drinking Water" (or USDW) means a fresh water aquifer or a portion thereof that supplies drinking water for human consumption or that contains less than 10,000 mg/l total dissolved solids and that is not an exempted aquifer under R649-5-4.

"Waste" means:

1. The inefficient, excessive or improper use or the unnecessary dissipation of oil or gas or reservoir energy.

2. The inefficient storing of oil or gas.

3. The locating, drilling, equipping, operating, or producing of any oil or gas well in a manner that causes reduction in the quantity of oil or gas ultimately recoverable from a reservoir under prudent and economical operations, or that causes unnecessary wells to be drilled, or that causes the loss or destruction of oil or gas either at the surface or subsurface.

4. The production of oil or gas in excess of:

4.1. Transportation or storage facilities.

4.2. The amount reasonably required to be produced in the proper drilling, completing, testing, or operating of a well or otherwise utilized on the lease from which it is produced.

5. Underground or above ground waste in the production or storage of oil or gas.

"Waste Crude Oil Treatment Facility" means any facility or site constructed or used for the purpose of wholly or partially reclaiming, treating, processing, cleaning, purifying or in any manner making non-merchantable waste crude oil marketable.

"Well" means an oil or gas well, injection or disposal well, or a hole drilled for the purpose of producing oil or gas or both. The definition of well shall not include water wells, or seismic, stratigraphic test, core hole, or other exploratory holes drilled for the purpose of obtaining geological information only.

"Well Site" means the areas that are directly disturbed during the drilling and subsequent use of, or affected by production facilities directly associated with any oil well, gas well or injection well.

"Wildcat Wells" means oil and gas producing wells that are drilled and completed in a pool in which a well has not been previously completed as a well capable of producing in commercial quantities.

"Working Interest Owner" means the owner of an interest in oil or gas burdened with a share of the expenses of developing and operating the property.

"Workover" means any operation designed to sustain, to restore, or to increase the production rate, the ultimate recovery, or the reservoir pressure system of a well or group of wells and approved as a workover, a secondary recovery, a tertiary recovery, or a pressure maintenance project by the division. The definition shall not include operations that are conducted principally as routine maintenance or the replacement of worn or damaged equipment.

KEY: oil and gas law
Date of Enactment or Last Substantive Amendment: [~~June 2, 1998~~]2019
Notice of Continuation: August 26, 2016
Authorizing, and Implemented or Interpreted Law: 40-6-1 et seq.

Natural Resources; Oil, Gas and Mining; Oil and Gas
R649-2
General Rules

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 44111
FILED: 10/01/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to conserve the natural resources of oil and gas in the state, to protect human health and the environment, to prevent waste, to protect correlative rights of all owners and to realize the greatest ultimate recovery of oil and gas. These rule changes will amend five sections as a result of S.B. 191, passed during the 2017 General Session, and H.B. 419, passed during the 2018 General Session.

SUMMARY OF THE RULE OR CHANGE: Rule R649-2 establishes requirements for the permitting, reporting, and inspecting of oil and gas drilling operations in Utah. These rule changes include consent to participate in a well, revision of existing force pooling hearing, notice to unlocatable and unidentified owners, imposition of statutory risk compensation award, and application of a compulsory pooling order to subsequently drilled wells in a drilling unit.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 40-6-1 et seq.

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The Oil and Gas Program, as well as the Board of Oil, Gas and Mining (Board), is expected to encounter a small on-going savings in staff time through a reduction in compulsory pooling hearings heard by the Board. A total savings cannot be estimated as there is no way of knowing the number of hearings being reduced by these rule amendments.
♦ LOCAL GOVERNMENTS: No costs or savings are anticipated for local governments, since this rules impacts oil and gas companies, the Division of Oil, Gas and Mining (Division) and the Board.
♦ SMALL BUSINESSES: It is anticipated that small businesses who operate oil and gas operations will see a benefit as there is an anticipated increase in horizontal drilling and compulsory pooling in the coming years, and these rule changes will decrease the number of hearings. A total savings cannot be estimated as there is no way of knowing which companies would have filed a hearing with the Board and the other costs associated with Board hearings (attorney fees, travel, etc.).
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Persons other than small businesses, businesses, or local government entities would not be impacted by these rule changes since they pertain to companies who conduct oil and gas operations in Utah.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There will not be added compliance costs for companies who are oil and gas operators.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses will not encounter a negative fiscal impact from these rule amendments. Oil and gas operators should have a cost savings in pooling hearings as these rule amendments clarify the compulsory pooling process.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
NATURAL RESOURCES
OIL, GAS AND MINING; OIL AND GAS
ROOM 1210
1594 W NORTH TEMPLE
SALT LAKE CITY, UT 84116-3154
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Natasha Ballif by phone at 801-538-5336, or by Internet E-mail at natashaballif@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 12/11/2019

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:
♦ 10/23/2019 10:00 AM, Price Field Office, 345 N. Carbonville Road, Price, UT
♦ 12/11/2019 10:00 AM, Utah DNR, 1594 W. North Temple, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 12/18/2019

AUTHORIZED BY: John Baza, 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**

Appendix 2: Regulatory Impact to Non-Small Businesses
There are four non-small businesses and 303 small businesses in the oil and gas operating industry (NAICS 213112) in Utah. These businesses will experience a fiscal savings associated with decreased need for hearings, which will be a decrease in operating price. The full impact to these small and non-small businesses cannot be estimated because there is no way of knowing which businesses will participate in compulsory pooling matters and which will see a reduction in Board hearings.

The head of the Division of Oil, Gas, and Mining, John Baza, has reviewed and approved this fiscal analysis.

R649. Natural Resources; Oil, Gas and Mining; Oil and Gas.
R649-2. General Rules.
R649-2-1. Scope of Rules.

1. The following general rules adopted by the board pursuant to Chapter 6 of Title 40 shall apply to all lands in the state in order to conserve the natural resources of oil and gas in the state, to protect human health and the environment, to prevent waste, to protect the correlative rights of all owners and to realize the greatest ultimate recovery of oil and gas.

2. Special rules and orders have been and will be issued by the board when required and shall prevail as against the general rules and orders of the board if in conflict therewith.

3. Exceptions to the general rules may also be granted by the director or authorized agent for good cause shown and shall prevail as against the general rules.

4. No exceptions granted by the board, director, or authorized agent to the rules applicable to the Underground Injection Control Program will be effective without the consent of the federal Environmental Protection Agency.

R649-2-2. Application of Rules to Lands Owned or Controlled By the United States.

These general rules shall apply to all lands in the state including lands of the United States and lands subject to the jurisdiction of the United States to the extent lawfully subject to the state's power.

R649-2-3. Application of Rules to Unit Agreements.

1. The board may suspend the application of the general rules or orders or any part thereof, with regard to any unit agreement approved by a duly authorized officer of the appropriate federal agency, so long as the conservation of oil or gas and the prevention of waste is accomplished thereby.

2. Such suspension shall not relieve any operator from making such reports as are otherwise required by the general rules or orders, or as may reasonably be requested by the board or the division in order to keep the board and the division fully informed as to operations under such unit agreements.

R649-2-4. Designation of Agent or Operator.

1. A designation of agent or operator shall be submitted to the division prior to the commencement of operations.

2. A designation of agent or operator will, for purposes of the general rules and orders, be accepted as evidence of authority of agent to fulfill the obligations of the owner, to sign any required documents or reports on behalf of the owner, and to receive all authorized orders or notices given by the board or the division.

3. All changes of address and any termination of the designated agent's or operator's authority shall be promptly reported in writing to the division, and in the latter case a designation of a new agent or operator shall be promptly made.

R649-2-5. Right to Inspect.

1. The director or authorized agent shall have the right at all reasonable times to go upon and inspect any oil or gas properties and wells for the purpose of making any investigations or tests reasonably necessary to ensure compliance with the provisions of the statutes, the general rules and orders of the board or any special field rules and orders. The director or authorized agent shall report any observed violation to the board.

2. The documentation of off lease transportation of crude oil required by R649-2-6, Access to Records, shall be carried in the motor vehicle during transportation and shall be available for examination and inspection by the director or an authorized agent upon request.

R649-2-6. Access to Records.

1. Any person who produces, operates, sells, purchases, acquires, stores, transports, refines, or processes oil or gas or who injects fluids for cycling, pressure maintenance, secondary or enhanced recovery, or disposal of salt water or oil field waste within the state, shall make and keep appropriate books and records covering [~~his~~]their operations in the state from which [~~he~~]they shall be able to make and substantiate all reports required by the board or the division.

1.1. Such books and records, together with copies of all reports and notices submitted to the board or the division shall be kept on file and available for inspection by the director or an authorized agent at all reasonable times for a period of at least six years.

1.2. The director or the authorized agent shall also have access to all pertinent well records wherever located.

2. Each owner or operator shall permit the director or authorized agent at [~~his~~]their sole risk and expense, in the absence of negligence on the part of the owner or operator, to come upon any lease, property or well operated or controlled by [~~him~~]them; to inspect the records pertaining to and the manner of operation of such property or well; and to have access at all reasonable times to any and all records pertaining to such well. All information so obtained by the director or authorized agent shall be kept confidential and shall be reported only to the division or its authorized agent, unless the owner or operator gives written permission to the director to release such information.

3. All off lease transportation of oil by motor vehicle shall be accompanied by a run ticket or equivalent document. The documentation shall identify the name and address of the transporter, the name of the operator, the lease or facility from which the oil was taken, the date of removal, the API gravity of the oil, the calculated percentage of BS and W, the volume of oil or the opening and closing tank gauges or meter readings, and the destination of the oil.

R649-2-7. Naming of Oil and Gas Fields or Pools.

1. The division shall name oil and gas fields or pools within the state in cooperation with a Fields Names Advisory Committee and with due regard and consideration for any recommendation from the owners or operators of such fields or pools. The Field Names Advisory Committee shall be composed of a representative of the United States Bureau of Land Management and representatives of appropriate state agencies and the oil and gas industry.

R649-2-8. Measurement of Production.

1. The volume of oil production shall be computed in barrels of clean oil, on the basis of acceptable meter measurements, tank measurements, or with such greater accuracy as may be required by the division. Computations of the volume of oil production shall be subject to the following corrections:

1.1. The gross volume of oil shall be corrected to exclude the entire volume of impurities not constituting a natural component part of the oil.

1.2. The observed volume of oil after correction for impurities shall be further corrected to the standard volume at 60 degrees Fahrenheit, in accordance with Table 6A of the API/ASTM D-1250, Chapter 11.1, Manual of Petroleum Measurement (1980), or any revisions or supplements, or any alternative publication or tables approved by the division.

1.3. The observed gravity of oil shall be corrected to the standard API gravity at 60 degrees Fahrenheit in accordance with Table 5A of API/ASTM, D-1250, Chapter 11.1, Manual of Petroleum Measurement (1980), or any revisions or supplements, or any alternative publication or tables approved by the division.

2. All gas shall be measured by an orifice type meter unless otherwise authorized by the division.

2.1. In computing the volumes of all gas produced, sold, or injected, the standard pressure base shall be 14.73 pounds per square inch absolute (psia), and the standard temperature base shall be 60 degrees Fahrenheit.

2.2. All measurements of gas shall be adjusted by computation to these standards, regardless of the pressure and temperature at which the gas was actually measured, unless otherwise authorized by the division.

R649-2-8a. Consenting to Participate in a Well.

1. Except as provided in Subsection (2.1) below, an owner shall be determined by the board to be a "Nonconsenting owner" as defined in Utah Code Section 40-6-2(11) if, within 30 days from the date the Notice of Opportunity to Participate is received, the owner has failed to:

1.1. Execute and deliver to the operator an executed AFE for the well; and

1.2. Execute and deliver to the operator a JOA to govern the drilling and operation of the well and applicable drilling unit with the operator, and subject the owner to the risk compensation award under the provisions of Utah Code Section 40-6-6.5 as may be determined by the board.

2. If, within 30 days from the date the Notice of Opportunity to Participate is received or such later date as provided for by the Notice of Opportunity to Participate, or by separate written agreement, an owner has delivered to the operator:

2.0.1. An executed AFE,

2.0.2. Payment of its proportionate share of the dry hole costs represented in the applicable AFE, and

2.0.3. Written objections, addressing the specific provisions of the operator's proposed JOA to which the owner in good faith objects, the reasoning for each objection, and modifications/alternative provisions the owner proposes in lieu thereof, the owner shall be deemed a "Consenting owner" as defined in Utah Code Section 40-6-2(4).

2.0.4. The payment obligations under 2.0.2. are reciprocal. If an owner tenders the full amount of dry hole costs in contesting a JOA, the operator is also obligated to immediately tender its proportionate share of dry hole costs until the JOA is negotiated and executed, or until the terms of the JOA are determined by the board.

2.1 Failure of an owner to comply with the requirements of Subsection (2) shall result in the determination by the board that the owner is a Nonconsenting owner and subject the owner to the risk compensation award under the provisions of Utah Code Section 40-6-6.5 as may be determined by the board and, in such an event, any dry hole costs paid by the owner shall be refunded to the owner.

3. An owner who complies with the requirements of Subsection (2) or an operator who in good faith rejects said owner's proposed modifications/alternate provisions to the JOA, and who has also tendered their proportionate share of dry hole costs, may request that the board determine the terms of the JOA in accordance with the provisions of Utah Code Section 40-6-6.5(2) as follows:

3.1. If the operator has filed a Request for Agency Action for compulsory pooling of owners in the well and associated drilling unit has been filed, either the owner or the operator may move the board to determine the reasonableness of the costs charged and/or the terms of the JOA between the owner and operator as part of that proceeding, and

3.2. If no Request for Agency Action has been filed for the compulsory pooling of owners in the well and associated drilling unit, then either the owner or the operator may file a Request for Agency Action within 60 days of the receipt by the operator of the owner's written objections.

3.3. If neither (3.1) or (3.2) timely occurs, then the actual costs incurred will be deemed by the board as just and reasonable, and the terms of the JOA as proposed by the operator in the Notice

of Opportunity to Participate will be deemed by the board to govern as between the operator and the owner in any subsequent hearing before the board.

3.4. If a hearing is held before the board regarding disputed provisions and/or terms of a JOA, the scope of the hearing shall be limited to addressing only the terms at issue within the proposed JOA. Any JOA approved and adopted by the board shall govern as between the operator and the owner. If the board determines the owner's objections to the costs charged are justified, the operator shall apply the amounts over and above those found to be reasonable charges as a credit against the owner's proportionate share of future operational expenses.

3.5 Irrespective of any provisions contained in the proposed and/or approved JOA to the contrary, full payment of the objecting owner's proportionate share of the amount represented in the applicable AFE, less any applicable credits, shall be tendered by the subject well's spud date.

3.6 In the event an owner fails to pay the proportionate share of the amount represented in the applicable AFE, less any applicable credits, by the subject well's spud date, then the owner will be deemed a "Nonconsenting owner" under (2.1) of this Rule and subject the owner to the risk compensation award under the provisions of Utah Code Section 40-6-6.5 as may be determined by the board and, in such an event, any dry hole costs paid by the owner shall be refunded to the owner.

4. An operator who has received payment of the dry hole costs as represented in the AFE from an owner who has complied with the provisions of Subsection (2) shall deposit the proceeds, together with the operator's proportionate share of dry hole costs, in a separate trust account in a federally insured bank or savings and loan institution.

4.1. The deposit shall earn interest at the highest rate being offered by that institution for the amount and term of similar demand deposits.

4.2. The operator may commingle the proceeds only with proceeds received from other similarly situated owners.

4.3. Applicable bank/financial institution fees shall be deducted.

4.4. Payment of principal and accrued interest from the trust account shall be made to the operator if and when operations as set forth in the written Notice of Opportunity to Participate are commenced within 120 days after expiration of the election period provided in Subsection (1).

4.5. If operations as set forth in the written Notice of Opportunity to Participate are not commenced within 120 days after expiration of the election period provided in Subsection (1), then, absent the owner's written agreement to the contrary, the owner's consent and agreement shall be null and void, the operator must return the tendered dry hole cost amount plus accrued interest, but deducting applicable bank/financial institution fees, thereon to the owner within 30 days of the expiration of the 120-day period, and a new written Notice of Opportunity to Participate must be provided if the well is to be re-proposed.

R649-2-9. Refusal to Agree.

[~~1. An owner shall be deemed to have refused to agree to bear his proportionate share of the costs of the drilling and operation of a well under Section 40-6-6.5 if:~~

~~1.1. The operator of the proposed well has, in good faith, attempted to reach agreement with such owner for the leasing of the owner's mineral interest or for that owner's voluntary participation in the drilling of the well.~~

~~1.2. The owner and the operator have been unable to agree upon terms for the leasing of the owner's interest or for the owner's participation in the drilling of the well. For purposes of Utah Code Sections 40-6-2(4) and -2(11), the consent and agreement required of an owner shall be manifested by the owner agreeing in writing, within thirty (30) days from the date the notice required by Utah Code Section 40-6-2(11) is received, to bear that owner's proportionate share of the costs of drilling, testing, completion, equipping and operation of the well.~~]

[~~2.~~]If the operator [~~of the proposed well~~]and owner negotiating in good faith fail[~~shall fail to attempt, in good faith,~~] to reach agreement [~~with the owner~~]for the leasing of that owner's mineral interest or for voluntary participation by that owner in the proposed well prior to the filing of a Request for Agency Action for [~~involuntary~~]compulsory pooling of interests in the drilling unit under Section 40-6-6.5 then, [~~upon written request and after notice and hearing,~~]the duly-noticed hearing on the Request for Agency Action for [~~involuntary~~]compulsory pooling may, at the discretion of the board or its designated hearing examiner, be delayed for a period not to exceed 30 days, to allow for continued good faith negotiations between the operator and the owner.

R649-2-9a. Notice to Unlocatable and Unidentified Owners.

1. Either an owner who is not identifiable, but may claim ownership by, through, or under the estate of a deceased owner of record, or an owner who is not locatable, may be determined by the board to be a "Nonconsenting owner" as defined by Utah Code Section 40-6-2(11) if:

1.1. The operator, concurrent with the filing of a Request for Agency Action for compulsory pooling, files with the board an ex parte motion for notice by publication in a newspaper of general circulation in the county where the well is located for two (2) consecutive weeks prior to the hearing date, which motion shall be accompanied by a proposed form of such notice to be published, and an affidavit outlining in sufficient detail the operator's reasonable diligent and good faith efforts to identify and locate such owners including at a minimum:

1.1.1. A listing of all such owners; provided, if such owners are unknown, then identifying them as parties not already leased or participating in the well at issue and claiming by, through or under the estate of the deceased owner of record;

1.1.2. The name, address, email address and telephone number of a contact person for the operator to respond to the notice; and

1.1.3. All of the information set forth in Notice of Opportunity to Participate, but, in lieu of an AFE and a JOA, a statement that an AFE for the subject well and a proposed JOA agreement shall be provided by the operator to the owner if a response to the notice is received before the hearing.

1.2. The board finds the operator has exercised such reasonable diligent and good faith efforts to identify and locate such owners and further finds the proposed form of notice is acceptable, and issues an order granting the motion, and proof of such publication is supplied by said newspaper publisher and filed with the board, and

1.3. No response, either agreeing to lease or to otherwise participate in the subject well, is received by the operator from any such owner prior to the hearing.

R649-2-9b. Imposition of Statutory Risk Compensation Award.

In determining the level of any risk compensation award imposed within the range of 150% to 400% specified in Utah Code Section 40-6-6.5(4)(d)(i)(D), the board may consider, among other factors, the geologic and engineering uncertainties and difficulties in drilling the well, the availability of information from prior and/or current drilling and development in the area, and the unique and/or specified costs of the well.

R649-2-10. Notification of Lease Sale or Transfer.

The owner of a lease shall provide notification to any person with an interest in such lease, when all or part of that interest in the lease is sold or transferred.

R649-2-11. Confidentiality of Well Log Information.

1. Well logs marked confidential shall be kept confidential for one year after the date on which the log is required to be filed with the division, unless the operator gives written permission to release the log at an earlier date.

2. Information on a newly permitted well will be held confidential only upon receipt by the division of a written request from the owner or operator.

3. The period of confidentiality may begin at the time the APD is submitted for approval if a request for confidentiality is received at that time. The information on the application itself will not be considered confidential.

4. Information that shall be held confidential includes well logs, electrical or radioactivity logs, electromagnetic, electrical, or magnetic surveys, core descriptions and analysis, maps, other geological, geophysical, and engineering information, and well completion reports that contain such information.

5. The owner or operator shall clearly mark documents as confidential. Such marking shall be in red and be clearly visible.

6. Confidential wells or information shall be reported separately from wells or information that is not in confidential status.

R649-2-12. Tests and Surveys.

1. When deemed necessary or advisable the director or authorized agent can require that tests or surveys be made to determine the presence of waste of oil, gas, water, or reservoir energy; the quantity of oil, gas or water; the amount and direction of deviation of any well from the vertical; formation, casing, tubing, or other pressures; or any other test or survey deemed necessary to carry out the purposes of the Oil and Gas Conservation Act.

2. Directional, deviation, and/or measurements-while-drilling (MWD) surveys must be run on horizontal wells and submitted in accordance with R649-3-21, Well Completion and Filing of Well Logs, as amended for horizontal wells.

R649-2-13. Application of a Compulsory Pooling Order to Subsequently Drilled Wells in a Drilling Unit.

1. An initial board order compulsory pooling all interests in a drilling unit, including the terms and conditions of a JOA as adopted by the board, shall apply to any subsequently drilled well in the drilling unit as authorized under Utah Code Section 40-6-6.5(12), subject to compliance with the following:

1.1. The operator has filed with the board a motion to modify the initial order to apply its terms to an additional well in the drilling unit which sets forth by affidavit:

1.1.1. The docket and cause numbers of said initial board order;

1.1.2. The location, identification, and description of the well drilled to which the order is to apply;

1.1.3. An identification of those owners who the operator asserts have not consented to participate in the subsequent well after having been provided a Notice of an Opportunity to Participate and failing to consent or make objections as allowed by R649-2-8a, and those owners who are either locatable, unlocatable, or cannot be identified;

1.1.4. Certification that the operator has made reasonable efforts to locate and provide notice to the alleged Nonconsenting owners which shall include:

1.1.4.1. Copies of the written Notice of Opportunity to Participate sent to them together with a proof of service; or

1.1.4.2. Proof of notice by publication as required by R649-2-9a(1.2) if any such alleged Nonconsenting owner is unlocatable or not identified.

1.1.5. A statement that the average weighted landowner's royalty for the drilling unit remains the same as that provided for in the initial board order or a calculation of the average weighted landowner's royalty for the drilling unit at the time of commencement of the drilling of the subsequent well as provided in Utah Code Section 40-6-6.5(6);

1.1.6. The anticipated costs of plugging the well; and

1.1.7. The risk compensation award as determined by the board in the original order.

1.2. The motion to modify the initial board order has been mailed by the operator, together with copies of the initial board order and a recitation of the provisions of Utah Code Section 40-6-6.5(12) and R649-2-8a to all such alleged nonconsenting owners, with a certification of service evidencing the same executed and filed with the board; and

1.3. Within 30 days of the mailing of the motion, no party has filed any objection to the motion to modify the initial board order to apply to the subsequently drilled well in the drilling unit, including, without limitation, any objection to said party's alleged nonconsent status, the applicable risk compensation percentage or the reasonableness of the actual costs incurred for the subsequently drilled well.

2. Upon a written notice filed with the board stating the foregoing conditions have been satisfied, the board may enter an order declaring its initial compulsory pooling order to be applicable to such subsequently drilled well, with modifications for the matters addressed in the motion to modify the order.

3. If an owner or other person with an interest affected by the motion shall have filed an objection within 30 days of the mailing of the motion to modify the order including, but not limited to, an objection to said person's alleged nonconsent status, the applicable risk compensation percentage, or the reasonableness of the costs of the well, then the board shall set a time for a hearing in accordance with Rules of Practice Before the Board in R641-100 et. seq.

3.1. The hearing shall be limited to addressing the objections to the motion to modify the order as asserted by any party;

3.2. The operator shall have the burden to satisfy the requirements of Utah Code Section 40-6-6.5 for the granting of the motion and the objecting owner shall have the burden of establishing the merit to its objections; and

3.3. The board shall enter an order determining the application of the initial order to the subsequent well as to any party who filed objections, and how the initial order will apply to others who have not objected.

4. If there are no objections made to the motion to modify the initial compulsory pooling order, the initial order shall apply to the subsequent well as requested.

5. The terms of any JOA adopted by the board in an initial compulsory pooling order and applicable to any subsequent order may not be in the contravention of the provisions of Utah Code Section 40-6-6.5, including providing that an owner shall be entitled to receive Notice Of Opportunity to Participate in any subsequent well proposed in the drilling unit regardless of the owner's prior consent or nonconsent status on a prior well in the drilling unit.

KEY: consenting, nonconsenting, oil, pooling
Date of Enactment or Last Substantive Amendment: [~~September 21, 2017~~]2019
Notice of Continuation: August 26, 2016
Authorizing, and Implemented or Interpreted Law: 40-6-1 et seq.

Regents (Board of), Administration
R765-570
Higher Education Disclosures

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 44093
FILED: 09/22/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule establishes procedures whereby public institutions of higher education comply with certain disclosures required under Section 53B-1-112. The statute requires institutions to post online potential salary and job prospects for graduates in each academic program. The statute required the Board of Regents (Board) to establish administrative rules to administer the requirement.

SUMMARY OF THE RULE OR CHANGE: This rule directs institutions to post an online link to the required career data, which the Board will provide using UtahFutures.org as the universal data source. The Board will review the data every 24 months to ensure accuracy and usefulness. Institutions may also establish additional program information as they deem appropriate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53B-1-112

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no cost or savings. This is a requirement to provide student consumer information only.
♦ LOCAL GOVERNMENTS: After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to local governments.
♦ SMALL BUSINESSES: After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Students will have data available that may help them make choices about majors or programs and the prospects for potential employment after graduation. There is no cost or financial benefit directly attached to this rule.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Schools will not incur any measurable cost to comply with the statute or this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed and approve this information.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
REGENTS (BOARD OF)
ADMINISTRATION
BOARD OF REGENTS BUILDING, THE GATEWAY
60 SOUTH 400 WEST
SALT LAKE CITY, UT 84101-1284
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Geoff Landward by phone at 801-321-7136, or by Internet E-mail at glandward@ushe.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2019

THIS RULE MAY BECOME EFFECTIVE ON: 11/25/2019

AUTHORIZED BY: Dave Woolstenhulme, Commissioner of Higher Education

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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 is not expected to fiscally impact non-small businesses' revenues or expenditures. This rule requires public institutions of higher education to make certain disclosures about the associated costs of higher education to better inform students or those who are covering tuition. While students will have access to consumer information, there is no direct cost for compliance.

The Commissioner of Higher Education, Dave Woolstenhulme, has reviewed and approved this fiscal analysis.

R765. Regents (Board of), Administration.
R765-570. Higher Education Disclosures.
R765-570-1. Purpose.
(1) This rule establishes procedures whereby public institutions of higher education comply with certain disclosures required under Title 53B, Chapter 1, Part 112.

R765-570-2. References.
(1) Title 53B, Chapter 1, Part 112

R765-570-3. Higher Education Disclosures.
(1) Institutions shall publish a direct link online with the information defined in Title 53B, Chapter 1, Part 112 in accordance with the requirements in Title 53B, Chapter 1, Part 112(2)(b).
(a) The Board of Regents shall provide and maintain the link for use by the institutions.
(b) The Board has identified UtahFutures.org, maintained by the Utah Education and Telehealth Network, as a statewide platform to meet the requirements defined in Title 53B, Chapter 1, Part 112(2)(b).
(2) Institutions may use other data services if they meet the requirements defined in Title 53B, Chapter 1, Part 112.
(3) To the extent possible, data the Board collects in accordance with Title 53B, Chapter 1, Part 112(3) will use existing data services and partners deemed credible for purposes of this section.
(4) Every 24 months, the Board shall review the relevance and usability of data sources.

KEY: education, disclosures
Date of Enactment or Last Substantive Amendment: 2019
Authorizing, and Implemented or Interpreted Law: 53B-1-112

Regents (Board of), Administration
R765-609C
Regents Scholarship

NOTICE OF PROPOSED RULE
(New Rule)
DAR FILE NO.: 44094
FILED: 09/22/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This new rule is the result of changes made to the Regents Scholarship Program by Section 53B-8-300, Utah Access Promise Scholarship, which created a new needs based scholarship program that significantly altered the Regents Scholarship, necessitating this new rule.

SUMMARY OF THE RULE OR CHANGE: This new rule establishes application procedures and award criteria for applicants. It reflects the removal of private non-profit institutions as eligible institutions, adds Utah's Technical Colleges, and removes all need-based supplemental awards, providing scholarship awards solely on merit. This rule also establishes appeals procedures.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53B-8-112

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The Legislature appropriated $16,070,500 to be distributed to scholarship recipients. Recipients can use the scholarship towards the cost of tuition, fees, and books.
♦ LOCAL GOVERNMENTS: After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to local governments.
♦ SMALL BUSINESSES: After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to small businesses.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Students who receive the scholarship will receive money towards the cost of tuition, books, and fees. The award amount will depend on the other financial aid the student receives.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Institutions and the Board of Regents may incur costs for administering the program which may be covered from the program appropriation.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: I have reviewed and approved this rule and its fiscal impacts.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
REGENTS (BOARD OF)
ADMINISTRATION
BOARD OF REGENTS BUILDING, THE GATEWAY
60 SOUTH 400 WEST
SALT LAKE CITY, UT 84101-1284
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Geoff Landward by phone at 801-321-7136, or by Internet E-mail at glandward@ushe.edu

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/15/2019

THIS RULE MAY BECOME EFFECTIVE ON: 11/25/2019

AUTHORIZED BY: Dave Woolstenhulme, Commissioner of Higher Education

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Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	**FY 2020**	**FY 2021**	**FY 2022**
State Government	$16,070,500	$16,070,500	$16,070,500
Local Government	$0	$0	$0
Small Businesses	$0	$0	$0
Non-Small Businesses	$0	$0	$0
Other Person	$0	$0	$0
Total Fiscal Costs:	**$16,070,500**	**$16,070,500**	**$16,070,500**
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	$16,070,500	$16,070,500	$16,070,500
Total Fiscal Benefits:	**$16,070,500**	**$16,070,500**	**$16,070,500**
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 Regents' Scholarship is a statutorily created scholarship program that benefits Utah high school students who reach certain academic achievements and also demonstrate financial need. Scholarship recipients may use the scholarship funds for tuition, fees, and books at eligible institutions of higher education in Utah. Although those institutions would therefore indirectly benefit from this rule, the amount from which they would benefit depends solely on where students attend school, making a direct fiscal benefit projection impossible.

The Commissioner of Higher Education, Dave Woolstenhulme, has reviewed and approved this fiscal analysis.

R765. Regents (Board of), Administration.
R765-609C. Regents Scholarship.
R765-609C-1. Purpose.
(1) The Regents' Scholarship encourages students to complete the Regents' Recommended High School Curriculum, in order to provide better access to higher education opportunities and to reward students for preparing academically for college.

R765-609C-2. References.
(1) Title 53B, Chapter 8, Section 108, Regents' Scholarship Program.
(2) Utah Admin. Code Section R277-700-7, High School Requirements (Effective for Graduating Students Beginning with the 2010-2011 School Year).

R765-609C-3. Definitions.
(1) "Advanced Math" means any of the following courses: pre-calculus, calculus, statistics, AP calculus AB, AP calculus BC, AP statistics, college courses Math 1030 and higher, IB Math SL, HL, and Further Math.
(2) "Board" means the Utah State Board of Regents.
(3) "College Course Work" means any instance in which college credit is earned, including but not limited to, concurrent enrollment, distance education, dual enrollment, or early college.
(4) "Eligible Institutions" means institutions of higher education listed in Utah Code Section 53B-2-101(1).
(5) "Excusable Neglect" means a failure to take proper steps at the proper time, not in consequence of carelessness, inattention, or willful disregard of the scholarship application process, but in consequence of some unexpected or unavoidable hindrance or accident.
(6) "Good Cause" means the student's failure to meet a scholarship application process requirement was due to circumstances beyond the student's control or circumstances that are compelling and reasonable.
(7) "High School" means a public school established by the Utah State Board of Education or private high school within the boundaries of the State of Utah. If a private high school, it shall be accredited by a regional accrediting body approved by the Board.
(8) "Scholarship Appeals Committee" means the committee designated by Commissioner of Higher Education to review appeals of Regents' Scholarship award decisions and take final agency action regarding awards.
(9) "Scholarship Award" means a scholarship awarded to all applicants who meet the eligibility requirements of section R609-4.
(10) "Scholarship Staff" means the employees assigned to review Regents' Scholarship applications and make initial decisions awarding the scholarships.
(11) "Substantial Compliance" means the applicant, in good faith, demonstrated clear intent to comply with the scholarship application requirements and has demonstrated likely eligibility, but failed to precisely comply with the application specifics.

R765-609C-4. Award Requirements.

(1) To qualify for the Regents' Scholarship, the applicant shall satisfy the following criteria:

(a) Graduate from a Utah high school with a minimum, nonweighted GPA of 3.3.

(b) Complete four credits of English.

(c) Complete four credits of math, including one course ofadvanced math.

(d) Complete three credits of lab-based biology, chemistry and physics.

(e) Complete two credits of world languages.

(f) Complete three credits of social science.

(g) Complete the ACT with a minimum score of 22.

(h) Complete the Free Application for Federal Student Aid (FAFSA).

(2) A student may satisfy a course requirement through a competency-based assessment provided it is documented for credit on an official transcript.

(3) The courses completed shall be unique except when repeated for a higher grade.

(4) Repeated course work shall not count toward accumulation of required credits.

(5) College Course Work: College course work will only be evaluated if the applicant submits an official college transcript. If an applicant enrolls in and completes a college course worth three or more college credits, this shall be counted as one high school credit toward the scholarship requirements.

(6) Mandatory Enrollment: An award recipient attending a credit-granting eligible institution shall enroll in a minimum of 12 credit hours per academic semester, beginning with the fall semester after high school graduation. An award recipient attending a non-credit granting institution must enroll full time in a program eligible for federal aid by September 1 after high school graduation. The institution at which the student attends shall verify the recipient has met the enrollment requirement.

(7) New Century Scholarship: A recipient shall not receive both a Regents' Scholarship and the New Century Scholarship established in Title 53B, Part 8, Section 105.

R765-609C-5. Application Procedures.

(1) Application Deadline: Applicants shall submit an official scholarship application no later than February 1 of the year that they graduate from high school. The Board may establish a priority deadline each year. Applicants who meet the priority deadline may be given first priority or consideration for the scholarship. Subject to funding, students may be considered based on the date of they completed and submitted their application.

(2) Required Documentation: Applicants shall submit the following documents:

(a) The online Regents' Scholarship application.

(b) An official high school paper or electronic transcript, official college transcript(s) when applicable, and any other miscellaneous official transcripts demonstrating all completed courses and GPA.

(c) If a student completed coursework at an educational institution outside of the district from which the student graduated, the student must submit an official transcript from the school at which he or she completed the coursework if the courses completed and grades earned are not reflected in the official high school transcript.

(d) Verified ACT score(s).

R765-609C-6. Award Amounts and Renewals.

(1) Funding Constraints of Awards: The Board will determine award amounts, depending on the annual legislative appropriation, whether the institution is a credit granting or non-credit granting institution, and the number of qualified applicants.

(2) Scholarship Award: Students who meet the eligibility criteria and enroll at a credit granting institution will receive a four-semester scholarship award, the amount of which will be determined annually by the Board. Students who enroll in a non-credit granting institution will receive a one-time scholarship award, the amount of which will be determined annually by the Board, which the institution may disburse over the course of a recipient's enrollment within this policy's limits and requirements.

(3) Ongoing Eligibility: Scholarship recipients who enroll at a credit granting institution must maintain a 3.0 GPA and complete a minimum of 12 credit hours per academic semester to remain eligible for the award. Students who earn less than a 3.0 Semester GPA will be placed on probation. If the recipient again at any time earns less than a 3.0 GPA the scholarship may be revoked. Institutions shall verify the recipient has met these requirements. Recipients who do not maintain eligibility forfeit the remaining award amount.

R765-609C-7. Time Constraints and Deferrals.

(1) Time Limitation: Scholarship funds are only available to a recipient for five years after their high school graduation date.

(2) Upon the first day a recipient begins courses using the scholarship funds at a non-credit granting institution, the recipient must use the award in its entirety within two years, unless extended under section 7.3. This time limit does not extent the five-year award availability under sub-section (1).

(3) Deferral or Leave of Absence: Recipients who will not enroll as a student shall apply for a deferral or leave of absence with their institution.

(a) Deferrals or leaves of absence may be granted, at the discretion of the institution, for military service, humanitarian/religious service, documented medical reasons, and other exigent reasons.

(c) An approved deferral or leave of absence will not extend the time limits of the scholarship. The scholarship may only be used for academic terms that begin within five years after the recipient's high school graduation date.

R765-609C-8. Transfers.

(1) Recipients who elect to attend a credit granting institution may transfer to another credit granting institution and retain the scholarship award. Recipients are responsible to inform the Office of the Commissioner of their intent to transfer. The Office of the Commissioner shall coordinate the transfer of scholarship funds and information.

R765-609C-9. Scholarship Determinations and Appeals.

(1) Scholarship Determinations: Submission of a scholarship application does not guarantee a scholarship award. The Scholarship Staff shall review individual scholarship applications and determine eligibility. Awards are based on available funding, applicant pool, and applicants' completion of scholarship criteria by the specified deadline.

(2) Appeals: An applicant has the right to appeal the Scholarship Staff's adverse decision by filing an appeal with the Scholarship Appeals Committee subject to the following conditions:

(a) Applicants may submit a written appeal through either the U.S. Mail or their Regents Scholarship Student Account. Appeals must be postmarked (if mailed) or submitted online within 30 days of the date on which the scholarship notification was issued.

(b) In the appeal, the applicant must provide his or her full name, mailing address, the high school he or she last attended, a statement of the reason for the appeal, and all information or evidence that supports the appeal. The failure of an applicant to provide the information in this subsection shall not preclude the acceptance of an appeal.

(c) An appeal filed before the applicant receives official notification from the Scholarship Staff of its decision may not be considered.

(e) If an applicant failed to file his or her appeal on time, the Scholarship Appeals Committee shall notify the applicant of the late filing and give him or her an opportunity to explain the reasons for failing to file the appeal by the deadline. The Scholarship Appeals Committee shall not have jurisdiction to consider the merits of an appeal that is filed beyond the deadline unless it determines the applicant established excusable neglect.

(f) The Scholarship Appeals Committee shall review the appeal to determine if the award decision was made in error, or if the applicant demonstrated substantial compliance with the scholarship application requirements but failed to meet one or more requirements for good cause.

(g) If the Scholarship Appeals Committee determines the applicant has shown by a preponderance of the evidence that the initial decision was made in error, it shall either reverse the initial decision or remand it back to the Scholarship Staff for further review in accordance with the Appeals Committee's instructions.

(h) If the Scholarship Appeals Committee determines the applicant has shown by a preponderance of the evidence that he or she demonstrated substantial compliance with the application process requirements and good cause for failing to meet one or more of the requirements, the Appeals Committee shall grant the applicant a reasonable period of time to complete the remaining requirements and to resubmit the completed application to the Scholarship Staff for a redetermination. In such a case, the applicant shall have the right to appeal an adverse decision according to this rule.

(i) The Scholarship Appeals Committee's decision shall be in writing and contain its findings of facts, reasoning and conclusions of law and notice of the right to judicial review.

(j) The Scholarship Appeals Committee's decision represents the final agency action. An applicant who disagrees with the Scholarship Appeal Committee's Decision may seek judicial review in accordance with Utah Code Ann. 63G-4-402.

R765-609C-10. Reporting.

(1) As directed by the Commissioner's staff, eligible institutions shall report to the Board of Regents the following:

(a) The names of students the institutions awarded Regents' Scholarship funds.

(b) Enrollment information such as the current GPA, the number of credits completed, and deferment or leave of absence information.

(c) Other information deemed necessary to evaluate eligibility or the effectiveness of the program.

(2) The Board of Regents may, at any time, request additional documentation or data related to the Regents Scholarship and may review or formally audit an eligible institution's compliance with this policy.

KEY: regents, scholarship
Date of Enactment or Last Substantive Amendment: 2019
Authorizing, and Implemented or Interpreted Law: 53B-8-112

Tax Commission, Property Tax
R884-24P-53
2019 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515

NOTICE OF PROPOSED RULE
(Amendment)
DAR FILE NO.: 44106
FILED: 09/27/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This amendment annually updates the agricultural productive values to be applied by county assessors to land qualifying for valuation and assessment under the Farmland Assessment Act. The values are recommended to the Commission by the State Farmland Evaluation Advisory Committee, which meets under the authority of Section 59-2-514.

SUMMARY OF THE RULE OR CHANGE: Section 59-2-515 authorizes the State Tax Commission to promulgate rules regarding the Property Tax Act, Part 5, Farmland Assessment Act. Section 59-2-514 authorizes the State Tax Commission to receive valuation recommendations from the State Farmland Advisory Committee for implementation as outlined in Section R884-24P-53. This section sets the acreage value rates for 418 separate class-county combinations.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 59-2-515

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: The amount of savings or cost to state government is undetermined. The state receives tax revenue for assessing and collecting, and for the Education Fund based on increased or decreased real and personal property valuation, including property assessed under the Farmland Assessment Act (FAA). Property valuation (taxable value) changes have been recommended by class and by county. This year it is proposed that 18 rates increase slightly, 261 rates decrease, and 139 have no change. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class and a listing of property newly qualifying or no longer qualifying for FAA in the coming year. However, it is estimated that the overall change is minimal due to this amendment.
♦ LOCAL GOVERNMENTS: The amount of saving or cost to local governments is undetermined. Local governmental entities receive tax revenue based on increased or decreased property valuation, including property assessed under FAA. Property valuation changes have been recommended by class and by county. This year it is proposed that 18 rates increase slightly, 261 rates decrease, and 139 have no change. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class and a listing of property newly qualifying or no longer qualifying for FAA in the coming year. However, it is estimated that the overall change is minimal due to this amendment. County assessors' offices statewide will be required to input the new value indicators into their computer systems to be applied against the acreage for individual properties. This input process is easily accomplished on an annual basis and represents no significant cost in time or money to the assessors' offices.
♦ SMALL BUSINESSES: Each property owner with property eligible for assessment under FAA may see a change in value, depending on property class and situs county. The effect on the property owner will depend on the mix of property types and situs. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class and a listing of property newly qualifying or no longer qualifying for FAA in the coming year. In addition, the cost will be further altered by changes to local property tax rates. However, it is estimated that the overall change due to this amendment is minimal.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Each property owner with property eligible for assessment under FAA may see a change in value, depending on property class and situs county. The effect on the property owner will depend on the mix of property types and situs. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class, and a listing of property newly qualifying or no longer qualifying for FAA in the coming year. In addition, the cost will be further altered by changes to local property tax rates. However, it is estimated that the overall change due to this amendment is minimal.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Each property owner with property eligible for assessment under FAA may see a change in value, depending on property class and situs county. The effect on the property owner will depend on the mix of property types and situs. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class, and a listing of property newly qualifying or no longer qualifying for FAA in the coming year. In addition, the cost will be further altered by changes to local property tax rates. However, it is estimated that the overall change due to this amendment is minimal.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Businesses with property eligible for assessment under the FAA may see a change in value, depending on property class and situs county. The effect on a business will depend on the mix of property types and situs. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class, and a listing of property newly qualifying or no longer qualifying for FAA in the coming year. In addition, the cost will be further altered by changes to local property tax rates. However, it is estimated that the overall change due to this amendment will be minimal.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TAX COMMISSION
PROPERTY TAX
210 N 1950 W
SALT LAKE CITY, UT 84134
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Jennifer Franklin by phone at 801-297-3901, or by Internet E-mail at jenniferfranklin@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2019

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2019

AUTHORIZED BY: Rebecca Rockwell, 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 above. Inestimable impacts for Non-Small Businesses are described below.**

Appendix 2: Regulatory Impact to Non-Small Businesses
The impacts of these changes on non-small businesses are inestimable. In the aggregate, the amount of savings or cost to non-small business is undetermined. Each property owner with property eligible for assessment under FAA may see a change in value, depending on property class and situs county. The effect on an individual property owner will depend on the mix of property types and situs. No total cost or savings can be calculated without an exhaustive study of farmland acreage in each county by class, and a listing of property newly qualifying or no longer qualifying for FAA in the coming year. In addition, the cost will be further altered by changes to local property tax rates. However, it is estimated that the overall change due to this amendment is minimal.

Commissioner of the Utah State Tax Commission, Rebecca L. Rockwell, has reviewed and approved this fiscal analysis.

R884. Tax Commission, Property Tax.
R884-24P. Property Tax.
R884-24P-53. [~~2019~~]2020 Valuation Guides for Valuation of Land Subject to the Farmland Assessment Act Pursuant to Utah Code Ann. Section 59-2-515.

(1) Each year the Property Tax Division shall update and publish schedules to determine the taxable value for land subject to the Farmland Assessment Act on a per acre basis.

(a) The schedules shall be based on the productivity of the various types of agricultural land as determined through crop budgets and net rents.

(b) Proposed schedules shall be transmitted by the Property Tax Division to county assessors for comment before adoption.

(c) County assessors may not deviate from the schedules.

(d) Not all types of agricultural land exist in every county. If no taxable value is shown for a particular county in one of the tables, that classification of agricultural land does not exist in that county.

(2) All property qualifying for agricultural use assessment pursuant to Section 59-2-503 shall be assessed on a per acre basis as follows:

(a) Irrigated farmland shall be assessed under the following classifications.

(i) Irrigated I. The following counties shall assess Irrigated I property based upon the per acre values listed below:

TABLE 1
Irrigated I

1)	Box Elder	[~~677~~]682
2)	Cache	[~~582~~]576
3)	Carbon	[~~451~~]439
4)	Davis	[~~719~~]715
5)	Emery	[~~427~~]416
6)	Iron	[~~683~~]668
7)	Kane	[~~357~~]347
8)	Millard	[~~674~~]663
9)	Salt Lake	[~~616~~]623
10)	Utah	[~~641~~]639
11)	Washington	[~~557~~]542
12)	Weber	[~~694~~]684

(ii) Irrigated II. The following counties shall assess Irrigated II property based upon the per acre values listed below:

TABLE 2
Irrigated II

1)	Box Elder	[~~595~~]599
2)	Cache	[~~497~~]492
3)	Carbon	[~~359~~]349
4)	Davis	[~~633~~]629
5)	Duchesne	[~~417~~]407
6)	Emery	[~~344~~]335
7)	Grand	[~~332~~]323
8)	Iron	[~~599~~]586
9)	Juab	[~~380~~]376
10)	Kane	[~~275~~]268
11)	Millard	[~~592~~]583
12)	Salt Lake	[~~529~~]535
13)	Sanpete	[~~460~~]450
14)	Sevier	[~~484~~]476
15)	Summit	[~~393~~]382
16)	Tooele	[~~381~~]372
17)	Utah	[~~554~~]552
18)	Wasatch	[~~416~~]405
19)	Washington	[~~475~~]462
20)	Weber	[~~608~~]599

(iii) Irrigated III. The following counties shall assess Irrigated III property based upon the per acre values listed below:

TABLE 3
Irrigated III

1)	Beaver	[~~514~~]512
2)	Box Elder	[~~468~~]471
3)	Cache	[~~376~~]372
4)	Carbon	[~~239~~]233
5)	Davis	[~~509~~]506
6)	Duchesne	[~~292~~]285
7)	Emery	[~~216~~]210

8)	Garfield	[~~181~~]176
9)	Grand	[~~210~~]205
10)	Iron	[~~475~~]465
11)	Juab	[~~256~~]253
12)	Kane	[~~152~~]148
13)	Millard	[~~468~~]461
14)	Morgan	[~~328~~]320
15)	Piute	[~~285~~]278
16)	Rich	[~~152~~]148
17)	Salt Lake	[~~403~~]408
18)	San Juan	[~~146~~]151
19)	Sanpete	[~~338~~]331
20)	Sevier	[~~360~~]354
21)	Summit	[~~269~~]262
22)	Tooele	[~~255~~]249
23)	Uintah	[~~316~~]308
24)	Utah	[~~425~~]424
25)	Wasatch	[~~289~~]281
26)	Washington	[~~349~~]340
27)	Wayne	[~~281~~]273
28)	Weber	[~~483~~]476

(iv) Irrigated IV. The following counties shall assess Irrigated IV property based upon the per acre values listed below:

TABLE 4
Irrigated IV

1)	Beaver	[~~424~~]423
2)	Box Elder	[~~387~~]390
3)	Cache	[~~292~~]289
4)	Carbon	[~~153~~]149
5)	Daggett	[~~162~~]158
6)	Davis	[~~425~~]422
7)	Duchesne	[~~205~~]200
8)	Emery	[~~134~~]131
9)	Garfield	[~~97~~]94
10)	Grand	[~~127~~]124
11)	Iron	[~~389~~]380
12)	Juab	[~~170~~]168
13)	Kane	[~~68~~]66
14)	Millard	[~~380~~]374
15)	Morgan	[~~243~~]237
16)	Piute	[~~199~~]194
17)	Rich	[~~70~~]68
18)	Salt Lake	[~~312~~]316
19)	San Juan	[~~66~~]68
20)	Sanpete	[~~254~~]248
21)	Sevier	[~~276~~]271
22)	Summit	[~~185~~]180
23)	Tooele	[~~174~~]170
24)	Uintah	[~~234~~]228
25)	Utah	[~~341~~]340
26)	Wasatch	[~~206~~]200
27)	Washington	[~~263~~]256
28)	Wayne	[~~198~~]193
29)	Weber	[~~395~~]389

(b) Fruit orchards shall be assessed per acre based upon the following schedule:

TABLE 5
Fruit Orchards

1)	Beaver	[~~586~~]493
2)	Box Elder	[~~634~~]534
3)	Cache	[~~586~~]493
4)	Carbon	[~~586~~]493
5)	Davis	[~~639~~]538
6)	Duchesne	[~~586~~]493
7)	Emery	[~~586~~]493
8)	Garfield	[~~586~~]493
9)	Grand	[~~586~~]493
10)	Iron	[~~586~~]493
11)	Juab	[~~586~~]493
12)	Kane	[~~586~~]493
13)	Millard	[~~586~~]493
14)	Morgan	[~~586~~]493
15)	Piute	[~~586~~]493
16)	Salt Lake	[~~586~~]493
17)	San Juan	[~~586~~]493
18)	Sanpete	[~~586~~]493
19)	Sevier	[~~586~~]493
20)	Summit	[~~586~~]493
21)	Tooele	[~~586~~]493
22)	Uintah	[~~586~~]493
23)	Utah	[~~644~~]542
24)	Wasatch	[~~586~~]493
25)	Washington	[~~693~~]583
26)	Wayne	[~~586~~]493
27)	Weber	[~~639~~]538

(c) Meadow IV property shall be assessed per acre based upon the following schedule:

TABLE 6
Meadow IV

1)	Beaver	[~~218~~]217
2)	Box Elder	[~~216~~]218
3)	Cache	[~~223~~]221
4)	Carbon	[~~113~~]110
5)	Daggett	[~~134~~]130
6)	Davis	[~~226~~]225
7)	Duchesne	[~~143~~]140
8)	Emery	[~~118~~]115
9)	Garfield	[~~89~~]87
10)	Grand	[~~115~~]112
11)	Iron	[~~225~~]220
12)	Juab	[~~130~~]129
13)	Kane	[~~93~~]90
14)	Millard	[~~166~~]163
15)	Morgan	[~~168~~]164
16)	Piute	[~~163~~]159
17)	Rich	[~~90~~]88
18)	Salt Lake	[~~198~~]200
19)	Sanpete	[~~167~~]163
20)	Sevier	[~~172~~]169
21)	Summit	[~~173~~]168
22)	Tooele	[~~158~~]154
23)	Uintah	[~~177~~]173
24)	Utah	[~~214~~]213
25)	Wasatch	[~~179~~]174
26)	Washington	[~~195~~]190
27)	Wayne	[~~147~~]143
28)	Weber	[~~259~~]255

(d) Dry land shall be classified as one of the following two categories and shall be assessed on a per acre basis as follows:

(i) Dry III. The following counties shall assess Dry III property based upon the per acre values listed below:

TABLE 7
Dry III

1)	Beaver	47
2)	Box Elder	[~~79~~]80
3)	Cache	[~~100~~]99
4)	Carbon	[~~42~~]41
5)	Davis	44
6)	Duchesne	[~~47~~]46
7)	Garfield	[~~41~~]40
8)	Grand	[~~42~~]41
9)	Iron	[~~42~~]41
10)	Juab	44

11)	Kane	[~~41~~]40
12)	Millard	[~~40~~]39
13)	Morgan	[~~55~~]54
14)	Rich	[~~41~~]40
15)	Salt Lake	[~~47~~]48
16)	San Juan	[~~45~~]46
17)	Sanpete	[~~47~~]46
18)	Summit	[~~41~~]40
19)	Tooele	[~~45~~]44
20)	Uintah	[~~47~~]46
21)	Utah	43
22)	Wasatch	[~~41~~]40
23)	Washington	[~~41~~]40
24)	Weber	[~~68~~]67

(ii) Dry IV. The following counties shall assess Dry IV property based upon the per acre values listed below:

TABLE 8
Dry IV

1)	Beaver	14
2)	Box Elder	50
3)	Cache	[~~70~~]69
4)	Carbon	13
5)	Davis	13
6)	Duchesne	16
7)	Garfield	13
8)	Grand	13
9)	Iron	13
10)	Juab	13
11)	Kane	13
12)	Millard	12
13)	Morgan	[~~23~~]22
14)	Rich	13
15)	Salt Lake	15
16)	San Juan	17
17)	Sanpete	16
18)	Summit	13
19)	Tooele	13
20)	Uintah	16
21)	Utah	13
22)	Wasatch	13
23)	Washington	12
24)	Weber	[~~38~~]37

(e) Grazing land shall be classified as one of the following four categories and shall be assessed on a per acre basis as follows:

(i) Graze 1. The following counties shall assess Graze I property based upon the per acre values listed below:

TABLE 9
GR I

1)	Beaver	65
2)	Box Elder	63
3)	Cache	[~~60~~]59
4)	Carbon	[~~45~~]44
5)	Daggett	[~~45~~]44
6)	Davis	52
7)	Duchesne	[~~59~~]58
8)	Emery	[~~61~~]59
9)	Garfield	[~~66~~]64
10)	Grand	[~~67~~]65
11)	Iron	[~~64~~]63
12)	Juab	[~~56~~]55
13)	Kane	[~~65~~]63
14)	Millard	[~~65~~]64
15)	Morgan	[~~57~~]56
16)	Piute	[~~77~~]75
17)	Rich	[~~56~~]54
18)	Salt Lake	[~~61~~]62
19)	San Juan	[~~63~~]65
20)	Sanpete	[~~54~~]53
21)	Sevier	[~~56~~]55
22)	Summit	[~~62~~]60
23)	Tooele	[~~61~~]60
24)	Uintah	[~~69~~]67
25)	Utah	56
26)	Wasatch	[~~45~~]44
27)	Washington	[~~56~~]54
28)	Wayne	[~~75~~]73
29)	Weber	[~~60~~]59

(ii) Graze II. The following counties shall assess Graze II property based upon the per acre values listed below:

TABLE 10
GR II

1)	Beaver	20
2)	Box Elder	20
3)	Cache	19
4)	Carbon	13
5)	Daggett	12
6)	Davis	16
7)	Duchesne	16
8)	Emery	18
9)	Garfield	[~~20~~]19
10)	Grand	19
11)	Iron	19
12)	Juab	16
13)	Kane	[~~21~~]20
14)	Millard	21
15)	Morgan	18
16)	Piute	[~~22~~]21
17)	Rich	17
18)	Salt Lake	18
19)	San Juan	[~~21~~]22
20)	Sanpete	15
21)	Sevier	15
22)	Summit	17
23)	Tooele	17
24)	Uintah	[~~24~~]23
25)	Utah	20
26)	Wasatch	14
27)	Washington	18
28)	Wayne	[~~24~~]23
29)	Weber	17

(iii) Graze III. The following counties shall assess Graze III property based upon the per acre values below:

TABLE 11
GR III

1)	Beaver	15
2)	Box Elder	14
3)	Cache	12
4)	Carbon	11
5)	Daggett	10
6)	Davis	11
7)	Duchesne	12
8)	Emery	12
9)	Garfield	13
10)	Grand	13
11)	Iron	13
12)	Juab	12
13)	Kane	13
14)	Millard	13
15)	Morgan	11
16)	Piute	15
17)	Rich	11
18)	Salt Lake	13

19)	San Juan	14
20)	Sanpete	12
21)	Sevier	12
22)	Summit	12
23)	Tooele	12
24)	Uintah	16
25)	Utah	12
26)	Wasatch	11
27)	Washington	11
28)	Wayne	15
29)	Weber	12

(iv) Graze IV. The following counties shall assess Graze IV property based upon the per acre values listed below:

TABLE 12
GR IV

1)	Beaver	5
2)	Box Elder	5
3)	Cache	5
4)	Carbon	5
5)	Daggett	5
6)	Davis	5
7)	Duchesne	5
8)	Emery	5
9)	Garfield	5
10)	Grand	5
11)	Iron	5
12)	Juab	5
13)	Kane	5
14)	Millard	5
15)	Morgan	5
16)	Piute	5
17)	Rich	5
18)	Salt Lake	5
19)	San Juan	5
20)	Sanpete	5
21)	Sevier	5
22)	Summit	5
23)	Tooele	5
24)	Uintah	5
25)	Utah	5
26)	Wasatch	5
27)	Washington	5
28)	Wayne	5
29)	Weber	5

(f) Land classified as nonproductive shall be assessed as follows on a per acre basis:

TABLE 13
Nonproductive Land

Nonproductive Land		
1)	All Counties	5

KEY: taxation, personal property, property tax, appraisals
Date of Enactment or Last Substantive Amendment: [~~May 17,~~] 2019
Notice of Continuation: November 10, 2016
Authorizing, and Implemented or Interpreted Law: Art. XIII, Sec 2; 9-2-201; 11-13-302; 41-1a-202; 41-1a-301; 59-1-210; 59-2-102; 59-2-103; 59-2-103.5; 59-2-104; 59-2-201; 59-2-210; 59-2-211; 59-2-301; 59-2-301.3; 59-2-302; 59-2-303; 59-2-303.1; 59-2-305; 59-2-306; 59-2-401; 59-2-402; 59-2-404; 59-2-405; 59-2-405.1; 59-2-406; 59-2-508; 59-2-514; 59-2-515; 59-2-701; 59-2-702; 59-2-703; 59-2-704; 59-2-704.5; 59-2-705; 59-2-801; 59-2-918 through 59-2-924; 59-2-1002; 59-2-1004; 59-2-1005; 59-2-1006; 59-2-1101; 59-2-1102; 59-2-1104; 59-2-1106; 59-2-1107 through 59-2-1109; 59-2-1113; 59-2-1115; 59-2-1202; 59-2-1202(5); 59-2-1302; 59-2-1303; 59-2-1308.5; 59-2-1317; 59-2-1328; 59-2-1330; 59-2-1347; 59-2-1351; 59-2-1365; 59-2-1703

Transportation Commission, Administration
R940-6
Prioritization of New Transportation Capacity Projects

NOTICE OF PROPOSED RULE
(Repeal and Reenact)
DAR FILE NO.: 44104
FILED: 09/25/2019

RULE ANALYSIS
PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Legislature passed S.B. 72 in the 2019 General Session to amend provisions of the Utah Code related to transportation including transportation reinvestment zones, public transit districts, local option sales and use taxes, transportation governance, and a road usage charge program. The existing Rule R940-6 applies to road transportation projects, the 2019 amendments add prioritization of transit projects and other things to the Transportation Commission's (Commission) responsibilities.

SUMMARY OF THE RULE OR CHANGE: Section 72-1-304 as amended by S.B. 72 (2019) mandates that the Commission maintain an administrative rule that develops a written prioritization process that prioritizes: a) new transportation capacity projects, b) paved pedestrian or paved nonmotorized transportation projects that mitigate traffic congestion on the state highway system and are part of an active transportation plan approved by the department, c) public transit projects that add capacity to the public transit systems within the state, and d) pedestrian or nonmotorized transportation projects that provide connection to a public transit system. This replacement to Rule R940-6 satisfies this mandate.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 72-1-304(4)

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: This proposed replacement rule may lead to a fiscal impact on the state's budget. The fiscal impact may be positive or negative. The Commission will not be able to determine with certainty what the fiscal impact will be until it has been following the new procedures for several years.
♦ LOCAL GOVERNMENTS: This proposed replacement of Rule R940-6 is not likely to lead to fiscal impact to the budgets of local governments. It provides a process through

which local governments and districts may nominate a project for prioritization in accordance with the process set forth in the rule. This nomination process may should lead to efficient and effective transportation and transit systems that benefit commerce and the general populations of local governments and districts. However, such impacts will be extremely difficult to calculate and will only be realized over time.

♦ SMALL BUSINESSES: This proposed replacement of Rule R940-6 may lead to a fiscal impact on businesses and individuals in Utah, which may be a net savings. This replacement rule has the Commission prioritize transit and transit related projects in addition to road transportation projects. The prioritization process is to be conducted in a public forum where businesses and individuals are able to provide input about the road and transit projects being prioritized. This public process should lead to efficient and effective transportation and transit systems that benefit commerce and the general population of the state. However, such impacts will be extremely difficult to calculate and will only be realized over time.

♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This proposed replacement of Rule R940-6 may lead to a fiscal impact on persons other than small businesses, businesses, or local government entities in Utah, which impact may be a net savings. This replacement rule has the Commission prioritize transit and transit related projects in addition to road transportation projects. The prioritization process is to be conducted in a public forum where businesses and individuals are able to provide input about the road and transit projects being prioritized. This public process should lead to efficient and effective transportation and transit systems that benefit commerce and the general population of the state. However, such impacts will be extremely difficult to calculate and will only be realized over time.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There should not be any compliance costs for affected persons. This proposed replacement rule does not require anything from any private person or entity.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed replacement rule will not have an immediately measurable fiscal impact on businesses.

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

TRANSPORTATION COMMISSION
ADMINISTRATION
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY, UT 84119
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at cwnewman@utah.gov
♦ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at jimpalmer@utah.gov
♦ Linda Hull by phone at 801-965-4253, or by Internet E-mail at lhull@utah.gov
♦ Lori Edwards by phone at 801-965-4048, or by Internet E-mail at loriedwards@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 11/14/2019

THIS RULE MAY BECOME EFFECTIVE ON: 11/21/2019

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 Non-Small Businesses

1) This filing repeals and reenacts the existing Rule R940-6. It establishes procedures the Transportation Commission (Commission) will follow to satisfy the requirements of Section 72-1-304 as amended by S.B. 72 passed in the 2019 General Session of the Legislature to prioritize new transportation capacity projects.

2) The Legislature passed S.B. 72 (2019) to amend provisions of the Utah Code related to transportation including transportation reinvestment zones, public transit districts, local option sales and use taxes, transportation governance, and a road usage charge program. The existing Rule R940-6 applies to road transportation projects, the 2019 amendments add prioritization of transit projects and other things to the Commission's responsibilities.

3) Section 72-1-304 as amended by S.B. 72 (2019) mandates the Commission maintain an administrative rule that develops a written prioritization process that prioritizes:

a) New transportation capacity projects,
b) paved pedestrian or paved nonmotorized transportation projects that mitigate traffic congestion on the state highway system and are part of an active transportation plan approved by the department,
c) public transit projects that add capacity to the public transit systems within the state, and
d) pedestrian or nonmotorized transportation projects that provide connection to a public transit system.
This replacement to Rule R940-6 does those things.

4) This proposed reenactment of Rule R940-6 may lead to a fiscal impact on businesses and individuals in Utah, which may be a net savings. This reenacted rule has the Commission prioritize transit and transit-related projects in addition to road transportation projects. The prioritization process is to be conducted in a public forum where businesses and individuals are able to provide input about the road and transit projects being prioritized. This public process should lead to efficient and effective transportation and transit systems that benefit commerce and the general population of the state. However, such impacts will be extremely difficult to calculate and will only be realized over time.

5) The executive director of the Department has reviewed and approves this analysis.

R940. Transportation, Administration.
R940-6. Prioritization of New Transportation Capacity Projects.
[R940-6-1. Definitions.

(1) "ADT" means average daily traffic, which is the volume of traffic on a road, annualized to a daily average.

(2) "Capacity" means the maximum hourly rate at which vehicles reasonably can be expected to traverse a point or a uniform section of a lane or roadway during a given time period under prevailing roadway, traffic, and control conditions.

(3) "Commission" means the Transportation Commission, which is created in Section 72-1-301.

(4) "Economic Development" may include such things as employment growth, employment retention, retail sales, tourism growth, freight movements, tax base increase, and traveler or user cost savings in relation to construction costs.

(5) "Functional Classification" means the description of the road as one of the following:

(a) Rural Interstate;

(b) Rural Other Principal Arterial;

(c) Rural Minor Arterial;

(d) Rural Major Collector;

(e) Urban Interstate;

(f) Urban Other Freeway and Expressway;

(g) Urban Other Principal Arterial;

(h) Urban Minor Arterial; or

(i) Urban Collector.

(6) "Major New Capacity Project" means a transportation project that costs more than $5,000,000 and accomplishes any of the following:

(a) Add new roads and interchanges;

(b) Add new lanes; or

(c) Modify existing interchange(s) for capacity or economic development purpose.

(7) "Mobility" means the movement of people and goods.

(8) "MPO" as used in this section means metropolitan planning organization as defined in Section 72-1-208.5.

(9) "Safety" means an analysis of the current safety conditions of a transportation facility. It includes an analysis of crash rates and crash severity.

(10) "Strategic Goals" means the Utah Department of Transportation strategic goals.

(11) "Strategic Initiatives" means the implementation strategies the department will use to achieve the strategic goals.

(12) "Transportation Efficiency" is the roadway attributes such as ADT, truck ADT, volume to capacity ratio, roadway functional classification, and transportation growth.

(13) "Transportation Growth" means the projected percentage of average annual increase in ADT.

(14) "Truck ADT" means the ADT of truck traffic on a road, annualized to a daily average.

(15) "Volume to Capacity Ratio" means the ratio of hourly volume of traffic to capacity for a transportation facility (measure of congestion).

R940-6-2. Authority and Purpose.

Section 72-1-304, as enacted by Senate Bill 25, 2005 General Session, directs the commission, in consultation with the department and the metropolitan planning organizations in the state, to make rules that establish a prioritization process for new transportation projects that meet the department's strategic goals. This rule fulfills that directive.

R940-6-3. Application of Strategic Initiatives to Projects.

The department will use the strategic goals to guide the process:

(1) The department will first seek to preserve current infrastructure and to optimize the mobility provided by the existing highway infrastructure before applying funds to increase mobility by adding new lanes.

(2) The department will address means to improve the mobility provided by the existing system through technology like intelligent transportation systems, access management, transportation demand management, and others.

(3) The department will assess safety through projects addressed in paragraph (1) and (2) above. The department will also target specific highway locations for safety improvements.

(4) Adding new capacity projects will be recommended after considering items in paragraph (1), (2) and (3).

(5) All recommendations will be forwarded to the Transportation Commission for its review/action.

R940-6-4. Prioritization of Major New Capacity Projects List.

(1) Major new capacity projects will be compiled from the State of Utah Long Range Transportation Plan.

(2) The list will be first prioritized based upon transportation efficiency factors, and safety factors. Each criterion of these factors will be given a specific weight.

(3) The major new capacity projects will be ranked from highest to lowest with priority being assigned to the projects with highest overall rankings.

(4) The commission will further evaluate the projects with highest rankings considering contributing components that include other factors such as economic development.

(5) For each major new capacity project, the department will provide a description of how completing that project will fulfill the department's strategic goals.

~~(6) In the final selection process, the commission may consider other factors not listed above. Its decision will be made in a public meeting forum.~~

~~R940-6-5. Commission Discretion.~~

~~The commission, in consultation with the department and with MPOs, may establish additional criteria or use other considerations in prioritizing major new capacity projects. If the commission prioritizes a project over another project that has a higher rank under the criteria set forth in R940-6-4, the commission shall identify the change and the reasons for it, and accept public comment at one of the public hearings held pursuant to R940-6-7.~~

~~R940-6-6. Need for Local Government Participation for Interchanges.~~

~~New interchanges for economic development purposes on existing roads will not be included on the major new capacity project list unless the local government with geographical jurisdiction over the interchange location contributes at least 50% of the cost of the interchange from private, local, or other non-UDOT, funds.~~

~~R940-6-7. Public Hearings.~~

~~Before deciding the final prioritization list and funding levels, the commission shall hold public hearings at locations around the state to accept public comments on the prioritization process and on the merits of the projects.~~]

R940-6-1. Authority and Purpose.

(1) Authority. The Commission makes this administrative rule pursuant to authority delegated by Utah Code Section 72-1-304(4).

(2) Purpose. This administrative rule is to provide a procedure the Commission will follow to satisfy the requirements of Utah Code Section 72-1-304.

R940-6-2. Definitions.

(1) "Commission" means the Utah Transportation Commission created by Utah Code Subsection 72-1-301(1).

(2) "Department" means the Utah Department of Transportation created by Utah Code Subsection 72-1-201(1).

(3) "Department Approved Active Transportation Plan" means an active transportation plan that the Department has reviewed and approved.

(4) "Fixed Guideway Public Transit" means a public transit facility that uses or occupies rail for the use of public transit or a separate right-of-way for the use of public transit such as bus rapid transit systems.

(5) "Fund Allocation Percentage" means the percentage of funding for a TIF Active Transportation project, TTIF First & Last Mile project, or TTIF Transit project coming from TIF or TTIF funds.

(6) "Fund Request Amount" means the funding amount requested by a local government or district from either TIF or TTIF for a TIF Active Transportation project, TTIF First & Last Mile project, or TTIF Transit project.

(7) "In-kind match" means non-cash matches including services (labor), right-of-way, construction materials, or labor/equipment time valued at fair market value.

(8) "Match" means the 40% matching funds required by and detailed in Utah Code Subsections 72-2-124(4)(a)(viii) and 72-2-124(9)(e).

(9) "Long-Range Transportation Plan" or "LRP" means any one of the five plans developed by the Department and the state's four MPOs that forecast the state's transportation needs for the next 20- plus years, also known as the Regional Transportation Plans or RTPs.

(10) "Metropolitan planning organization" or "MPO" means the same as it is defined by Utah Code Subsection 72-1-208.5(1).

(11) "Required Match Percentage" means the match percentage (40%) required for TIF Active Transportation projects, TTIF First & Last Mile projects, and TTIF Transit projects.

(12) "Statewide strategic initiative" or "SSI" means initiatives the Department is required to develop and adopt by Utah Code Section 72-1-211.

(13) "Strategic Goals" means the Utah Department of Transportation's strategic goals.

(14) "TIF Active Transportation Projects" means paved pedestrian or paved nonmotorized transportation projects per Utah Code Section 72-2-124

(15) "TIF Highway Projects" means projects on state highways per Utah Code Section 72-2-124.

(16) "Transportation Investment Fund" or "TIF" means the capital projects fund created in 2005 by Utah Code Subsection 72-2-124(1).

(17) "Transit Transportation Investment Fund" or "TTIF" means the fund within the Transportation Investment Fund of 2005 created by Utah Code Section 72-2-124(9).

(18) "TTIF First & Last Mile Projects" means pedestrian or nonmotorized transportation projects that provides connection to a public transit system per Utah Code Section 72-2-124.

(19) "TTIF Transit Projects" means public transit capital development projects per Utah Code Subsection 72-2-124.

(20) "UDOT Planning" or "Planning" means the Planning Division of the Program Development Group of the Utah Department of Transportation.

R940-6-3. Prioritization Requirements.

The Commission, in consultation with the Department and the MPOs, will develop a written prioritization process to determine priorities and funding levels of projects in the state transportation systems and capital development of new public transit facilities for each fiscal year, taking into consideration the Department's strategic initiatives in Section 72-1-211 and the Department's Strategic Goals.

R940-6-4. Prioritization Process.

(1) The Commission's written prioritization process, developed pursuant to the requirements of Utah Code Section 72-1-304 and called "New Transportation Capacity Project Prioritization Process" having been reviewed and its implementation voted on in a properly noticed public meeting, is incorporated by reference and may be accessed at this Internet address: udot.utah.gov/go/projectprioritizationprocess.

(2) The Commission will review the written prioritization process annually.

(a) The Commission will call for and hear public input on the prioritization process during the review of the process.

(b) The Commission will provide notice of proposed amendments to the prioritization process in a public meeting, and amend the prioritization process following the public meeting, and after allowing public comments. Amendments to the prioritization process will not affect projects that have already been funded.

(c) If a TIF Highway Project is identified in Phase 1 of the LRP and the total project cost estimate is more than $5,000,000 it will be included in the annual prioritization of projects.

(d) The Commission may consider additional projects for prioritization beyond those identified in Phase I of the LRP if during the development of the LRP they were determined to be a Phase I need.

R940-6-5. Requirements and Process for Project Nomination by Local Government or District.

(1) Local governments or districts may nominate projects for prioritization.

(2) The nomination process is as follows:

(a) TIF Highway Projects.

(i) A local government or district may submit to the Commission a written nomination for a project to be included in the prioritization process. Nominations must identify the project sponsor's name, address, phone number, and email address and include a detailed description of the nominated project including why the project is important to the local government or district.

(ii) The Commission will determine if the nominated projects will be included in the annual prioritization of projects. The factors used in this determination may include, but are not limited to the following:

(A) If, during the development of the LRP, the Project was determined to be a Phase I need.

(B) If there are any proposed additional funding sources.

(C) The Commission will prioritize projects annually.

(b) TIF Active Transportation Projects.

(i) A local government or district may nominate a project to the Transportation Commission in a format determined by the Commission. Nominations must identify the project sponsor's name, address, phone number, and email address and include a detailed description of the nominated project. The nomination must also demonstrate the following requirements:

(A) That the project is in a Department Approved Active Transportation Plan; and

(B) that the project will mitigate traffic congestion on the state highway system; and

(C) that the local government or district will be responsible for the maintenance of the facility; and

(D) how the 40% match requirement will be met.

(I) The match may be an in-kind match; and

(II) The required match amount will be calculated as follows:

The Fund Request Amount divided by the Fund Allocation Percentage multiplied by the Required Match Percentage.

For example:

For a Fund Request Amount of $600,000 a Fund Allocation Percentage of 60 % and a Required Match Percentage of 40 % the required match amount would be $400,000. ($600,000 divided by 0.6) times 0.4 equals $400,000.

(III) If a nominated project meets the requirements it will be included in the annual prioritization of projects.

(IV) The Commission may request additional information from the project sponsor.

(V) The Commission will prioritize projects annually.

(c) TTIF Transit Projects.

(i) A local government or district may nominate a project to the Transportation Commission in a format determined by the Commission. Nominations must identify the project sponsor's name, address, phone number, and email address and include a detailed description of the nominated project. The nomination must also demonstrate the following requirements:

(A) That there is an ongoing funding plan for maintenance and operations. If the project sponsor is a local government this will require consultation with the transit operator to determine if the plan is consistent with the transit operator's maintenance and operations planning.

(B) How the 40 % match requirement will be met.

(I) The match may be an in-kind match; and

(II) The required match amount will be calculated as follows:

The Fund Request Amount divided by the Fund Allocation Percentage multiplied by the Required Match Percentage.

For example:

For a Fund Request Amount of $600,000 a Fund Allocation Percentage of 60 % and a Required Match Percentage of 40 % the required match amount would be $400,000. ($600,000 divided by 0.6) times 0.4 equals $400,000.

(C) If the nominated project would provide new fixed guideway public transit service, the project is identified in Phase 1 of the LRP or, during the development of the LRP, the Project was determined to be a Phase 1 need.

(I) If a nominated project meets the requirements it will be included in the annual prioritization of projects.

(II) The Commission may request additional information from the project sponsor. (iv) The Commission will prioritize projects annually.

(d) TTIF First & Last Mile Projects.

(i) A local government or district may nominate a project to the Transportation Commission in a format determined by the Commission. Nominations must identify the project sponsor's name, address, phone number, and email address and include a detailed description of the nominated project. The nomination must also demonstrate the following requirements:

(A) That the local government or district will be responsible for the maintenance of the facility; and

(I) how the 40 % match requirement will be met.

(II) The match may be an in-kind match; and

(III) The required match amount will be calculated as follows:

The Fund Request Amount divided by the Fund Allocation Percentage multiplied by the Required Match Percentage.

For example: For a Fund Request Amount of $600,000 a Fund Allocation Percentage of 60 % and a Required Match

Percentage of 40 % the required match amount would be $400,000. ($600,000 divided by 0.6) times 0.4 equals $400,000.

(B) That the project will connect and improve access to transit.

(I) If a nominated project meets the requirements it will be included in the annual prioritization of projects.

(II) The Commission may request additional information from the project sponsor.

(III) The Commission will prioritize projects annually.

R940-6-6. Commission Discretion.

The Commission, in consultation with the Department, may establish additional criteria or use other considerations in establishing funding levels for capacity projects. If the Commission funds a project over another project that has a higher prioritization rank under the criteria set forth in R940-6-4, the Commission will identify the change and the reasons for it and accept public comment at a public meeting.

KEY: transportation commission, [~~transportation,~~]roads, transit capacity
Date of Enactment or Last Substantive Amendment: [~~July 9, 2012~~]2019
Notice of Continuation: November 3, 2015
Authorizing, and Implemented or Interpreted Law: 72-1-201; 72-1-304

End of the Notices of Proposed Rules Section

NOTICES OF
120-DAY (EMERGENCY) RULES

An agency may file a **120-Day (Emergency) Rule** when it finds that regular rulemaking procedures would:

(a) cause an imminent peril to the public health, safety, or welfare;
(b) cause an imminent budget reduction because of budget restraints or federal requirements; or
(c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **Proposed Rule**, a **120-Day Rule** is preceded by a **Rule Analysis**. This analysis provides summary information about the **120-Day Rule** including the name of a contact person, justification for filing a **120-Day Rule**, anticipated cost impact of the rule, and legal cross-references.

Following the **Rule Analysis**, the text of the **120-Day Rule** is printed. New text is underlined (example) and text to be deleted is struck out with brackets surrounding the deleted text ([~~example~~]). An emergency rule that is new is entirely underlined. Likewise, an emergency rule that repeals an existing rule shows the text completely struck out. A row of dots in the text (**. . . . . .**) indicates that unaffected text was removed to conserve space.

A **120-Day Rule** is effective when filed with the Office of Administrative Rules, or on a later date designated by the agency. A **120-Day Rule** is effective for 120 days or until it is superseded by a permanent rule. Because of its temporary nature, a **120-Day Rule** is not codified as part of the *Utah Administrative Code*.

The law does not require a public comment period for **120-Day Rules**. However, when an agency files a **120-Day Rule**, it may file a **Proposed Rule** at the same time, to make the requirements permanent.

Emergency or **120-Day Rules** are governed by Section 63G-3-304, and Section R15-4-8.

Agriculture and Food, Regulatory Services
R70-440
Egg Products Inspection

NOTICE OF 120-DAY (EMERGENCY) RULE
DAR FILE NO.: 44091
FILED: 09/20/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule establishes inspection procedures for egg inspection. Additionally, it establishes labeling sanitation, processing, and facility requirements.

SUMMARY OF THE RULE OR CHANGE: This rule establishes requirements for inspection of eggs and egg products. This rule establishes the certification for inspectors. Additionally, this rule establishes the requirement for labels and plant requirements for sanitation and processing. (EDITOR'S NOTE: A corresponding proposed new Rule R70-440 is under Filing No. 44092 in this issue, October 15, 2019, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-4-102

EMERGENCY RULE REASON AND JUSTIFICATION: REGULAR RULEMAKING PROCEDURES WOULD cause an imminent peril to the public health, safety, or welfare.
JUSTIFICATION: This rule is necessary to protect the public. This rule establishes the procedures for whole eggs and egg products on how they should be handled and processed without which there is a higher risk of food borne illness outbreaks.

MATERIALS INCORPORATED BY REFERENCE:

- Adds 9 CFR 592, Voluntary Inspection of Egg Products, published by Government Printing Office, 01/01/2012
- Adds 9 CFR 590, Inspection of Eggs and Egg Products (Egg Products Inspection Act), published by Government Printing Office, 01/01/2012

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: There is no anticipated cost or benefit because the Department of Agriculture and Food (Department) has previously been involved in this program. This rule is necessary to establish the Department's authority to conduct these inspections rather than that of the the U.S. Department of Agriculture.

♦ LOCAL GOVERNMENTS: This rule is not anticipated to result in any costs or savings with respect to any local governments.
♦ SMALL BUSINESSES: There are no anticipated cost or benefit to small businesses as the Department is adopting a preexisting rule that had to be followed on a federal level, and this rule would allow for the Department to conduct those inspections.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This proposed rule is not anticipated to have any fiscal impact on other persons as the Department is adopting a preexisting rule that had to be followed on a federal level, and this rule would allow for the Department to conduct those inspections.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This proposed rule is not anticipated to have any fiscal impact on persons as the Department is adopting a preexisting rule that had to be followed on a federal level, and this rule would allow for the Department to conduct those inspections.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This proposed rule is not anticipated to have any fiscal impact on businesses as the Department is adopting a preexisting rule that had to be followed on a federal level, and this rule would allow for the Department to conduct those inspections.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
AGRICULTURE AND FOOD
REGULATORY SERVICES
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
♦ Travis Waller by phone at 801-538-7150, by FAX at 801-538-7124, or by Internet E-mail at twaller@utah.gov

EFFECTIVE: 09/20/2019

AUTHORIZED BY: Kerry Gibson, Commissioner

R70. Agriculture and Food, Regulatory Services.
R70-440. Egg Products Inspection.
R70-440-1. Authority.
1) Promulgated under authority of Section 4-4-102.
2) This rule shall apply to all egg products sold, bought, processed, manufactured or distributed within the State of Utah. It is the purpose of this rule to provide egg products inspection at least equal to those imposed under the Federal Egg Products Inspection Act (21 U.S.C. 1031-1056).

R70-440-2. Adopt by Reference.
Accordingly, the division adopts the egg products inspection standards and procedures as specified in Animal and Animal Products, 9 CFR Chapter III, Sub-Chapter I, Parts 590 and 592, January 1, 2012 edition, which is incorporated by reference within this rule.

KEY: food inspection
Date of Enactment or Last Substantive Amendment: September 20, 2019
Authorizing, and Implemented or Interpreted Law: 4-4-102

Health, Disease Control and Prevention, Health Promotion
R384-418
Electronic-Cigarette Mandatory Warning Signage and Sale Restrictions

NOTICE OF 120-DAY (EMERGENCY) RULE
DAR FILE NO.: 44113
FILED: 10/01/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Cases of vaping-related lung/pneumonitis injury initially spiked during the end of July 2019 and beginning of August 2019, both in Utah and nationally. As of 9/27/2019, nationally there have been 805 confirmed and probable cases of severe lung/pneumonitis injuries due to vaping in 46 states and 1 US territory. Nationally there have been 12 confirmed deaths in 10 states (California (2), Florida, Georgia, Illinois, Indiana, Kansas (2), Minnesota, Mississippi, Missouri and Oregon). Of those 46 states and 1 US territory, Utah is experiencing the highest number of cases per capita. In Utah, as of 9/30/2019, a total of 81 reports of potential illness have been received by the Utah Department of Health (UDOH) and local health departments, of which 71 are confirmed or probable cases of severe lung/pneumonitis injuries due to vaping, and 10 of the reports are under review. The purpose of this rule is to protect the immediate health, safety, and welfare of Utah youth and adults. UDOH has consistently received reports of approximately 10 new cases per week since August 2019. The lower case counts in September, both in Utah and nationally, are attributed to a reporting lag rather than an actual downturn in cases. UDOH plans to continue active surveillance of the vaping-related lung/pneumonitis injury outbreak by counting and classifying cases, as well as identifying exposures, not knowing how long the caseload will continue in the coming weeks or months.

SUMMARY OF THE RULE OR CHANGE: The emergency rule continues to allow Utah tobacco retailers to sell

electronic-cigarette products and electronic-cigarette substances. However, as a condition to selling any electronic-cigarette products, this rule requires all tobacco retailers to display mandatory warning signs that warn consumers not to vape unregulated tetrahydrocannabinol (THC) obtained from the black market. This mandatory warning signage is effective direct prevention communication to tobacco consumers. Utah tobacco consumers cannot legally purchase electronic-cigarette products online and so they must purchase these products at physical tobacco retailers. Only tobacco retailers displaying the mandatory warning signs will be allowed to sell electronic-cigarette products and electronic-cigarette substances in Utah. In addition, this emergency rule restricts the sale of all flavored electronic-cigarette substances (both manufacturer sealed and non-manufacturer sealed electronic-cigarette substances) to existing age-restricted retail tobacco specialty businesses, which are tobacco retailers that must abide by stricter state regulations, including zoning proximity requirements. General tobacco retailers do not rely on electronic-cigarette products to maintain their business operations, and therefore, are not required to abide by these stricter standards. General tobacco retailers will be allowed to continue to sell non-flavored electronic-cigarette substances (both manufacturer sealed and non-manufacturer sealed electronic-cigarette substances). The sale of THC electronic-cigarette products and THC electronic-cigarette substances is illegal in the state of Utah unless the sale is made in compliance with Title 26, Chapter 61a, Utah Medical Cannabis Act, or Title 4, Chapter 41A, the Cannabis Production Establishments.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 26-1-30(4)

EMERGENCY RULE REASON AND JUSTIFICATION:
REGULAR RULEMAKING PROCEDURES WOULD cause an imminent peril to the public health, safety, or welfare.
JUSTIFICATION: Ongoing investigatory findings, both by the Centers for Disease Control and Prevention (CDC) nationally, and UDOH in Utah, related to the outbreak of cases of severe lung/pneumonitis injuries due to vaping have identified that patients are using unregulated electronic-cigarette products to vape THC obtained from the black market. Neither the national nor the Utah-specific investigation has identified any specific electronic-cigarette product, vaping product (devices, liquids, refill pods, and/or cartridges), substance that is linked to all cases. The majority of patients experiencing severe lung/pneumonitis injuries due to vaping both nationally (77%) and in Utah (94%; n=36 patients) self-reported using electronic-cigarette products to vape THC cartridges. Utah Public Health Laboratory testing of Utah case-associated THC electronic-cigarette substances identify that 89% of THC samples contain Vitamin E acetate. Some Utah patients also self-reported using electronic-cigarette products to vape nicotine substances (64%; n=36 patients). Pulmonologists treating the patients experiencing severe lung/pneumonitis injuries associated with vaping have stated the patients' medical imaging shows acute damage to their lungs. It is unknown what future medical costs these individuals will incur over the rest of their lives. In Utah, 14% of cases are between the ages of 10-19, 47% of these cases are between the ages of 20-29 and 31% of these cases are between the ages of 30-39 (n=71 patients).

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: UDOH plans to create and distribute the required mandatory warning signs electronically through a digital download, and by mail or through local health departments using existing allocated resources.
♦ LOCAL GOVERNMENTS: Local health departments will continue to conduct permitting and compliance checks at tobacco retailers and use existing allocated resources to enforce this emergency rule.
♦ SMALL BUSINESSES: Emergency Rule R384-418 may result in a direct cost or benefit to businesses. The costs or benefits to businesses are unquantifiable and depend on the business designation and whether the business chooses to display the mandatory warning signs. Approximately 50% of Utah tobacco retailers are considered small businesses. Twenty percent (20%) of these small businesses (or approximately 170 retailers) are designated as age-restricted retail tobacco specialty businesses. As long as these retail tobacco specialty businesses display the mandatory warning signs, these businesses will be allowed to continue to sell flavored electronic-cigarette products and flavored electronic-cigarette substances. The small businesses designated as general tobacco retailers do not primarily rely on electronic-cigarette products to maintain their business operations. General tobacco retailers will no longer be allowed to sell flavored electronic-cigarette products and flavored electronic-cigarette substances. General tobacco retailers can continue to sell non-flavored electronic-cigarette products and non-flavored electronic-cigarette substances upon the condition they display the mandatory warning signs.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Emergency Rule R384-418 may result in a direct cost or benefit to persons. The costs or benefits to persons are unquantifiable and depend on whether they consume flavored electronic-cigarette or electronic-cigarette substances at retail tobacco specialty businesses that display the mandatory warning signs. These individuals will now only be able to purchase these products at retail tobacco specialty businesses. These individuals may continue to purchase non-flavored electronic-cigarette products and non-flavored electronic-cigarette substances at general tobacco retailers that display the mandatory warning signs.

COMPLIANCE COSTS FOR AFFECTED PERSONS: UDOH plans to create and distribute the required mandatory warning signs electronically through a digital download and by mail or through local health departments to both general tobacco retailers and retail tobacco specialty businesses; these businesses do not have to pay for these required warning signs, unless individual retail tobacco retailers choose to create and use their own warning signs in accordance with this rule's guidelines. General tobacco retailers will no longer

be able to sell flavored electronic-cigarette products and flavored electronic-cigarette substance during the time frame that this emergency rule is in effect. Some of the non-small businesses classified as general tobacco retailers may choose to redistribute these flavored electronic-cigarette products and flavored electronic-cigarette substance products to other retail locations outside of Utah.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The current public health emergency regarding lung injuries which are associated with the use of electronic-cigarettes outweighs any negative fiscal impact on general tobacco retailers.

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:
♦ Heather Borski by phone at 801-538-9998, by FAX at 801-538-9495, or by Internet E-mail at hborski@utah.gov

EFFECTIVE: 10/01/2019

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 2: Regulatory Impact to Non-Small Businesses

As of January 1, 2019, according to the Utah Department of Health's (UDOH) combined local health department tobacco retail compliance check logs, there are approximately 835 non-small business tobacco retailers operating in Utah under the NAICS codes of 453991 and 424940. These businesses may experience a direct cost or benefit because of this emergency rule. The cost or benefit to businesses are unquantifiable and depend on whether the business chooses to display the mandatory warning signs. In addition, the cost or benefit to these businesses depend on whether they can or cannot sell flavored electronic-cigarette products and flavored electronic-cigarette substances. All tobacco retailers will be allowed to continue to sell non-flavored electronic-cigarette products and non-flavored electronic-cigarette substances; upon the condition the retailers display the mandatory warning signs.

The majority of these non-small businesses are designated as general tobacco retailers that do not rely on electronic-cigarette products to maintain their business operations. General tobacco retailers will no longer be allowed to sell flavored electronic-cigarette products and flavored electronic-cigarette substances. General tobacco retailers can continue to sell non-flavored electronic-cigarette products and non-flavored electronic-cigarette substances upon the condition they display the mandatory warning signs.

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

R384. Disease Control and Prevention, Health Promotion.

R384-418. Electronic-Cigarette Mandatory Warning Signage and Sale Restrictions.

R384-418-1. Authority and Purpose.

(1) This rule is authorized by Section 26-1-30(4).

(2) The purpose of this rule is to protect health, safety and welfare of the Utah youth, by requiring mandatory warning signs that warn consumers not to use electronic-cigarette products to consume unregulated tetrahydrocannabinol(THC) substances and by restricting the sale of flavored electronic-cigarette products and electronic-cigarette substances in retail tobacco specialty businesses.

R384-418-2. Definitions.

As used in this rule:

(1) "Business" means any sole proprietorship, partnership, joint venture, corporation, association, or other entity formed for profit or non-profit purposes.

(2) "Department" means the Utah Department of Health.

(3) "Electronic-cigarette product" means the same as the term is defined in Subsection 59-14-802(3).

(4) "Electronic-cigarette substance" means the same as the term is defined in Subsection 59-14-802(4).

(5) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco specialty business.

(6) "Flavored electronic-cigarette product" means an electronic-cigarette product that has a taste or a smell distinguishable by an ordinary consumer either before or during use or consumption of the electronic-cigarette product, including but not limited to a taste or smell of any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, spice, menthol or mint.

(7) "Flavored electronic-cigarette substance" means an electronic-cigarette substance that has a taste or a smell distinguishable by an ordinary consumer either before or during use or consumption of the electronic-cigarette product, including but not limited to a taste or smell of any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, spice, menthol or mint.

(8) "Local health department" means the same as the term is defined in Subsection 26A-1-102(5).

(9) "Non-flavored electronic-cigarette substance" means an electronic-cigarette substance that has a taste or a smell of tobacco that is distinguishable by an ordinary consumer either before or during use or consumption of the electronic-cigarette product.

(10) "Public retail floor space" means the total floor square feet of the business where a customer can see, retrieve, or purchase any item that is offered for sale by the general tobacco retailer, including all areas behind the purchase counter, and including appurtenant areas used for storage.

(11) "Retail tobacco specialty business" means a commercial establishment in which:

(a) The sale of tobacco products accounts for more than 35% of the total quarterly gross receipts for the establishment;

(b) 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products;

(c) 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products;

(d) The retail space features a self-service display for tobacco products; or

(e) Any flavored electronic-cigarette product is sold.

(12) "Self-service display" means the same as that term is defined in Section 76-10-105.1.

(13) "Shelf space" means the total cubic feet (length x depth x height) of shelf space contained within the retail space that is used for the offer, display, or storage of items for sale by the tobacco retailer. The shelf height is measured from the top of the tallest item on the top of the shelf. The shelf length is measured from the end of the longest item at the end of the shelf. Empty shelf space is not included in the total shelf space calculation.

(14) "Tetrahydrocannabinol" (THC) means the same as that term defined in Subsection 58-37-4(2)(a)(iii)(AA).

(15) "Tobacco product" means the same as that term is defined in Section 59-14-102.

(16) "Tobacco retail permit" means the permit issued by the local health department to general tobacco retailers and retail tobacco specialty businesses for the sale, marketing, or distribution of tobacco products.

R384-418-3. Responsibility for Compliance.

(1) Each business that must comply with this rule is independently responsible to assure compliance and each may be held liable for noncompliance.

(2) General tobacco retailers and retail tobacco specialty businesses shall not endorse or represent an electronic-cigarette product as safe.

(3) General tobacco retailers and retail tobacco specialty businesses shall comply with the mandatory warning signs required by this rule within 6 calendar days after the effective date of this rule or by Monday October 7, 2019, whichever is later.

(4) General tobacco retailers shall comply with the prohibited sale of flavored electronic-cigarette products requirements of this rule within 6 calendar days after the effective date of this rule or by Monday October 7, 2019, whichever is later.

R384-418-4. Mandatory Warning Signs.

(1) As a condition to sell electronic-cigarette products, general tobacco retailers and retail tobacco specialty businesses shall display a mandatory warning sign, warning consumers not to use electronic-cigarette products to consume unregulated THC electronic-cigarette substances.

(2) Mandatory warning signs shall be posted at all entrances or in a position clearly visible on entry into the retail location and at each register inside the retailer location where the electronic-cigarette product transaction or sale occurs.

(3) Mandatory warning signs will be created by the Department. Local health departments may distribute the mandatory warning signs for general tobacco retailers and retail tobacco specialty businesses upon request. Retailers may use the Department issued mandatory warning signs or display a warning sign that complies with the signage requirements in this rule.

(4) Mandatory warning signs required in this section must be easily readable and must not be obscured in any way. The mandatory warning sign must state "Vaping unregulated THC is dangerous to your health. A lung disease related to vaping unregulated THC has recently hospitalized dozens of Utahns and caused several deaths nationwide." The words "Vaping unregulated THC is dangerous to your health" must be no less than 0.75 inches in height and the words "A lung disease related to vaping unregulated THC has recently hospitalized dozens of Utahns and caused several deaths nationwide" must be no less than 0.25 inches in height.

R384-418-5. Allowed and Prohibited Sale of Flavored Electronic-Cigarette Products.

(1) Only retail tobacco specialty businesses with a valid retail tobacco specialty permit issued by a local health department may sell flavored electronic-cigarette products and flavored electronic-cigarette substances.

(2) General tobacco retailers shall not sell flavored electronic-cigarette products or flavored electronic-cigarette substances.

(3) General tobacco retailers may sell non-flavored electronic-cigarette products and non-flavored electronic-cigarette substances.

(4) The sale of THC electronic-cigarette products and THC electronic-cigarette substances is illegal in the State of Utah unless the sale is made in compliance with Title 26, Chapter 61a, Utah Medical Cannabis Act, or Title 4, Chapter 41a, Cannabis Production Establishments.

R384-418-6. Local Authority to Promulgate Laws.

Nothing in this rule shall be construed to limit local health departments or other local governmental entities with authority, from promulgating ordinances and laws that are in addition to or stricter than this rule so long as such laws do not conflict with or impede the provisions of this rule.

R384-418-7. Enforcement.

(1) The Department may enforce and seek penalties for the violation of the standards for electronic cigarettes set forth in this rule as prescribed in Sections 26-23-1 through 26-23-10.

(2) A local health department may enforce and seek penalties for the violation of the standards for electronic cigarettes set forth in this rule. A local health department shall have authority to enforce and seek penalties for violations of public health law including this rule as is found in Sections 26-23-1 through 26-23-10, Sections 26-62-301, 26A-1-108, 26A-1-114(1) and 26A-1-123.

(3) Administrative or civil enforcement of this rule by the Department or local health departments does not preclude criminal enforcement by a law enforcement agency and prosecution of any violation of the standards in this rule that can constitute a criminal offense under state law.

KEY: electronic-cigarette products, electronic-cigarettes substances, general tobacco retailers, retail tobacco specialty businesses
Date of Enactment or Last Substantive Amendment: October 1, 2019
Authorizing, and Implemented or Interpreted Law: 26-1-30

Transportation, Operations, Construction
R916-5
Health Reform -- Health Insurance Coverage in State Contracts -- Implementation

NOTICE OF 120-DAY (EMERGENCY) RULE
DAR FILE NO.: 44087
FILED: 09/18/2019

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Five-Year Review and Notice of Continuance was not filed before the deadline and the rule expired. Section 72-6-107.5 requires the Department of Transportation (Department) to have a rule in effect that serves the purposes of Rule R916-5.

SUMMARY OF THE RULE OR CHANGE: Rule R916-5 is put back in place as it was in effect before it expired on 09/17/2019.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 72-6-107.5

EMERGENCY RULE REASON AND JUSTIFICATION:
REGULAR RULEMAKING PROCEDURES WOULD place the agency in violation of federal or state law.
JUSTIFICATION: Section 72-6-107.5 requires the Department to have a rule in effect that serves the purposes of Rule R916-5.

ANTICIPATED COST OR SAVINGS TO:
♦ THE STATE BUDGET: Implementation of this emergency rule will not impact the state's budget because it places the Department in the position it was before the rule expired.
♦ LOCAL GOVERNMENTS: Implementation of this rule will not impact local governments because it does not apply to local governments.
♦ SMALL BUSINESSES: Implementation of this emergency rule will not impact small businesses because it places the Department and small businesses affected by this rule in the position they were before this rule expired.
♦ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Implementation of this emergency rule will not impact the budgets of persons other than small businesses, businesses, or local government entities because it places the Department and the persons other than small businesses, businesses, or local government entities affected by this rule in the position they were before this rule expired.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Reestablishing Rule R916-5 will not result in additional compliance costs for affected persons. Rule R916-5 implements requirements of Section 72-6-107.5. Compliance costs associated with this rule are required by the statute and not caused by this rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule will not have a fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
TRANSPORTATION
OPERATIONS, CONSTRUCTION
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
♦ Lori Edwards by phone at 801-965-4048, or by Internet E-mail at loriedwards@utah.gov

EFFECTIVE: 09/18/2019

AUTHORIZED BY: Carlos Braceras, Executive Director

R916. Transportation, Operations, Construction.
R916-5. Health Reform -- Health Insurance Coverage in State Contracts -- Implementation.
R916-5-1. Purpose.
The purpose of this rule is to comply with Section 72-6-107.5 and establish the requirements and procedures a contractor, subcontractor, consultant and subconsultant must follow to demonstrate they will maintain an offer of health insurance as required by Section 72-6-107.5. This rule also establishes penalties for intentional violations of Section 72-6-107.5.

R916-5-2. Authority.
This rule is authorized under Section 72-6-107.5 which requires the Utah Department of Transportation to make rules related to health insurance in certain design and construction contracts.

R916-5-3. Definitions.
(1) Except as otherwise stated in this rule, terms used in this rule are defined in Section 72-6-107.5

(2) In addition:

(a) "Executive Director" means the Executive Director of the Department of Transportation, including, unless otherwise stated, the Executive Director's duly authorized designee.

(b) "Department" means the Department of Transportation established pursuant to Section 72-1-201.

(c) "Employee(s)" is as defined in 72-6-107.5 and includes only those employees that live and/or work in the State of Utah along with their dependents. "Employee" for purposes of this rule, shall not be construed as to be broader than that the use of the term employee for purposes of State of Utah Workers' Compensation laws.

(d) "State" means the State of Utah.

R916-5-4. Applicability of Rule.

(1) Except as provided in Subsection (2) below, this rule applies to all contracts entered into by the Department on or after July 1, 2009, and is applicable to a prime contractor if its contract is in the amount of $2,000,000.00 or greater at the original execution of the contract, and to a subcontractor if its subcontract is in the amount of $1,000,000.00 or greater at the original execution of the contract.

(2) This rule does not apply if:

(a) the application of this rule jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement; or

(d) the rule is in conflict with federal law.

(3) This rule does not apply to a change order as defined in Section 63G-6-103, or a modification to a contract, when the contract does not meet the initial threshold required by Subsection R916-5-4(1).

(4) A person who intentionally uses change orders or contract modifications to circumvent the requirements of subsection (1) is guilty of an infraction.

R916-5-5. Contractors or Consultants to Comply with Section 72-6-107.5.

All contractors, subcontractors, consultants or subconsultants that are subject to the requirements of Section 72-6-107.5 shall comply with all the requirements, and be subject to the penalties and liabilities of Section 72-6-107.5.

R916-5-6. Not Basis for Protest, Suspension, Disruption, or Termination Design or Construction.

(1) The failure of contractors, subcontractors, consultants, or subconsultants to comply with Section 72-6-107.5:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor or consultant under Section 63G-6a-1602 or any other provision in Title 63G, Chapter 6a, Part 16 , Legal and Contractual Remedies; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor or consultant as a basis for any action or suit that would suspend, disrupt or terminate the design or construction.

(2) A contractor who is unable to demonstrate compliance upon submission of the executed contract, signed by the successful bidder, may be declared non-responsive and the Department may award the contract to the next lowest responsive bidder.

(3) A consultant who is unable to demonstrate compliance within 14 calendar days of being ranked first during the consultant selection process may be declared non-responsive and the Department may enter negotiations with the new first-ranked responsive consultant.

R916-5-7. Requirements and Procedures a Contractor or Consultant Must Follow.

(1) A contractor, or consultant, subcontractors or subconsultants must comply with the following requirements and procedures, and demonstrate, no later than the time of execution of the contract, compliance with Section 72-6-107.5:

(a) By providing a written certification to the Executive Director that the contractor, consultants, subcontractors, and subconsultants have and will maintain for the duration of the contract an offer of qualified health insurance coverage for the employees who live and/or work within the State, along with their dependents; and

(b) the contractor or consultant shall also provide such written certification prior to the execution of the contract, in regard to all subcontractors or subconsultants at any tier that are subject to the requirements of this rule.

(c) The contractor shall:

(i) Include a requirement in the applicable subcontract and certify to the Department that the subcontractor must obtain and maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) certify to the Department that the subcontractor has and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employees' dependents during the duration of the prime contract.

(2) Recertification. The Executive Director shall have the right to request a recertification by the contractor or consultant by submitting a written request to the contractor or consultant, and the contractor or consultant shall so comply with the written request within ten (10) working days of receipt of the written request; however, in no case may the contractor or consultant be required to demonstrate such compliance more than twice in any 12-month period.

(3) Demonstrating Compliance with Actuarially Equivalent Determination. The actuarially equivalent determination required by Subsection (1) of 72-6-107.5 is met by the contractor or consultant if the contractor or consultant provides the Executive Director with a written statement of actuarial equivalency, which is no more than one year old, from either the Utah Insurance Department, an actuary selected by the contractor or the contractor's insurer, an actuary selected by the consultant or the consultant's insurer, or an underwriter who is responsible for developing the employer groups premium rates.

(a) For purposes of this rule, actuarial equivalency, or greater is achieved by meeting or exceeding the requirements of qualified health insurance coverage as defined in Subsection 72-6-107.5(1)(c). The commercially equivalent benchmark, provided by the Department of Health, referred to in Subsection 72-6-107.5(1)(c), may be found at: http://dfcm.utah.gov/downloads/Health%20Insurance%20Benchmark.pdf.

(4) The health insurance must be available upon the first day of the calendar month following the initial 90 days from the date of hire.

(5) Consultant Compliance Process. Consultants who are subject to this rule must demonstrate compliance with this rule in their initial Financial Screening Application. The consultant's will then be required to demonstrate the offer of health insurance that meets the requirements outlined in Section 72-6-107.5. During the procurement

process and no later than the execution of the contract with the consultant, the consultant will confirm the prime is still in compliance with this rule and the subconsultants of the consultant will certify through their prime consultant they meet the requirements of this rule. The written contract will contain a provision where the consultant confirms compliance with this rule by both the consultant and applicable subconsultants.

(6) Contractor Compliance Process. Contractors who are subject to this rule must demonstrate compliance with this rule. When a contract is written, contractors will confirm the prime contractor is in compliance with this rule and their subcontractors will certify through their contractor that they meet the requirements of this rule. The written contract shall contain a provision where the contractor confirms compliance with this rule by both the contractor and applicable subcontractors.

(7) The contractor must be in compliance at the time the contract is executed. Notwithstanding any prequalification of a contractor, subcontractor, consultant or subconsultant that is subject to this rule, the contractor subcontractor, consultant or subconsultant must agree to the language in the executed contract that requires the contractor to be in compliance with this rule at the time of the execution of the contract and throughout the duration of the executory contract.

(8) The contractor's compliance is subject to an audit by the Department or the Office of the Legislative Auditor General.

R916-5-8. Department Hearing and Penalties.

(1) Hearing. Any hearing regarding the failure to comply with this rule shall be held in accordance with the Utah Administrative Procedures Act and rule R907-1 unless specifically stated otherwise in a governing statute.

(2) Penalties. The penalties that may be imposed if a contractor, consultant, subcontractor or subconsultant, at any tier intentionally violates this rule include:

(a) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation, regardless of which tier the contractor or subcontractor is involved;

(b) a six-month suspension of the contractor, subcontractor, consultant or subconsultant from entering into future contracts with the state upon the second violation, regardless of which tier the contractor or subcontractor is involved;

(c) an action for debarment of the contractor, subcontractor, consultant or subconsultant in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(d) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health insurance coverage for an employee and the dependents of an employee of the contractor, subcontractor, consultant or subconsultant who was not offered qualified health insurance coverage during the duration of the contract.

(e) A prime contractor or consultant will not be subject to penalties for the failure of a subcontractor or subconsultant to meet the requirement of maintaining their offer of qualified health care coverage.

R916-5-9. Does Not Create Any Contractual Relationship With Any Subcontractor or Subconsultant.

Nothing in this rule shall be construed as to create any contractual relationship whatsoever between the Department or the State with any subcontractor or subconsultant at any tier.

KEY: contracts, health insurance, health insurance in state contracts, health reform
Date of Enactment or Last Substantive Amendment: September 18, 2019
Authorizing, and Implemented or Interpreted Law: 72-6-107.5

End of the Notices of 120-Day (Emergency) Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **Proposed Rule**; continue the rule as it is by filing a **Five-Year Notice of Review and Statement of Continuation (Review)**; or amend the rule by filing a **Proposed Rule** and by filing a **Review**. By filing a **Review**, the agency indicates that the rule is still necessary.

A **Review** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at 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.

Health, Center for Health Data, Health Care Statistics

R428-15

Health Data Authority Health Insurance Claims Reporting

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 44103
FILED: 09/25/2019

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 Subsection 26-33a-104(1) to "direct a statewide effort to collect, analyze, and distribute health care data to facilitate the promotion and accessibility of quality and cost-effective health care and also to facilitate interaction among those with concern for health care issues."

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 Office of Health Care Statistics (Office) has not received any written comments since the last five-year review of this rule from interested persons supporting or opposing this rule. Only general inquires have been made and responded to by the Office. On September 17, 2019, the Health Data Committee voted to extend Rule R428-15.

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 establishes requirements for certain entities that pay for health care to submit data to the Utah Department of Health. The data is needed to develop and maintain an All Payer Claims Database (APCD). The APCD assists in the comparison of health care cost efficiencies and effectiveness statewide from both a cross sectional, as well as from more longitudinally-based, disease progression perspective. Current requests for secure and approved use of APCD data are received from a variety of sources including qualified researchers, institutions, and inter-agency staff. Many analytic reports will continue to be released over the next several years that will help monitor trends in claims, costs, and quality of care for the people in Utah. The uses of the data and reports are justifications for continuation of this rule.

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

HEALTH
CENTER FOR HEALTH DATA,
HEALTH CARE STATISTICS
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:

♦ Mike Martin by phone at 801-538-9205, by FAX at 801-538-9916, or by Internet E-mail at mikemartin@utah.gov

♦ Norman Thurston by phone at 801-538-7052, by FAX at 801-237-0787, or by Internet E-mail at nthurston@utah.gov

♦ Stephanie Saperstein by phone at 801-538-6430, or by Internet E-mail at stephaniesaperstein@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 09/25/2019

Insurance, Administration
R590-270
Risk Adjustment Data Submission Requirements

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 44090
FILED: 09/20/2019

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: Formerly, Subsection 31A-30-302(4)(a) authorized the Insurance Commissioner to write rules to require insurers to submit data to the all payer claims database if they are subject to the state-based risk adjustment program. However, Title 31A, Chapter 30, was repealed effective July 1, 2019, by H.B. 336 (passed in the 2017 General Session). The Insurance Department is actively working on a revision to this rule to update the authority section.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Insurance Department has received no written comments regarding this rule during the past five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Much of the data collected under this rule is critical to the missions of the Insurance and Health Departments, despite the authorizing chapter being repealed. The Insurance Department is actively working on a revision to this rule to update the authority section. 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: 09/20/2019

Labor Commission; Boiler, Elevator and Coal Mine Safety
R616-4
Coal Mine Safety

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 44086
FILED: 09/18/2019

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: Title 40, Chapter 2, Coal Mine Safety, gives the Division of Boiler, Elevator and Coal Mine Safety (Division) rulemaking authority. In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Labor Commission has made 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: No written comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule was established for the purpose of improving coal mine safety, preventing coal mine accidents, and improving coal mine accident response consistent with the the Coal Mine Safety Act. To date, the Division has not received any negative responses to this rule. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
LABOR COMMISSION
BOILER, ELEVATOR AND COAL MINE SAFETY
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:
♦ Ami Windham by phone at 801-530-6850, by FAX at 801-530-6871, or by Internet E-mail at awindham@utah.gov
♦ Pete Hackford by phone at 801-530-7505, by FAX at 801-530-6871, or by Internet E-mail at phackford@utah.gov

AUTHORIZED BY: Jaceson Maughan, Commissioner

EFFECTIVE: 09/18/2019

Pardons (Board of), Administration
R671-102
Americans with Disabilities Act Complaint Procedures

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 44097
FILED: 09/23/2019

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 defines the authority, purpose, definitions, filing of complaints, investigation of complaints, recommendation and decision, appeals, record classification, and the relationship to other laws. Section 67-19-32 defines the procedures for discriminatory/prohibited employment practices grievances under the Utah State Personnel Management Act for state officers and employees; Title 63G, Chapter 2, extensively defines the Government Records Access and Management Act.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments received during or since the last five-year review of Rule R671-102.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Board of Pardons (Board) supports the continuation of this rule because it is a guide for the Board's procedures in regards to any Americans with Disabilities Act complaint.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PARDONS (BOARD OF)
ADMINISTRATION
ROOM 300
448 E 6400 S
SALT LAKE CITY, UT 84107-8530
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Bev Uipi by phone at 801-261-6446, or by Internet E-mail at buipi@utah.gov

AUTHORIZED BY: Carrie Cochran, Vice Chair

EFFECTIVE: 09/23/2019

Pardons (Board of), Administration
R671-103
Attorneys

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 44096
FILED: 09/23/2019

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 77-27-5 states the Board of Pardon's (Board) authority; Section 77-27-9 defines the parole proceedings; and Section 78A-9-103 defines the prohibition of practicing law without a license. This rule discusses the parameters in which a person may represent an offender before the Board. This rule also discusses the Board's criteria for prohibiting attorney appearance and representation.

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 were no written comments received during and since the last five-year review of Rule R671-103.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Board supports the continuation of this rule because it is a guide for the Board to use to strive for appropriate legal representation for offenders, inmates, and those petitioning before the Board.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PARDONS (BOARD OF)
ADMINISTRATION
ROOM 300
448 E 6400 S
SALT LAKE CITY, UT 84107-8530
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Bev Uipi by phone at 801-261-6446, or by Internet E-mail at buipi@utah.gov

AUTHORIZED BY: Carrie Cochran, Vice Chair

EFFECTIVE: 09/23/2019

Pardons (Board of), Administration
R671-201
Original Hearing Schedule and Notice

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 44098
FILED: 09/23/2019

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: Art. VII Sec. 12 defines the Board of Pardon's (Board) appointment, powers and procedures, Governor's powers and duties, and the legislature's powers. Section 77-27-5 defines the Board's authority; Section 77-27-7 defines the parole or hearing dates, interviews, hearings, report of alienists, and mental competency. In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Board shall make rules governing the hearing process, alienist examinations, and parolee petitions for termination of parole. Section 77-27-9 defines the Board's parole proceedings.

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 were no written comments received during and since the last five-year review of Rule R671-201.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Board supports the continuation of this rule because it is a guide for the Board to strive for transparency with hearing schedules and notices.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PARDONS (BOARD OF)
ADMINISTRATION
ROOM 300
448 E 6400 S
SALT LAKE CITY, UT 84107-8530
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Bev Uipi by phone at 801-261-6446, or by Internet E-mail at buipi@utah.gov

AUTHORIZED BY: Carrie Cochran, Vice Chair

EFFECTIVE: 09/23/2019

Pardons (Board of), Administration
R671-309
Impartial Hearings

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 44109
FILED: 09/30/2019

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 63G-3-201(3) states how each agency shall maintain a current version of its rules, and make it available to the public; Section 77-27-1 et seq. defines the terms under the Pardons and Parole Criminal Procedures; Section 77-27-5 defines the Board of Pardons' (Board) authority; Section 77-27-7 defines the parole or hearing dates, interview, hearing, report of alienist, and mental competency guide; Subsection 77-27-9 (4)(a) states how the Board may issue subpoenas to compel witness attendance, production of evidence, administration of oaths, and to take testimony.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments were received during and since the last five-year review of Rule R671-309.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Board supports the continuation of this rule because it is a guide for the offender rights to impartial hearings, as well as a guide regarding ex parte contact and communication outside a hearing.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
PARDONS (BOARD OF)
ADMINISTRATION
ROOM 300
448 E 6400 S
SALT LAKE CITY, UT 84107-8530
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Bev Uipi by phone at 801-261-6446, or by Internet E-mail at buipi@utah.gov

AUTHORIZED BY: Carrie Cochran, Vice Chair

EFFECTIVE: 09/30/2019

Transportation, Program Development
R926-12
Share the Road Bicycle Support Restricted Account

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 44089
FILED: 09/18/2019

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 enacted under the authority granted to the Department of Transportation (Department) by Subsection 72-2-127(6)(c), which authorizes the Department to make rules providing procedures and requirements for charitable organizations to apply to the Department to receive a distribution from the Share the Road Bicycle Support Restricted Account.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Department has not received any written comments during and since the last five-year review of this rule from interested persons supporting or opposing this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Share the Road Bicycle Support Restricted Account still exists and charitable organizations still apply for and receive distributions from the account. This rule benefits the community and is helpful to the environment. Therefore, this rule should be continued.

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

TRANSPORTATION
PROGRAM DEVELOPMENT
CALVIN L RAMPTON COMPLEX
4501 S 2700 W
SALT LAKE CITY, UT 84119-5998
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at cwnewman@utah.gov
♦ 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
♦ Lori Edwards by phone at 801-965-4048, or by Internet E-mail at loriedwards@utah.gov

AUTHORIZED BY: Carlos Braceras, Executive Director

EFFECTIVE: 09/18/2019

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF
FIVE-YEAR EXPIRATIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). The Office of Administrative Rules (Office) is required to notify agencies of rules due for review at least 180 days prior to the anniversary date. If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file a **Notice of Five-Year Extension** (**Extension**) with the Office. However, if the agency fails to file either the **Five-Year Notice of Review and Statement of Continuation** or the **Extension** by the date provide by the Office, the rule expires.

Upon expiration of the rule, the Office files a **Notice of Five-Year Expiration** (**Expiration**) to document the action. The Office is required to remove the rule from the *Utah Administrative Code*. The agency may no longer enforce the rule and it must follow regular rulemaking procedures to replace the rule if it is still needed.

The Office has filed **Expirations** for each of the rules listed below which were not reviewed in accordance with Section 63G-3-305. These rules have expired and have been removed from the *Utah Administrative Code*.

The expiration of administrative rules for failure to comply with the five-year review requirement is governed by Subsection 63G-3-305(8).

Agriculture and Food, Regulatory Services
R70-440
Egg Products Inspection

FIVE-YEAR REVIEW EXPIRATION
DAR FILE NO.: 44085
FILED: 09/17/2019

SUMMARY: The five-year review was not filed by the deadline so the rule expired. (EDITOR'S NOTE: A 120-day (emergency) rule was filed for Rule R70-440 to put the rule back in place, that is effective as of 09/20/2019, under Filing No. 44091 in this issue, October 15, 2019, of the Bulletin.)

EFFECTIVE: 09/17/2019

Transportation, Operations, Construction
R916-5
Health Reform -- Health Insurance Coverage in State Contracts -- Implementation

FIVE-YEAR REVIEW EXPIRATION
DAR FILE NO.: 44084
FILED: 09/17/2019

SUMMARY: The five-year review was not filed by the deadline so the rule expired. (EDITOR'S NOTE: A 120-day (emergency) rule was filed for Rule R916-5 to put the rule back in place, that is effective as of 09/18/2019, under Filing No. 44087 in this issue, October 15, 2019, of the Bulletin.)

EFFECTIVE: 09/17/2019

End of the Notices of Notices of Five Year Expirations 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

Alcoholic Beverage Control
Administration
No. 43944 (AMD): R81-1-23. Sales Restrictions on High Demand Products of Limited Availability
Published: 08/15/2019
Effective: 09/25/2019

No. 43943 (AMD): R81-1-33. Alcohol Content
Published: 08/15/2019
Effective: 09/25/2019

No. 43940 (AMD): R81-1-34. Transfer Agreements
Published: 08/15/2019
Effective: 09/25/2019

No. 43942 (AMD): R81-10-2. Off-Premise Beer Retailer State License and Master Off-Premise Beer Retailer State License
Published: 08/15/2019
Effective: 09/25/2019

Commerce
Occupational and Professional Licensing
No. 43902 (AMD): R156-74. Certified Court Reporters Licensing Act Rule
Published: 08/15/2019
Effective: 09/23/2019

Governor
Economic Development
No. 43948 (NEW): R357-25. Rural Coworking and Innovation Center Grant Program Rule
Published: 08/15/2019
Effective: 09/23/2019

No. 43949 (NEW): R357-26. Rural Rapid Manufacturing Grant Program Rule
Published: 08/15/2019
Effective: 09/23/2019

Health
Health Care Financing, Coverage and Reimbursement Policy
No. 43834 (AMD): R414-2A. Inpatient Hospital Services
Published: 07/15/2019
Effective: 09/17/2019

No. 43835 (REP): R414-2B. Inpatient Intensive Physical Rehabilitation Services
Published: 07/15/2019
Effective: 09/17/2019

No. 43832 (NEW): R414-23. Provider Enrollment
Published: 07/15/2019
Effective: 09/17/2019

Center for Health Data, Health Care Statistics
No. 43852 (AMD): R428-2-10. Exemptions and Extensions
Published: 08/01/2019
Effective: 09/19/2019

Heritage and Arts
History
No. 43717 (REP): R455-13. Capital Funds Request Prioritization
Published: 06/01/2019
Effective: 09/20/2019

Human Services
Juvenile Justice Services
No. 43805 (NEW): R547-15. Formula for Reform Savings
Published: 07/01/2019
Effective: 09/23/2019

Judicial Performance Evaluation Commission
Administration
No. 43917 (R&R): R597-1. General Provisions
Published: 08/15/2019
Effective: 09/23/2019

No. 43918 (R&R): R597-2. Administration of the Commission
Published: 08/15/2019
Effective: 09/23/2019

No. 43919 (R&R): R597-3. Judicial Performance Evaluations
Published: 08/15/2019
Effective: 09/23/2019

No. 43920 (R&R): R597-4. Justice Courts
Published: 08/15/2019
Effective: 09/23/2019

Regents (Board of)
Administration
No. 43780 (NEW): R765-621. T. H. Bell Education Scholarship Program
Published: 07/01/2019
Effective: 09/23/2019

No. 43778 (NEW): R765-622. Career and Technical Education Scholarship Program
Published: 07/01/2019
Effective: 09/23/2019

System of Technical Colleges (Utah)
Bridgerland Technical College
No. 43926 (NEW): R947-1. Student Grievance
Published: 08/15/2019
Effective: 10/01/2019

Davis Technical College
No. 43936 (NEW): R949-1. Student Due Process
Published: 08/15/2019
Effective: 09/23/2019

No. 43938 (NEW): R949-2. Free Expression on Campus
Published: 08/15/2019
Effective: 09/23/2019

Dixie Technical College
No. 43887 (NEW): R951-1. Campus Access Rule
Published: 08/01/2019
Effective: 09/26/2019

No. 43888 (NEW): R951-2. Student Free Expression Rule
Published: 08/01/2019
Effective: 09/26/2019

No. 43889 (NEW): R951-3. Student Grievance Rule
Published: 08/01/2019
Effective: 09/26/2019

Mountainland Technical College
No. 43925 (NEW): R953-1. Due Process
Published: 08/15/2019
Effective: 09/23/2019

No. 43924 (NEW): R953-2. Free Expression on Campus
Published: 08/15/2019
Effective: 09/23/2019

Ogden-Weber Technical College
No. 43929 (NEW): R955-1. Student Due Process
Published: 08/15/2019
Effective: 09/27/2019

No. 43927 (NEW): R955-2. Free Expression on Campus
Published: 08/15/2019
Effective: 09/27/2019

No. 43928 (NEW): R955-3. Weapons on Campus
Published: 08/15/2019
Effective: 09/27/2019

Southwest Technical College
No. 43931 (NEW): R957-1. Student Due Process
Published: 08/15/2019
Effective: 09/23/2019

No. 43932 (NEW): R957-2. Free Expression on Campus
Published: 08/15/2019
Effective: 09/23/2019

Tooele Technical College
No. 43941 (NEW): R959-1. Student Due Process
Published: 08/15/2019
Effective: 09/23/2019

No. 43945 (NEW): R959-2. Free Expression on Campus
Published: 08/15/2019
Effective: 09/23/2019

Uintah Basin Technical College
No. 43904 (NEW): R961-1. Student Due Process
Published: 08/15/2019
Effective: 09/23/2019

No. 43905 (NEW): R961-2. Free Expression on Campus
Published: 08/15/2019
Effective: 09/23/2019

No. 43906 (NEW): R961-3. Weapons on Campus
Published: 08/15/2019
Effective: 09/23/2019

UTech Board of Trustees
Administration
No. 43898 (NEW): R945-2. Institutional Civil Liberties Policy Review
Published: 08/01/2019
Effective: 09/24/2019

Workforce Services
Employment Development
No. 43934 (AMD): R986-700. Child Care Assistance
Published: 08/15/2019
Effective: 10/01/2019

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 October 01, 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)
CPR = Change in Proposed Rule
EMR = 120-Day (Emergency) Rule
EXD = Expired Rule
EXP = Expedited Rule
EXT = Five-Year Review Extension
GEX = Governor's Extension
LNR = Legislative Nonreauthorization
NEW = New Rule (Proposed Rule)
NSC = Nonsubstantive Rule Change
R&R = Repeal and Reenact (Proposed Rule)
REP = Repeal (Proposed Rule)
5YR = Five-Year Notice of Review and Statement of Continuation

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
Administration					
R13-2	Management of Records and Access to Records	43744	5YR	05/29/2019	2019-12/135
Child Welfare Parental Defense (Office of)					
R19-1	Parental Defense Counsel Training	43705	REP	07/08/2019	2019-11/4
Debt Collection					
R21-1	Transfer of Collection Responsibility of State Agencies	43801	AMD	08/07/2019	2019-13/6
R21-2	Office of State Debt Collection Administrative Procedures	43802	AMD	08/07/2019	2019-13/8
R21-3	Debt Collection Through Administrative Offset	43803	AMD	08/07/2019	2019-13/12
Facilities Construction and Management					
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
Finance					
R25-7	Travel-Related Reimbursements for State Employees	43656	AMD	07/01/2019	2019-9/4
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
Purchasing and General Services					
R33-1	Utah Procurement Rules, General Procurement Provisions	43859	5YR	07/08/2019	2019-15/33
R33-2	Rules of Procedure for Procurement Policy Board	43854	5YR	07/08/2019	2019-15/33

R33-3	Procurement Organization	43855	5YR	07/08/2019	2019-15/34
R33-4	Supplemental Procurement Procedures	43856	5YR	07/08/2019	2019-15/34
R33-5	Other Standard Procurement Processes	43857	5YR	07/08/2019	2019-15/35
R33-6	Bidding	43858	5YR	07/08/2019	2019-15/35
R33-7	Request for Proposals	43860	5YR	07/08/2019	2019-15/36
R33-8	Exceptions to Standard Procurement Process	43861	5YR	07/08/2019	2019-15/36
R33-9	Cancellations, Rejections, and Debarment	43862	5YR	07/08/2019	2019-15/37
R33-10	Preferences	43864	5YR	07/08/2019	2019-15/37
R33-11	Form of Bonds	43863	5YR	07/08/2019	2019-15/38
R33-12	Terms and Conditions, Contracts, Change Orders and Costs	43865	5YR	07/08/2019	2019-15/38
R33-13	General Construction Provisions	43866	5YR	07/08/2019	2019-15/39
R33-14	Procurement of Design-Build Transportation Project Contracts	43867	5YR	07/08/2019	2019-15/39
R33-15	Procurement of Design Professional Services	43868	5YR	07/08/2019	2019-15/40
R33-16	Protests	43869	5YR	07/08/2019	2019-15/40
R33-17	Procurement Appeals Panel	43870	5YR	07/08/2019	2019-15/41
R33-18	Appeals to Court and Court Proceedings	43871	5YR	07/08/2019	2019-15/41
R33-19	General Provisions Related to Protest or Appeal	43872	5YR	07/08/2019	2019-15/42
R33-20	Records	43873	5YR	07/08/2019	2019-15/42
R33-21	Interaction Between Procurement Units	43875	5YR	07/08/2019	2019-15/43
R33-22	Reserved	43874	5YR	07/08/2019	2019-15/43
R33-23	Reserved	43876	5YR	07/08/2019	2019-15/44
R33-24	Unlawful Conduct and Ethical Standards	43877	5YR	07/08/2019	2019-15/44
R33-25	Executive Branch Insurance Procurement	43879	5YR	07/08/2019	2019-15/45
R33-26	State Surplus Property	43878	5YR	07/08/2019	2019-15/45
Records Committee					
R35-1	State Records Committee Appeal Hearing Procedures	43760	5YR	06/03/2019	2019-13/111
R35-1a	State Records Committee Definitions	43761	5YR	06/03/2019	2019-13/111
R35-2	Declining Appeal Hearings	43762	5YR	06/03/2019	2019-13/112
R35-4	Compliance with State Records Committee Decisions and Orders	43763	5YR	06/03/2019	2019-13/112
R35-4-1	Authority and Purpose	43766	NSC	06/12/2019	Not Printed
R35-5	Subpoenas Issued by the Records Committee	43764	5YR	06/03/2019	2019-13/113
R35-6	Expedited Hearing	43765	5YR	06/03/2019	2019-13/113
Risk Management					
R37-4	Adjusted Utah Governmental Immunity Act Limitations on Judgments	43235	AMD	01/18/2019	2018-21/2
AGRICULTURE AND FOOD					
Animal Industry					
R58-18	Elk Farming	43754	AMD	07/22/2019	2019-12/6
R58-18	Elk Farming	43909	NSC	08/01/2019	Not Printed
R58-20	Domesticated Elk Hunting Parks	43469	5YR	01/07/2019	2019-3/43
R58-20	Domesticated Elk Hunting Parks	43752	AMD	07/22/2019	2019-12/13
R58-20	Domesticated Elk Hunting Parks	43910	NSC	08/01/2019	Not Printed
Conservation Commission					
R64-1	Agriculture Resource Development Loans (ARDL)	43907	5YR	07/23/2019	2019-16/103
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
Horse Racing Commission (Utah)					
R52-7	Horse Racing	43753	AMD	07/22/2019	2019-12/4
Marketing and Development					
R65-1	Utah Apple Marketing Order	43546	NSC	03/13/2019	Not Printed
R65-1	Utah Apple Marketing Order	44024	5YR	08/30/2019	2019-18/89

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
Plant Industry					
R68-1	Utah Bee Inspection Act Governing Inspection of Bees	43908	NSC	08/01/2019	Not Printed
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
R68-27	Cannabis Cultivation	43684	NEW	08/29/2019	2019-10/4
R68-27	Cannabis Cultivation	43684	CPR	08/29/2019	2019-14/68
R68-28	Cannabis Processing	43758	NEW	07/22/2019	2019-12/16
R68-29	Quality Assurance Testing on Cannabis	43842	NEW	08/29/2019	2019-14/4
R68-30	Independent Cannabis Testing Laboratory	43843	NEW	08/29/2019	2019-14/7
Regulatory Services					
R70-310	Grade A Pasteurized Milk	43775	5YR	06/07/2019	2019-13/114
R70-310	Grade A Pasteurized Milk	43777	AMD	08/13/2019	2019-13/16
R70-440	Egg Products Inspection	44085	EXD	09/17/2019	Not Printed
R70-440	Egg Products Inspection	44091	EMR	09/20/2019	Not Printed
R70-910	Registration of Servicepersons for Commercial Weighing and Measuring Devices	44026	5YR	08/30/2019	2019-18/89
R70-910	Registration of Servicepersons for Commercial Weighing and Measuring Devices	44027	NSC	09/12/2019	Not Printed
R70-960	Weights and Measures Fee Registration	44025	5YR	08/30/2019	2019-18/90
ALCOHOLIC BEVERAGE CONTROL					
Administration					
R81-1-23	Sales Restrictions on High Demand Products of Limited Availability	43944	AMD	09/25/2019	2019-16/17
R81-1-33	Alcohol Content	43943	AMD	09/25/2019	2019-16/19
R81-1-34	Transfer Agreements	43940	AMD	09/25/2019	2019-16/20
R81-10-2	Off-Premise Beer Retailer State License and Master Off-Premise Beer Retailer State License	43942	AMD	09/25/2019	2019-16/22
AUDITOR					
Administration					
R123-6	Allocation of Money in the Property Tax Valuation Agency Fund	44046	NSC	09/20/2019	Not Printed
CAPITOL PRESERVATION BOARD (STATE)					
Administration					
R131-13	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	43662	5YR	04/17/2019	2019-10/115
R131-13	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	43517	AMD	06/13/2019	2019-5/6
COMMERCE					
Consumer Protection					
R152-34a	Utah Postsecondary School State Authorization Act Rule	43612	5YR	04/01/2019	2019-8/101
R152-39	Child Protection Registry Rule	43845	REP	08/22/2019	2019-14/15

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
R277-301	Educator Licensing	43654	AMD	07/02/2019	2019-9/15
R277-303	Educator Preparation Programs	43657	AMD	07/02/2019	2019-9/20
R277-304	Teacher Preparation Programs	43624	NEW	05/23/2019	2019-8/13
R277-305	School Leadership License Areas of Concentration and Programs	43794	NEW	08/19/2019	2019-13/22
R277-308	New Educator Induction and Mentoring	43442	NEW	02/07/2019	2019-1/22
R277-322	LEA Codes of Conduct	43787	NEW	08/19/2019	2019-13/25
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
R277-406	Early Literacy Program and Benchmark Reading Assessment	43649	AMD	07/02/2019	2019-9/23
R277-407	School Fees	43532	AMD	04/08/2019	2019-5/25
R277-417	Prohibiting LEAs and Third Party Providers from Offering Incentives or Disbursement for Enrollment or Participation	43658	AMD	07/02/2019	2019-9/26
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	2019-12/135
R277-462	Comprehensive Counseling and Guidance Program	43728	R&R	07/31/2019	2019-12/39
R277-463	Class Size Average and Pupil-Teacher Ratio Reporting	43636	5YR	04/08/2019	2019-9/80
R277-463	Class Size Average and Pupil-Teacher Ratio Reporting	43652	AMD	07/02/2019	2019-9/29
R277-470	Charter Schools - General Provisions	43374	REP	01/09/2019	2018-23/9
R277-471	School Construction Oversight, Inspections, Training and Reporting	43957	5YR	08/06/2019	2019-17/223
R277-472	Charter School Student Enrollment and Transfers and School District Capacity Information	43637	5YR	04/08/2019	2019-9/81
R277-475	Patriotic, Civic and Character Education	44057	5YR	09/11/2019	2019-19/116
R277-477	Distributions of Funds from the Trust Distribution Account and Administration of the School LAND Trust Program	43788	AMD	08/19/2019	2019-13/28
R277-480	Charter School Revolving Account	43712	5YR	05/13/2019	2019-11/41
R277-480	Charter School Revolving Account	43647	AMD	07/02/2019	2019-9/31
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
R277-487	Public School Data Confidentiality and Disclosure	44055	5YR	09/09/2019	2019-19/117
R277-491	School Community Councils	43789	AMD	08/19/2019	2019-13/33
R277-493	Kindergarten Supplemental Enrichment Program	43638	5YR	04/08/2019	2019-9/81
R277-493	Kindergarten Supplemental Enrichment Program	43683	AMD	07/02/2019	2019-10/9
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
R277-503	Licensing Routes	43733	AMD	07/31/2019	2019-12/45

R277-504	Early Childhood, Elementary, Secondary, Special Education (K-12), and Preschool Special Education (Birth-Age 5) Licensure	43958	5YR	08/06/2019	2019-17/223
R277-509	Licensure of Student Teachers and Interns	43373	AMD	01/09/2019	2018-23/19
R277-511	Academic Pathway to Teaching (APT) Level 1 License	43648	AMD	07/02/2019	2019-9/34
R277-517	LEA Codes of Conduct	43790	REP	08/19/2019	2019-13/36
R277-522	Entry Years Enhancements (EYE) for Quality Teaching - Level 1 Utah Teachers	43791	AMD	08/19/2019	2019-13/38
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
R277-528	Use of Public Education Job Enhancement Program (PEJEP) Funds	43701	AMD	08/19/2019	2019-11/6
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
R277-600	Student Transportation Standards and Procedures	43795	AMD	08/19/2019	2019-13/41
R277-601	Standards for Utah School Buses and Operations	43611	5YR	03/29/2019	2019-8/102
R277-604	Private School, Home School, and Bureau of Indian Affairs (BIA) Student Participation in Public School Achievement Tests	43732	AMD	07/31/2019	2019-12/50
R277-607	Truancy Prevention	43959	5YR	08/06/2019	2019-17/224
R277-622	School-based Mental Health Qualified Grant Program	43729	NEW	07/31/2019	2019-12/53
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
R277-706	Public Education Regional Service Centers	43960	5YR	08/06/2019	2019-17/225
R277-707	Enhancement for Accelerated Students Program	43651	AMD	07/02/2019	2019-9/37
R277-707	Enhancement for Accelerated Students Program	43813	AMD	08/19/2019	2019-13/47
R277-709	Education Programs Serving Youth in Custody	43702	AMD	08/19/2019	2019-11/9
R277-710	Intergenerational Poverty Interventions in Public Schools	43824	5YR	06/21/2019	2019-14/77
R277-710	Intergenerational Poverty Interventions in Public Schools	43793	AMD	08/19/2019	2019-13/51
R277-714	Dissemination of Information About Juvenile Offenders	43703	REP	07/31/2019	2019-11/13
R277-716	Alternative Language Services for Utah Students	43731	AMD	07/31/2019	2019-12/56
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
R277-926	Certification of Residential Treatment Center Special Education Program	43655	NEW	07/02/2019	2019-9/40

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
R307-110-28	Regional Haze	43587	AMD	08/15/2019	2019-7/4
R307-110-28	Regional Haze	43587	CPR	08/15/2019	2019-14/73
R307-110-31	Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability	43806	AMD	09/05/2019	2019-13/54
R307-110-36	Section X, Vehicle Inspection and Maintenance Program, Part F, Cache County	43807	AMD	09/05/2019	2019-13/55
R307-125	Clean Air Retrofit, Replacement, and Off-Road Technology Program	44037	5YR	09/05/2019	2019-19/117
R307-150-3	Applicability	43588	AMD	06/25/2019	2019-7/5
R307-204	Emission Standards: Smoke Management	43808	AMD	09/05/2019	2019-13/56
R307-204	Emission Standards: Smoke Standards	44050	NSC	09/20/2019	Not Printed
R307-401-10	Source Category Exemptions	43589	AMD	06/06/2019	2019-7/6
R307-501	Oil and Gas Industry: General Provisions	44038	5YR	09/05/2019	2019-19/118
R307-502	Oil and Gas Industry: Pneumatic Controllers	44039	5YR	09/05/2019	2019-19/118
R307-503	Oil and Gas Industry: Flares	44040	5YR	09/05/2019	2019-19/119
R307-504	Oil and Gas Industry: Tank Trunk Loading	44041	5YR	09/05/2019	2019-19/120
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

R313-19-34	Terms and Conditions of Licenses	43810	AMD	08/09/2019	2019-13/62
R313-22-75	Special Requirements for a Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices Which Contain Radioactive Material	43809	AMD	08/09/2019	2019-13/65
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
R313-32	Medical Use of Radioactive Material	43812	AMD	08/09/2019	2019-13/74

Waste Management and Radiation Control, Waste Management

R315-15-14	DIYer Reimbursement	43529	AMD	04/15/2019	2019-5/54
R315-15-16	Grants	43768	NSC	06/12/2019	Not Printed
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
R315-268-50	Land Disposal Restrictions -- Prohibitions on Storage of Restricted Wastes	44007	NSC	08/30/2019	Not Printed
R315-270-13	Hazardous Waste Permit Program -- Contents of Part a of the Permit Application	44008	NSC	08/30/2019	Not Printed
R315-273	Standards for Universal Waste Management	43252	AMD	01/14/2019	2018-21/55
Water Quality					
R317-1-1	Definitions	43585	AMD	07/01/2019	2019-7/8
R317-2	Standards of Quality for Waters of the State	43586	AMD	07/01/2019	2019-7/11
R317-2-14	Numeric Criteria	43848	NSC	07/01/2019	Not Printed
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	2019-12/136
R357-8	Allocation of Private Activity Bond Volume Cap	43755	REP	07/26/2019	2019-12/63
R357-15	Enterprise Zone Tax Credit	43814	AMD	08/12/2019	2019-13/80
R357-15-2	Definitions	43946	NSC	08/13/2019	Not Printed
R357-24	Utah Works Program Rule	43720	NEW	07/08/2019	2019-11/15
R357-25	Rural Coworking and Innovation Center Grant Program Rule	43948	NEW	09/23/2019	2019-16/32
R357-26	Rural Rapid Manufacturing Grant Program Rule	43949	NEW	09/23/2019	2019-16/35
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					
R380-25	Submission of Data Through an Electronic Data Interchange	43774	5YR	06/07/2019	2019-13/116
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
R428-2-10	Exemptions and Extensions	43852	AMD	09/19/2019	2019-15/10
R428-15	Health Data Authority Health Insurance Claims Reporting	44103	5YR	09/25/2019	Not Printed
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					
R392-104	Feeding Disadvantaged Groups	43995	5YR	08/20/2019	2019-18/91
R392-110	Food Service Sanitation in Residential Care Facilities	43660	R&R	07/16/2019	2019-10/12
R392-303	Public Geothermal Pools and Bathing Places	43502	5YR	02/05/2019	2019-5/96
Disease Control and Prevention, Epidemiology					
R386-80	Local Public Health Emergency Funding Protocols	44006	5YR	08/22/2019	2019-18/90
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

R384-201	School-Based Vision Screening for Students in Public Schools	43757	AMD	08/01/2019	2019-12/66
R384-203	Prescription Drug Database Access	43537	5YR	02/25/2019	2019-6/42
R384-203	Prescription Drug Database Access	43562	AMD	07/23/2019	2019-7/25
R384-418	Electronic-Cigarette Mandatory Warning Signage and Sale Restrictions	44113	EMR	10/01/2019	Not Printed
Disease Control and Prevention, Immunization					
R396-100	Immunization Rule for Students	44062	EMR	09/13/2019	2019-19/109
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
R398-5	Birth Defects and Critical Congenital Heart Disease Reporting	43886	5YR	07/12/2019	2019-15/47
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	Emergency Medical Services Provider Designations for Pre-Hospital Providers, Critical Incident Stress Management and Quality Assurance Reviews	43881	AMD	09/11/2019	2019-15/2
R426-2-400	Emergency Medical Service Dispatch Center Minimum Designation Requirements	43260	NSC	01/11/2019	Not Printed
R426-4	Operations	43882	AMD	09/11/2019	2019-15/6
R426-8	Emergency Medical Services Ground Ambulance Rates and Charges	43608	AMD	07/01/2019	2019-8/39
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
R432-270-8	Personnel	43773	AMD	08/20/2019	2019-13/89
Family Health and Preparedness, Maternal and Child Health					
R433-200	Family Planning Access Act	43402	NEW	03/06/2019	2018-24/18

R477-4	Filling Positions	43671	AMD	07/01/2019	2019-10/30
R477-5	Employee Status and Probation	43672	AMD	07/01/2019	2019-10/34
R477-6	Compensation	43673	AMD	07/01/2019	2019-10/36
R477-7	Leave	43674	AMD	07/01/2019	2019-10/41
R477-8	Working Conditions	43675	AMD	07/01/2019	2019-10/49
R477-9	Employee Conduct	43676	AMD	07/01/2019	2019-10/54
R477-11	Discipline	43677	AMD	07/01/2019	2019-10/58
R477-12	Separations	43678	AMD	07/01/2019	2019-10/60
R477-13	Volunteer Programs	43679	AMD	07/01/2019	2019-10/62
R477-14	Substance Abuse and Drug-Free Workplace	43669	AMD	07/01/2019	2019-10/64
R477-15	Workplace Harassment Prevention	43680	AMD	07/01/2019	2019-10/67
R477-101	Administrative Law Judge Conduct Committee	43470	5YR	01/07/2019	2019-3/44

HUMAN SERVICES

Administration

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
R495-885	Employee Background Screenings	43690	AMD	07/18/2019	2019-10/69

Administration, Administrative Services, Licensing

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
R501-14	Human Service Program Background Screening	43691	AMD	07/18/2019	2019-10/73
R501-21	Outpatient Treatment Programs	43237	AMD	02/12/2019	2018-21/91

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
R512-310	Reasonable and Prudent Parent Standard	43981	5YR	08/12/2019	2019-17/225

Juvenile Justice Services

R547-15	Formula for Reform Savings	43804	EMR	06/13/2019	2019-13/109
R547-15	Formula for Reform Savings	43805	NEW	09/23/2019	2019-13/91

Recovery Services

R527-10	Disclosure of Information to the Office of Recovery Services	43700	5YR	05/03/2019	2019-11/44
R527-38	Unenforceable Cases	43593	AMD	07/18/2019	2019-8/46
R527-40	Retained Support	44019	5YR	08/28/2019	2019-18/91
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	2019-12/139

Services for People with Disabilities

R539-2	Service Coordination	43891	5YR	07/15/2019	2019-15/48
R539-3	Rights and Protections	43892	5YR	07/15/2019	2019-15/48
R539-4	Behavior Interventions	43893	5YR	07/15/2019	2019-15/49
R539-5	Self-Administered Services	43894	5YR	07/15/2019	2019-15/50

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
R523-7	Certification of Designated Examiners and Case Managers	43850	AMD	08/21/2019	2019-14/41
R523-12-4	Provider Responsibilities	43575	AMD	06/27/2019	2019-7/27
R523-13-4	Provider Responsibilities	43576	AMD	06/27/2019	2019-7/29
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					
R590-67	Proxy Solicitations and Consent and Authorization of Stockholders of Domestic Stock Insurers	44003	5YR	08/20/2019	2019-18/92
R590-76	Health Maintenance Organizations and Limited Health Plans	44004	5YR	08/20/2019	2019-18/93
R590-79	Life Insurance Disclosure Rule	43996	5YR	08/20/2019	2019-18/93
R590-83	Unfair Discrimination on the Basis of Sex or Marital Status	43997	5YR	08/20/2019	2019-18/94
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
R590-127	Rate Filing Exemptions	43998	5YR	08/20/2019	2019-18/94
R590-129	Unfair Discrimination Based Solely Upon Blindness or Physical or Mental Impairment	43999	5YR	08/20/2019	2019-18/95
R590-146	Medicare Supplement Insurance Standards	43659	AMD	06/07/2019	2019-9/44
R590-146-15	Filing of Policies, Certificates, and Premium Rates	43921	NSC	07/30/2019	Not Printed
R590-155	Utah Life and Health Insurance Guaranty Association Summary Document	43486	AMD	06/07/2019	2019-4/5
R590-155	Utah Life and Health Insurance Guaranty Association Summary Document	43486	CPR	06/07/2019	2019-9/72
R590-166	Home Protection Service Contract Rule	43626	5YR	04/03/2019	2019-9/85
R590-167	Individual, Small Employer, and Group Health Benefit Plan Rule	44000	5YR	08/20/2019	2019-18/95
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	2019-12/140
R590-186	Bail Bond Surety Business	43694	AMD	06/21/2019	2019-10/79
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
R590-192	Unfair Accident and Health Claims Settlement Practices	43785	5YR	06/10/2019	2019-13/118
R590-194	Coverage of Dietary Products for Inborn Errors of Amino Acid or Urea Cycle Metabolism	44001	5YR	08/20/2019	2019-18/96
R590-218	Permitted Language for Reservation of Discretion Clauses	43653	REP	06/07/2019	2019-9/67
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
R590-229	Annuity Disclosure	44002	5YR	08/20/2019	2019-18/97
R590-230	Suitability in Annuity Transactions	43738	5YR	05/23/2019	2019-12/140
R590-238-4	Annual Reporting Requirements	43693	AMD	06/21/2019	2019-10/84
R590-244	Individual and Agency Licensing Requirements	43786	5YR	06/10/2019	2019-13/119
R590-252	Use of Senior-Specific Certifications and Professional Designations	43513	5YR	02/11/2019	2019-5/99
R590-254	Annual Financial Reporting Rule	43826	5YR	06/26/2019	2019-14/78
R590-268	Small Employer Stop-Loss Insurance	43570	5YR	03/07/2019	2019-7/65
R590-268	Small Employer Stop-Loss Insurance	43692	AMD	06/21/2019	2019-10/85

R590-269	Individual Open Enrollment Period	43474	5YR	01/11/2019	2019-3/44
R590-270	Risk Adjustment Data Submission Requirements	44090	5YR	09/20/2019	Not Printed
R590-277	Managed Care Health Benefit Plan Policy Standards	43427	NEW	08/20/2019	2019-1/33
R590-277	Managed Care Health Benefit Plan Policy Standards	43427	CPR	08/20/2019	2019-9/73
R590-278	Consent Requests Under 18 USC 1033(e)(2)	43695	AMD	06/21/2019	2019-10/88
R590-280	Counting Short-Term Funds	43561	NEW	04/23/2019	2019-6/25
R590-281	License Applications Submitted by Individuals Who Have a Criminal Conviction	43696	NEW	06/21/2019	2019-10/90
Title and Escrow Commission					
R592-6	Unfair Inducements and Marketing Practices in Obtaining Title Insurance Business	43781	5YR	06/10/2019	2019-13/119
R592-7	Title Insurance Continuing Education	43782	5YR	06/10/2019	2019-13/120
R592-8	Application Process for an Attorney Exemption for Agency Title Insurance Producer Licensing	43783	5YR	06/10/2019	2019-13/121
R592-9	Title Insurance Recovery, Education, and Research Fund Assessment Rule	43784	5YR	06/10/2019	2019-13/121
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R597-1	General Provisions	43501	5YR	02/05/2019	2019-5/100
R597-1	General Provisions	43917	R&R	09/23/2019	2019-16/55
R597-2	Administration of the Commission	43918	R&R	09/23/2019	2019-16/56
R597-3	Judicial Performance Evaluations	43500	5YR	02/05/2019	2019-5/100
R597-3	Judicial Performance Evaluations	43919	R&R	09/23/2019	2019-16/59
R597-4	Justice Courts	43601	5YR	03/22/2019	2019-8/105
R597-4	Justice Courts	43920	R&R	09/23/2019	2019-16/66
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R602-2-1	Pleadings and Discovery	43574	AMD	05/08/2019	2019-7/30
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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
R616-2-3	Safety Codes and Rules for Boilers and Pressure Vessels	43711	AMD	07/08/2019	2019-11/21
R616-2-8	Inspection of Boilers and Pressure Vessels	43573	AMD	05/08/2019	2019-7/36
R616-4	Coal Mine Safety	44086	5YR	09/18/2019	Not Printed
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R622-2	Use of the Great Seal of the State of Utah	43595	5YR	03/19/2019	2019-8/105
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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
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R628-19	Requirements for the Use of Investment Advisers by Public Treasurers	43645	5YR	04/12/2019	2019-9/87

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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
R628-22	Conditions and Procedures for the use of Negotiable Brokered Certificates of Deposit	43815	NEW	08/07/2019	2019-13/93
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R645-106	Exemption for Coal Extraction Incidental to the Extraction of Other Minerals	43914	5YR	07/23/2019	2019-16/104
R645-400	Inspection and Enforcement: Division Authority and Procedures	43916	5YR	07/23/2019	2019-16/104
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R649-10	Administrative Procedures	43912	5YR	07/23/2019	2019-16/105
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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
R651-411	OHV Use in State Parks	43759	AMD	07/22/2019	2019-12/71
R651-615	Motor Vehicle Use	43756	AMD	07/22/2019	2019-12/73
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R655-4	Water Wells	43923	5YR	07/27/2019	2019-16/106
R655-13	Stream Alteration	43743	R&R	07/25/2019	2019-12/74
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R657-5	Taking Big Game	43741	AMD	07/22/2019	2019-12/79
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
R657-12	Hunting and Fishing Accommodations for People with Disabilities	43816	AMD	08/22/2019	2019-14/46
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
R657-37	Cooperative Wildlife Management Units for Big Game or Turkey	43724	AMD	07/22/2019	2019-12/82
R657-38	Dedicated Hunter Program	43432	AMD	02/07/2019	2019-1/44
R657-41	Conservation and Sportsman Permits	43736	AMD	07/22/2019	2019-12/91
R657-44	Big Game Depredation	43723	AMD	07/22/2019	2019-12/100
R657-45	Wildlife License, Permit, and Certificate of Registration Forms and Terms	43817	AMD	08/22/2019	2019-14/48
R657-46	The Use of Game Birds in Dog Field Trials and Training	43726	5YR	05/20/2019	2019-12/141
R657-54	Taking Wild Turkey	43951	5YR	08/05/2019	2019-17/226
R657-62	Drawing Application Procedures	43639	5YR	04/09/2019	2019-9/89
R657-62	Drawing Application Procedures	43725	AMD	07/22/2019	2019-12/104
R657-67	Utah Hunter Mentoring Program	43498	5YR	02/04/2019	2019-5/101
R657-68	Trial Hunting Authorization	43952	5YR	08/05/2019	2019-17/226
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R661-8-101	Objective	44076	NSC	09/25/2019	Not Printed

R661-12-401	Documentation Required to Apply for UNTF HSL Assistance	44077	NSC	09/25/2019	Not Printed

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R671-103	Attorneys	44096	5YR	09/23/2019	Not Printed
R671-201	Original Hearing Schedule and Notice	44098	5YR	09/23/2019	Not Printed
R671-309	Impartial Hearings	44109	5YR	09/30/2019	Not Printed

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R698-5	State Hazardous Chemical Emergency Response Commission Advisory Committee	43418	AMD	02/20/2019	2018-24/29
R698-5	State Hazardous Chemical Emergency Response Commission Advisory Committee	43828	5YR	06/26/2019	2019-14/79

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R722-920	Cold Case Database	43435	NEW	02/20/2019	2019-1/49

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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
R708-45	Renewal or Duplicate License for Utah Residents Temporarily Residing Out of State	44035	5YR	09/04/2019	2019-19/121

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R704-1	Search and Rescue Financial Assistance Program	43827	5YR	06/26/2019	2019-14/79

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R710-15	Seizure and Disposal of Fireworks, Class A Explosives, and Class B Explosives	43354	NEW	01/14/2019	2018-22/155

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R714-600	Performance Standards for Tow Truck Motor Carriers	43844	5YR	07/01/2019	2019-14/80

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R728-409	Suspension, Revocation, or Relinquishment of Certification	43666	AMD	06/24/2019	2019-10/100
R728-502	Procedure for POST Instructor Certification	43534	5YR	02/21/2019	2019-6/45

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R746-310	Uniform Rules Governing Electricity Service by Electric Utilities	43603	AMD	05/22/2019	2019-8/49

R746-401	Reporting of Construction, Purchase, Acquisition, Sale, Transfer or Disposition of Assets	43966	5YR	08/07/2019	2019-17/227
R746-460	Rules Governing Customer Information and Marketing for Large-Scale Electric and Gas Utilities	43811	NEW	08/07/2019	2019-13/95
R746-700	Complete Filings for General Rate Case and Major Plant Addition Applications	43965	5YR	08/07/2019	2019-17/227
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R765-604	New Century Scholarship	43901	5YR	07/17/2019	2019-16/107
R765-615	Talent Development Incentive Loan Program	43405	NEW	03/14/2019	2018-24/33
R765-620	Access Utah Promise Scholarship Program	43853	NEW	09/10/2019	2019-15/12
R765-621	T. H. Bell Education Scholarship Program	43780	NEW	09/23/2019	2019-13/98
R765-622	Career and Technical Education Scholarship Program	43778	NEW	09/23/2019	2019-13/101
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R784-1	Government Records Access and Management Act Rules	43594	5YR	03/17/2019	2019-8/107
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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
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R807-1	Curation of Collections from State Lands	43535	5YR	02/22/2019	2019-6/47
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R850-5-300	Royalties	43613	AMD	06/01/2019	2019-8/54
R850-21	Oil, Gas and Hydrocarbon Resources	43616	R&R	06/01/2019	2019-8/55
R850-21	Oil, Gas and Hydrocarbon Resources	43903	NSC	08/01/2019	Not Printed
R850-70	Sales of Forest Products From Trust Lands Administration Lands	43792	AMD	08/07/2019	2019-13/103
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R947-1	Student Grievance	43926	NEW	10/01/2019	2019-16/75
Davis Technical College					
R949-1	Student Due Process	43936	NEW	09/23/2019	2019-16/77
R949-2	Free Expression on Campus	43938	NEW	09/23/2019	2019-16/79
Dixie Technical College					
R951-1	Campus Access Rule	43887	NEW	09/26/2019	2019-15/19
R951-2	Student Free Expression Rule	43888	NEW	09/26/2019	2019-15/21
R951-3	Student Grievance Rule	43889	NEW	09/26/2019	2019-15/22
Mountainland Technical College					
R953-1	Due Process	43925	NEW	09/23/2019	2019-16/80
R953-2	Free Expression on Campus	43924	NEW	09/23/2019	2019-16/82
Ogden-Weber Technical College					
R955-1	Student Due Process	43929	NEW	09/27/2019	2019-16/84
R955-2	Free Expression on Campus	43927	NEW	09/27/2019	2019-16/85
R955-3	Weapons on Campus	43928	NEW	09/27/2019	2019-16/87

Southwest Technical College					
R957-1	Student Due Process	43931	NEW	09/23/2019	2019-16/88
R957-2	Free Expression on Campus	43932	NEW	09/23/2019	2019-16/90
Tooele Technical College					
R959-1	Student Due Process	43941	NEW	09/23/2019	2019-16/92
R959-2	Free Expression on Campus	43945	NEW	09/23/2019	2019-16/93
Uintah Basin Technical College					
R961-1	Student Due Process	43904	NEW	09/23/2019	2019-16/95
R961-2	Free Expression on Campus	43905	NEW	09/23/2019	2019-16/96
R961-3	Weapons on Campus	43906	NEW	09/23/2019	2019-16/98
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Administration					
R861-1A-9	State Board of Equalization Procedures Pursuant to Utah Code Ann. Sections 59-2-212, 59-2-1004, and 59-2-1006	43838	AMD	08/22/2019	2019-14/50
R861-1A-46	Procedures for Purchaser Refund Requests Pursuant to Utah Code Ann. Sections 59-1-1410 and 59-12-110	43883	AMD	09/12/2019	2019-15/23
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R865-9I-2	Determination of Utah Resident Individual Status Pursuant to Utah Code Ann. Sections 59-10-103 and 59-10-136	43839	AMD	08/22/2019	2019-14/52
R865-19S-93	Waste Tire Recycling Fee Pursuant to Utah Code Ann. Section 19-6-808	43884	AMD	09/12/2019	2019-15/26
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R873-22M-17	Standards for State Impound Lots Pursuant to Utah Code Ann. Section 41-1a-1101	43840	AMD	08/22/2019	2019-14/53
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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-24	Form for Notice of Property Valuation and Tax Changes Pursuant to Utah Code Ann. Sections 59-2-918.5 through 59-2-924	43885	AMD	09/12/2019	2019-15/28
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-66	County Board of Equalization Procedures and Appeals	43970	NSC	08/19/2019	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
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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
R895-13	Access to the Identity Theft Reporting Information System Database	43681	REP	06/21/2019	2019-10/105

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
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R909-2	Utah Size and Weight Rule	43735	5YR	05/22/2019	2019-12/141
R909-3	Standards for Utah School Buses	43704	AMD	07/08/2019	2019-11/22
R909-19	Safety Regulations for Tow Truck Operations - Tow Truck Requirements for Equipment, Operation, and Certification	43443	AMD	02/07/2019	2019-1/56
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R914-4	Challenging Corrective Action Orders	43722	NEW	07/23/2019	2019-12/106
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R916-5	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	44084	EXD	09/17/2019	Not Printed
R916-5	Health Reform -- Health Insurance Coverage in State Contracts -- Implementation	44087	EMR	09/18/2019	Not Printed
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R918-4	Using Volunteer Groups and Third Party Contractors for the Adopt-a-Highway and Sponsor-a-Highway Litter Pickup Programs	43489	AMD	03/26/2019	2019-4/36
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R920-4-9	Minimum Liability Coverage, Waiver and Release of Damages Form, and Indemnification Form Completion Requirements	43769	NSC	06/19/2019	Not Printed
R920-50	Ropeway Operation Safety	43444	AMD	02/07/2019	2019-1/63
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R930-6	Access Management	43602	AMD	05/22/2019	2019-8/67
R930-7	Utility Accommodation	43742	AMD	07/23/2019	2019-12/109
R930-8	Utility Relocations Required by Highway Projects	43745	AMD	07/23/2019	2019-12/124
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R926-12	Share the Road Bicycle Support Restricted Account	44089	5YR	09/18/2019	Not Printed
R926-16	Unsolicited Proposals for Transportation Infrastructure Public-Private Partnerships	43584	NEW	05/08/2019	2019-7/40
R926-17	Road Usage Charge Program	43847	NEW	08/26/2019	2019-14/55

TRANSPORTATION COMMISSION

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R940-1	Establishment of Toll Rates	43841	AMD	08/26/2019	2019-14/59
R940-8	Establishment of Road Usage Charge (RUC) Rates	43846	NEW	08/26/2019	2019-14/61

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R945-1	UTech Scholarship	43617	AMD	07/16/2019	2019-8/96
R945-2	Institutional Civil Liberties Policy Review	43898	NEW	09/24/2019	2019-15/30

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R986-100-117	Disqualification Periods And Civil Penalties For Intentional Program Violations (IPVs)	43481	AMD	06/01/2019	2019-3/33

R986-200-250	Unauthorized Spending of TANF Financial Assistance Benefits	43482	AMD	06/01/2019	2019-3/35
R986-700	Child Care Assistance	43556	AMD	06/01/2019	2019-6/30
R986-700	Child Care Assistance	43934	AMD	10/01/2019	2019-16/99
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R990-200	Private Activity Bonds	43746	NEW	07/30/2019	2019-12/128
R990-300	Evaluation Process for Plan for Moderate Income Housing Reports	43849	NEW	08/21/2019	2019-14/63
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R994-305-801	Wage List Requirement	43558	AMD	07/01/2019	2019-6/35
R994-309	Nonprofit Organizations	43818	5YR	06/17/2019	2019-14/80
R994-310	Coverage	43819	5YR	06/17/2019	2019-14/81
R994-311	Governmental Units and Indian Tribes	43820	5YR	06/17/2019	2019-14/81
R994-312	Employing Units Records	43821	5YR	06/17/2019	2019-14/82
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)
CPR = Change in Proposed Rule
EMR = 120-Day (Emergency) Rule
EXD = Expired Rule
EXP = Expedited Rule
EXT = Five-Year Review Extension
GEX = Governor's Extension
LNR = Legislative Nonreauthorization
NEW = New Rule (Proposed Rule)
NSC = Nonsubstantive Rule Change
R&R = Repeal and Reenact (Proposed Rule)
REP = Repeal (Proposed Rule)
5YR = Five-Year Notice of Review and Statement of Continuation

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
abortions					
Health, Center for Health Data, Vital Records and Statistics	43462	R436-19	NEW	05/08/2019	2019-2/10
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	43813	R277-707	AMD	08/19/2019	2019-13/47
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Transportation, Preconstruction	43602	R930-6	AMD	05/22/2019	2019-8/67
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Transportation, Program Development	44089	R926-12	5YR	09/18/2019	Not Printed

	43533	R432-270	5YR	02/20/2019	2019-6/45
	43773	R432-270-8	AMD	08/20/2019	2019-13/89
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	43517	R131-13	AMD	06/13/2019	2019-5/6
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	44000	R590-167	5YR	08/20/2019	2019-18/95
	43427	R590-277	NEW	08/20/2019	2019-1/33
	43427	R590-277	CPR	08/20/2019	2019-9/73
Transportation, Operations, Construction	44084	R916-5	EXD	09/17/2019	Not Printed
	44087	R916-5	EMR	09/18/2019	Not Printed
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Insurance, Administration	43520	R590-220	5YR	02/13/2019	2019-5/98
health insurance in state contracts					
Transportation, Operations, Construction	44084	R916-5	EXD	09/17/2019	Not Printed
	44087	R916-5	EMR	09/18/2019	Not Printed
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Health, Center for Health Data, Health Care Statistics	43544	R428-1	AMD	05/01/2019	2019-6/12
	43852	R428-2-10	AMD	09/19/2019	2019-15/10
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Health, Center for Health Data, Health Care Statistics	43544	R428-1	AMD	05/01/2019	2019-6/12
	43852	R428-2-10	AMD	09/19/2019	2019-15/10
health reform					
Transportation, Operations, Construction	44084	R916-5	EXD	09/17/2019	Not Printed
	44087	R916-5	EMR	09/18/2019	Not Printed
hearing procedures					
Workforce Services, Employment Development	43481	R986-100-117	AMD	06/01/2019	2019-3/33
hearings					
Administrative Services, Purchasing and General Services	43870	R33-17	5YR	07/08/2019	2019-15/41
Labor Commission, Adjudication	43574	R602-2-1	AMD	05/08/2019	2019-7/30
Pardons (Board of), Administration	44098	R671-201	5YR	09/23/2019	Not Printed
Help America Vote Act					
Lieutenant Governor, Elections	43494	R623-2	5YR	01/28/2019	2019-4/44
hemp extraction					
Agriculture and Food, Plant Industry	43571	R68-25	NSC	03/21/2019	Not Printed
hemp oil					
Agriculture and Food, Plant Industry	43571	R68-25	NSC	03/21/2019	Not Printed
hemp products					
Agriculture and Food, Plant Industry	43571	R68-25	NSC	03/21/2019	Not Printed
high occupancy toll lanes					
Transportation Commission, Administration	43841	R940-1	AMD	08/26/2019	2019-14/59
higher education					
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	43901	R765-604	5YR	07/17/2019	2019-16/107
	43405	R765-615	NEW	03/14/2019	2018-24/33

investment advisers					
Money Management Council, Administration	43503	R628-19	EXT	02/05/2019	2019-5/103
	43645	R628-19	5YR	04/12/2019	2019-9/87
investments					
Money Management Council, Administration	43815	R628-22	NEW	08/07/2019	2019-13/93
involuntary commitment					
Human Services, Substance Abuse and Mental Health	43850	R523-7	AMD	08/21/2019	2019-14/41
IRIS					
Technology Services, Administration	43681	R895-13	REP	06/21/2019	2019-10/105
IT bid committee					
Technology Services, Administration	43697	R895-9	5YR	05/02/2019	2019-11/45
IT standards council					
Technology Services, Administration	43697	R895-9	5YR	05/02/2019	2019-11/45
judges					
Judicial Performance Evaluation Commission, Administration	43501	R597-1	5YR	02/05/2019	2019-5/100
	43917	R597-1	R&R	09/23/2019	2019-16/55
	43500	R597-3	5YR	02/05/2019	2019-5/100
	43919	R597-3	R&R	09/23/2019	2019-16/59
judicial performance evaluations					
Judicial Performance Evaluation Commission, Administration	43501	R597-1	5YR	02/05/2019	2019-5/100
	43917	R597-1	R&R	09/23/2019	2019-16/55
	43500	R597-3	5YR	02/05/2019	2019-5/100
	43919	R597-3	R&R	09/23/2019	2019-16/59
judiciary					
Judicial Performance Evaluation Commission, Administration	43501	R597-1	5YR	02/05/2019	2019-5/100
	43917	R597-1	R&R	09/23/2019	2019-16/55
justice court classifications					
Judicial Performance Evaluation Commission, Administration	43601	R597-4	5YR	03/22/2019	2019-8/105
	43920	R597-4	R&R	09/23/2019	2019-16/66
justice court evaluations					
Judicial Performance Evaluation Commission, Administration	43601	R597-4	5YR	03/22/2019	2019-8/105
	43920	R597-4	R&R	09/23/2019	2019-16/66
justice court multiple election years					
Judicial Performance Evaluation Commission, Administration	43601	R597-4	5YR	03/22/2019	2019-8/105
	43920	R597-4	R&R	09/23/2019	2019-16/66
justice court multiple jurisdictions					
Judicial Performance Evaluation Commission, Administration	43601	R597-4	5YR	03/22/2019	2019-8/105
	43920	R597-4	R&R	09/23/2019	2019-16/66
juvenile courts					
Education, Administration	43702	R277-709	AMD	08/19/2019	2019-11/9
Juvenile Justice Services					
Human Services, Juvenile Justice Services	43804	R547-15	EMR	06/13/2019	2019-13/109
	43805	R547-15	NEW	09/23/2019	2019-13/91

System of Technical Colleges (Utah), Uintah Basin Technical College	43906	R961-3	NEW	09/23/2019	2019-16/98
weights and measures					
Agriculture and Food, Regulatory Services	44026	R70-910	5YR	08/30/2019	2019-18/89
	44027	R70-910	NSC	09/12/2019	Not Printed
well drillers license					
Natural Resources, Water Rights	43923	R655-4	5YR	07/27/2019	2019-16/106
wild turkey					
Natural Resources, Wildlife Resources	43951	R657-54	5YR	08/05/2019	2019-17/226
wildlife					
Natural Resources, Wildlife Resources	43431	R657-5	AMD	02/07/2019	2019-1/37
	43741	R657-5	AMD	07/22/2019	2019-12/79
	43430	R657-9	AMD	02/07/2019	2019-1/41
	43414	R657-11	AMD	01/24/2019	2018-24/25
	43816	R657-12	AMD	08/22/2019	2019-14/46
	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
	43724	R657-37	AMD	07/22/2019	2019-12/82
	43432	R657-38	AMD	02/07/2019	2019-1/44
	43736	R657-41	AMD	07/22/2019	2019-12/91
	43723	R657-44	AMD	07/22/2019	2019-12/100
	43726	R657-46	5YR	05/20/2019	2019-12/141
	43951	R657-54	5YR	08/05/2019	2019-17/226
	43639	R657-62	5YR	04/09/2019	2019-9/89
	43725	R657-62	AMD	07/22/2019	2019-12/104
	43498	R657-67	5YR	02/04/2019	2019-5/101
	43952	R657-68	5YR	08/05/2019	2019-17/226
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
	43816	R657-12	AMD	08/22/2019	2019-14/46
	43420	R657-13	AMD	01/24/2019	2018-24/27
	43491	R657-22	AMD	03/25/2019	2019-4/22
wildlife permits					
Natural Resources, Wildlife Resources	43736	R657-41	AMD	07/22/2019	2019-12/91
workers' compensation					
Labor Commission, Adjudication	43574	R602-2-1	AMD	05/08/2019	2019-7/30
working hubs					
Governor, Economic Development	43948	R357-25	NEW	09/23/2019	2019-16/32
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