

# UTAH STATE BULLETIN

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

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

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

Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Office of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-957-7110. Additional rulemaking information and electronic versions of all administrative rule publications are available at <https://rules.utah.gov/>.

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

Office of Administrative Rules, Salt Lake City 84114

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# EDITOR'S NOTES

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## **Duplicate Filing on Rule R277-500**

The Utah State Board of Education (USBE) filed a repeal of Rule R277-500, Educator Licensing Renewal, Timelines, and Required Fingerprint Background Checks, under Filing No. 52782 that was published in the June 1, 2020, Bulletin. This was made effective on 07/09/2020.

Another repeal of Rule R277-500 was filed and was published under Filing No. 52856 in the July 1, 2020, Bulletin. This duplicate filing has no effect. USBE will let it lapse.

*Any questions should be directed to: Angie Stallings at 801-538-7830 or at [angie.stallings@schools.utah.gov](mailto:angie.stallings@schools.utah.gov)*

**End of the Editor's Notes Section**





# EXECUTIVE DOCUMENTS

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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.

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## EXECUTIVE ORDER 2020-44

Adopting version 4.8 of the Phased Guidelines for the General Public and Businesses to Maximize Public Health and Economic Reactivation

**WHEREAS**, on March 6, 2020, I issued Executive Order 2020-1, declaring a state of emergency to facilitate the State's response to novel coronavirus disease 2019 (COVID-19);

**WHEREAS**, on March 13, 2020, Donald J. Trump, President of the United States, issued the Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak;

**WHEREAS**, COVID-19 is caused by a virus that spreads easily from person to person, may result in serious illness or death, and has been characterized by the World Health Organization as a worldwide pandemic;

**WHEREAS**, the State must establish minimum standards to address a statewide emergency and recognizes the need for local authorities to impose directives and orders to address the unique circumstances in different locations in Utah;

**WHEREAS**, the Utah Department of Health has released and updated the Phased Guidelines for the General Public and Businesses to Maximize Public Health and Economic Reactivation, which provide a color-coded health guidance system comprising four levels of activity designated as Red (High Risk), Orange (Moderate Risk), Yellow (Low Risk), and Green (Normal Risk) (hereinafter, "Utah COVID-19 Health Risk Status"), where Red is most restrictive, and each level of guidance after Red becomes progressively less restrictive and more economically engaged while still protecting public health;

**WHEREAS**, the Utah Department of Health has updated the Phased Guidelines for the General Public and Businesses to Maximize Public Health and Economic Reactivation to version 4.8;

**WHEREAS**, the Utah Department of Health has determined that the Utah COVID-19 Health Risk Status set forth in Executive Order 2020-40 should be maintained to protect public health throughout the state;

**WHEREAS**, Utah Code § 53-2a-209(1) provides that orders issued by the governor under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act, have the "full force and effect of law";

**WHEREAS**, Utah Code § 53-2a-204(1)(a) authorizes the governor to utilize all available resources of state government as reasonably necessary to cope with a state of emergency; and

**WHEREAS**, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary for the purpose of securing compliance with orders made pursuant to the Disaster Response and Recovery Act:

**NOW, THEREFORE**, I, Gary R. Herbert, Governor of the State of Utah, hereby order the following:

1. As used in this Order, "Phased Guidelines" means the Phased Guidelines for the General Public and Businesses to Maximize Public Health and Economic Reactivation version 4.8.
2. The Utah COVID-19 Public Health Risk Status is:
  - a. Orange (Moderate Risk) in Salt Lake City;
  - b. Green (Normal Risk) in Beaver County, Daggett County, Duchesne County, Emery County, Garfield County, Kane County, Millard County, Piute County, Uintah County, and Wayne County; and
  - c. Yellow (Low Risk) in each area of the State not identified in Subsection (2)(a) or (2)(b).
3. The provisions of the Phased Guidelines apply as follows:
  - a. An individual or business in an area identified in Subsection (2)(a) shall comply with the Orange (Moderate Risk) provisions of the Phased Guidelines;
  - b. An individual or business in an area identified in Subsection (2)(b) shall comply with the Green (Normal Risk) provisions of the Phased Guidelines;
  - c. An individual or business in an area identified in Subsection (2)(c) shall comply with the Yellow (Low Risk) provisions of the Phased Guidelines; and
  - d. Notwithstanding any other provision of Section (3), any reference in the Phased Guidelines to the use of a mask or face covering is adopted:
    - i. as an order for:
      - A. each individual who is acting in the capacity as an employee of a business when the individual is unable to maintain a distance of six feet from another individual; and
      - B. each individual in a healthcare setting; and
    - ii. as a strong recommendation for any individual not identified in Subsection (3)(d)(i).
4. A political subdivision desiring an exception to this Order or the Phased Guidelines or desiring to move to Green (Normal Risk) shall submit the request and justification for the request through the applicable Local Health Department to the Utah Department of Health. The Utah Department of Health shall consult with the Office of the Governor as necessary.
5. This Order rescinds and replaces Executive Order 2020-40.

This Order is declared effective immediately and shall remain in effect until 11:59 p.m. on August 7, 2020, unless otherwise lawfully modified, amended, rescinded, or superseded.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 17th day of July, 2020.

(State Seal)

**Gary R. Herbert**  
Governor

ATTEST:

**Spencer J. Cox**  
Lieutenant Governor

2020/044/EO

**EXECUTIVE ORDER**  
**2020-45**

Extending Face Coverings Requirement in State Facilities

**WHEREAS**, on March 6, 2020, I issued Executive Order 2020-1, declaring a state of emergency to facilitate the State's response to novel coronavirus disease 2019 (COVID-19);

**WHEREAS**, on March 13, 2020, Donald J. Trump, President of the United States, issued the Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak;

**WHEREAS**, COVID-19 is caused by a virus that spreads easily from person to person, may result in serious illness or death, and has been characterized by the World Health Organization as a worldwide pandemic;

**WHEREAS**, COVID-19 can spread between individuals in close proximity through respiratory droplets produced when an infected individual speaks, coughs, or sneezes;

**WHEREAS**, an infected individual can transmit COVID-19 even if the individual does not present symptoms or know that the individual is infected;

**WHEREAS**, the United States Centers for Disease Control and Prevention and the Utah Department of Health have recommended the use of face masks or other face coverings to mitigate the transmission of COVID-19;

**WHEREAS**, on June 27, 2020, the Utah Transit Authority issued a directive requiring its employees and public transit riders to wear masks or face coverings to protect public health;

**WHEREAS**, the Utah Department of Health and I have determined that it is appropriate to continue to require individuals, including employees and members of the public, to wear face coverings while in state facilities to protect public health;

**WHEREAS**, Utah Code § 53-2a-209(1) provides that orders issued by the governor under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act, have the "full force and effect of law";

**WHEREAS**, Utah Code § 53-2a-204(1)(a) authorizes the governor to utilize all available resources of state government as reasonably necessary to cope with a state of emergency; and

**WHEREAS**, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary for the purpose of securing compliance with orders made pursuant to the Disaster Response and Recovery Act;

**NOW, THEREFORE**, I, Gary R. Herbert, Governor of the State of Utah, hereby order the following:

1. As used in this Order:
  - a. "Face covering" means a covering, without holes that can be seen through, that covers the nose and mouth, including a cloth mask or face shield.
  - b.i. "State facility" means a building or structure, or part thereof, that is owned, leased, occupied, or controlled by the state or a state governmental entity.
  - ii. "State facility" does not mean:
    - A. a state prison or state community correctional center;
    - B. a detention facility or secure facility operated by the Division of Juvenile Justice Services; or
    - C. a building or structure, or part thereof, that is owned, leased, occupied, or controlled exclusively by:
      - I. the legislative branch of the state;
      - II. the judicial branch of the state;
      - III. the Attorney General's Office;
      - IV. the State Auditor's Office;
      - V. the State Treasurer's Office; or
      - VI. an independent entity as defined in Utah Code § 63E-1-102.
  - c. "State governmental entity" means any department, board, commission, institution, agency, or institution of higher education of the state.
2. Each individual in a state facility shall wear a face covering, except as provided in Section (3).
3. Section (2) does not apply to:
  - a. a child who:
    - i. is in a childcare setting;
    - ii. is younger than three years old; or
    - iii. is three years old or older if the parent, guardian, or individual responsible for caring for the child cannot place the face covering safely on the child's face;
  - b. an individual with a medical condition, mental health condition, or disability that prevents wearing a face covering, including an individual with a medical condition for whom wearing a face covering could cause harm or obstruct breathing, or who is unconscious, incapacitated, or otherwise unable to remove a face covering without assistance;

EXECUTIVE DOCUMENTS

- c. an individual who is deaf or hard of hearing, or communicating with an individual who is deaf or hard of hearing, where the ability to see the mouth is essential for communication, in which case a face shield or alternative protection such as a plexiglass barrier should be used;
- d. an individual who is receiving or providing a service involving the nose or face for which temporary removal of the face covering is necessary to perform the service;
- e. an individual who is outdoors;
- f. an individual in a vehicle;
- g. an individual who is actively engaged in any of the following activities while maintaining a physical distance of at least six feet from any other individual who is not from the same household or residence:
  - i. using an indoor recreational facility; or
  - ii. eating or drinking; or
  - h. a state employee who is not speaking in person with any other individual and who:
    - i. is the sole occupant of a fully enclosed room or office;
    - ii. is the sole occupant of a partially enclosed room, office, or similar space, including a cubicle, that is enclosed on at least three sides by walls or other physical barriers or dividers of a height that reaches no lower than the top of the employee's head when the employee is seated; or
    - iii. is seated or stationary, and maintains a physical distance of at least six feet from any other individual.
- 4.a. Except as provided in Subsections (4)(b) and (4)(c), a state governmental entity may not require an individual to provide medical documentation verifying the basis for an exemption under Subsection (3)(b).
- b. A state governmental entity may require an individual employed by the state governmental entity to provide medical documentation verifying the basis for an exemption under Subsection (3)(b).
- c. A state institution of higher education may require an individual who is enrolled as a student of the state institution of higher education to provide medical documentation verifying the basis for an exemption under Subsection (3)(b).
- 5. A state governmental entity may refuse to provide in-person service to any individual who does not wear a mask in a state facility of the state governmental entity if:
  - a. an alternative means of service is available;
  - b. the state governmental entity specifies to the individual how to access the alternative means of service; and
  - c. the state governmental entity determines that the individual has reasonable access to the alternative means of service.
- 6. The Utah Department of Corrections shall implement requirements regarding the wearing of face coverings in a state prison or state community correctional center.
- 7. The Division of Juvenile Justice Services shall implement requirements regarding the wearing of face coverings in a detention facility or secure facility operated by the Division of Juvenile Justice Services.
- 8. This Order rescinds and replaces Executive Order 2020-41.

This Order is declared effective immediately and shall remain in effect until 11:59 p.m. on August 7, 2020, or until otherwise lawfully modified, amended, rescinded, or superseded.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 23rd day of July, 2020.

(State Seal)

**Gary R. Herbert**  
**Governor**

ATTEST:

**Spencer J. Cox**  
**Lieutenant Governor**

2020/045/EO

**EXECUTIVE ORDER  
2020-46**

Adopting Version 4.9 of the Phased Guidelines for the General Public and Businesses to Maximize Public Health and Economic  
Reactivation

**WHEREAS**, on March 6, 2020, I issued Executive Order 2020-1, declaring a state of emergency to facilitate the State's response to novel coronavirus disease 2019 (COVID-19);

**WHEREAS**, on March 13, 2020, Donald J. Trump, President of the United States, issued the Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak;

**WHEREAS**, COVID-19 is caused by a virus that spreads easily from person to person, may result in serious illness or death, and has been characterized by the World Health Organization as a worldwide pandemic;

**WHEREAS**, the State must establish minimum standards to address a statewide emergency and recognizes the need for local authorities to impose directives and orders to address the unique circumstances in different locations in Utah;

**WHEREAS**, the Utah Department of Health has released and updated the Phased Guidelines for the General Public and Businesses to Maximize Public Health and Economic Reactivation, which provide a color-coded health guidance system (hereinafter, "Utah COVID-19 Health Risk Status"), to guide economic engagement while still protecting public health;

**WHEREAS**, the Utah Department of Health has updated the Phased Guidelines for the General Public and Businesses to Maximize Public Health and Economic Reactivation to version 4.9;

**WHEREAS**, the Utah Department of Health has determined that the Utah COVID-19 Health Risk Status set forth in Executive Order 2020-44 should be maintained to protect public health throughout the state;

**WHEREAS**, Utah Code § 53-2a-209(1) provides that orders issued by the governor under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act, have the "full force and effect of law";

**WHEREAS**, Utah Code § 53-2a-204(1)(a) authorizes the governor to utilize all available resources of state government as reasonably necessary to cope with a state of emergency; and

**WHEREAS**, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary for the purpose of securing compliance with orders made pursuant to the Disaster Response and Recovery Act:

**NOW, THEREFORE**, I, Gary R. Herbert, Governor of the State of Utah, hereby order the following:

1. As used in this Order:
  - a. "Person" means the same as that term is defined in Utah Code § 68-3-12.5(18).
  - b. "Phased Guidelines" means the Phased Guidelines for the General Public and Businesses to Maximize Public Health and Economic Reactivation version 4.9.
2. The Utah COVID-19 Public Health Risk Status is:
  - a. Moderate Risk (Orange) in Salt Lake City;
  - b. New Normal Risk (Green) in Beaver County, Daggett County, Duchesne County, Emery County, Garfield County, Kane County, Millard County, Piute County, Uintah County, and Wayne County; and
  - c. Low Risk (Yellow) in each area of the State not identified in Subsection (2)(a) or (2)(b).
3. The provisions of the Phased Guidelines apply as follows:
  - a. Each person in an area identified in Subsection (2)(a) shall comply with the Moderate Risk (Orange) provisions of the Phased Guidelines;
  - b. Each person in an area identified in Subsection (2)(b) shall comply with the New Normal Risk (Green) provisions of the Phased Guidelines;
  - c. Each person in an area identified in Subsection (2)(c) shall comply with the Low Risk (Yellow) provisions of the Phased Guidelines; and
  - d. Notwithstanding any other provision of Section (3), any reference in the Phased Guidelines to the use of a mask or face covering is adopted:
    - i. as an order for:
      - A. each individual who is acting in the capacity as an employee of a business when the individual is unable to maintain a distance of six feet from another individual; and
      - B. each individual in a healthcare setting; and

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ii. as a strong recommendation for any individual not identified in Subsection (3)(d)(i).

4. A political subdivision desiring an exception to this Order or the Phased Guidelines or desiring to move to New Normal Risk (Green) shall submit the request and justification for the request through the applicable Local Health Department to the Utah Department of Health. The Utah Department of Health shall consult with the Office of the Governor as necessary.

5. This Order rescinds and replaces Executive Order 2020-44.

6. To the extent that any provision of this Order conflicts with a provision of Executive Order 2020-45 or Utah Public Health Order 2020-10, the provision of Executive Order 2020-45 or Utah Public Health Order 2020-10 shall control.

This Order is declared effective immediately and shall remain in effect until 11:59 p.m. on August 7, 2020, unless otherwise lawfully modified, amended, rescinded, or superseded.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 27th day of July, 2020.

(State Seal)

**Gary R. Herbert**  
**Governor**

ATTEST:

**Spencer J. Cox**  
**Lieutenant Governor**

2020/046/EO

**End of the Executive Documents Section**

## NOTICES OF PROPOSED RULES

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A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between July 02, 2020, 12:00 a.m., and July 15, 2020, 11:59 p.m. are included in this, the August 01, 2020, 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 August 31, 2020. 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 November 29, 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.

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

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal and Reenact		
Utah Admin. Code Ref (R no.):	R25-7	Filing No. 52867

**Agency Information**

<b>1. Department:</b>	Administrative Services	
<b>Agency:</b>	Finance	
<b>Building:</b>	Taylorsville State Office Building	
<b>Street address:</b>	4315 S 2700 W FL 3	
<b>City, state:</b>	Taylorsville, UT 84129-2128	
<b>Mailing address:</b>	PO Box 141031	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-1031	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
John Reidhead	801-957-7734	jreidhead@utah.gov
Cory Weeks	801-957-7713	cweeks@utah.gov

Please address questions regarding information on this notice to the agency.

**General Information**

<b>2. Rule or section catchline:</b>
R25-7. Travel-Related Reimbursements for State Employees
<b>3. Purpose of the new rule or reason for the change:</b>
The reason for the repeal and reenactment is to clarify the language of the original rule and clean up some formatting issues. Also, there was an increase in some hotel costs for in-state travel. This change also has modifications to language that indicate this rule's application to political subdivisions.
<b>4. Summary of the new rule or change:</b>
The reenacted rule clarifies state travel and reimbursement for people traveling in-state, and out-of-state. This rule also allows the increase in costs for some in-state hotels. This rule change also has modifications to language that indicate the rule's application to political subdivisions. (EDITOR'S NOTE: There is a corresponding emergency (120-day) rule change to Rule R25-7 that is effective as of 07/01/2020 and was published under Filing No. 52914 in the July 15, 2020, issue of the Bulletin.)

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There could potentially be an increase in costs to the state as some hotel rates have increased, making reimbursement higher for travelers who stay in these hotels. However, the Division of Finance (Division) cannot determine exactly what the increase for hotel reimbursements will be because it is impossible to anticipate how many travelers will stay at hotels that have increased their rates.
<b>B) Local governments:</b>
Local governments have to comply with this rule, so there could potentially be an increase in costs to local governments for reimbursement to travelers who stay at a hotel that has increased their rates. However, the Division cannot determine exactly what the increase for hotel reimbursement for local government travelers will be because it is impossible to anticipate how many local travelers will stay in hotels that have increased their rates.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
This rule change clarifies the language in the original rule, and increases rates for some in-state hotels, but only deals with government travelers, small businesses will not be affected.
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>
Because this rule only deals with government travelers, non-small businesses will not be affected.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):</b>
Individuals being reimbursed for some in-state hotels, may notice a higher reimbursement, because some in-state hotels increased their rates.
<b>F) Compliance costs for affected persons:</b>
Because the repeal and reenactment only clarifies the language in the original rule, and also changes some in-state hotel rates, it does not require any new action on the part of persons applying for reimbursements, there are no compliance costs.
<b>G) Regulatory Impact Summary Table (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 will be included in narratives above.)</b>



Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head approval of regulatory impact analysis:</b>			
I have reviewed the regulatory table, and there are not fiscal impacts associated with this rule update or change. Tani Pack Downing.			
<b>6. A) Comments by the department head on the fiscal impact this rule may have on businesses:</b>			
I have reviewed these changes to this rule with the Division of Finance Director and believe these changes are warranted. Individuals may see an increase in their travel reimbursement. However, the Division cannot determine exactly what the increase will be as that increase will depend on the traveler staying in an in-state hotel that increased their rate.			
<b>B) Name and title of department head commenting on the fiscal impacts:</b>			
Tani Pack Downing, Executive Director			

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state**

**and federal laws. State code or constitution citations (required):**  
 Section 63A-3-107 | Section 63A-3-106

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2020

**10. This rule change MAY become effective on:** 09/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

**Agency head or designee, and title:** John Reidhead, Director  
**Date:** 07/08/2020

**R25. Administrative Services, Finance.**

~~**R25-7. Travel Related Reimbursements for State Employees.**~~

~~**R25-7-1. Purpose.**~~

~~The purpose of this rule is to establish procedures to be followed by departments to pay travel related reimbursements to state employees.~~

~~**R25-7-2. Authority and Exemptions.**~~

~~This rule is established pursuant to:~~

~~(1) Section 63A-3-107, which authorizes the Division of Finance to make rules governing in-state and out-of-state travel expenses; and~~

~~(2) Section 63A-3-106, which authorizes the Division of Finance to make rules governing meeting per diem and travel expenses for board members attending official meetings.~~

~~**R25-7-3. Definitions.**~~

~~(1) "Agency" means any department, division, commission, council, board, bureau, committee, office, or other administrative subunit of state government.~~

~~(2) "Board" means a board, commission, council, committee, task force, or similar body established to perform a governmental function.~~

~~(3) "Department" means all executive departments of state government.~~

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- ~~(4) "Finance" means the Division of Finance.~~
- ~~(5) "Home Base" means the location the employee leaves from and/or returns to.~~
- ~~(6) "Per diem" means an allowance paid daily.~~
- ~~(7) "Policy" means the policies and procedures of the Division of Finance, as published in the "Accounting Policies and Procedures."~~
- ~~(8) "Rate" means an amount of money.~~
- ~~(9) "Reimbursement" means money paid to compensate an employee for money spent.~~
- ~~(10) "State employee" means any person who is paid on the state payroll system.~~

**R25-7-4. Eligible Expenses.**

- ~~(1) Reimbursements are intended to cover all normal areas of expense.~~
- ~~(2) Requests for reimbursement must be accompanied by original receipts for all expenses except those for which flat allowance amounts are established.~~
- ~~(3) Alcoholic Beverages are not reimbursable.~~

**R25-7-5. Approvals.**

- ~~(1) For insurance purposes, all state business travel, whether reimbursed by the state or not, must have prior approval by an appropriate authority. This also includes non-state employees where the state is paying for the travel expenses.~~
- ~~(2) Both in state and out of state travel must be approved by the Executive Director or designee. The approval of in state travel reimbursement forms may be considered as documentation of prior approval for in state travel. Prior approval for out of state travel should be documented on form FI5 "Request for Out of State Travel Authorization", in the State's ESS Travel system or another system with equivalent controls and calculations.~~
- ~~(3) Exceptions to the prior approval for out of state travel must be justified in the comments section of the Request for Out of State Travel Authorization, form FI 5, in the State's ESS Travel system; another system with equivalent controls and calculations or on an attachment, and must be approved by the Department Director or the designee.~~
- ~~(4) The Department Director, the Executive Director, or the designee must approve all travel to out of state functions where more than two employees from the same department are attending the same function at the same time.~~

**R25-7-6. Reimbursement for Meals.**

- ~~(1) State employees who travel on state business may be eligible for a meal reimbursement.~~
- ~~(2) The reimbursement will include tax, tips, and other expenses associated with the meal.~~
- ~~(3) Allowances for in state travel differ from those for out of state travel.~~
  - ~~(a) The daily travel meal allowance for in state travel is \$45.00 and is computed according to the rates listed in the following table:~~

TABLE 1

In State Travel Meal Allowances

Meals	Rate
Breakfast	\$11.00
Lunch	\$14.00

Dinner	\$20.00
Total	\$45.00

- ~~(b) The daily travel meal allowance for out of state travel is \$50.00 and is computed according to the rates listed in the following table:~~

TABLE 2

Out of State Travel Meal Allowances

Meals	Rate
Breakfast	\$13.00
Lunch	\$14.00
Dinner	\$23.00
Total	\$50.00

- ~~(4) When traveling to a Tier I premium location (Anchorage, Chicago, Hawaii, New York City, San Francisco, and Seattle), the traveler may choose to accept the per diem rate for out of state travel (as shown above) or to be reimbursed at the actual meal cost, with original receipts, up to \$71 per day.~~

~~When traveling to a Tier II premium location (Atlanta, Baltimore, Boston, Dallas, Los Angeles, San Diego, and Washington, DC), the traveler may choose to accept the per diem rate for out of state travel (as shown above) or to be reimbursed at the actual meal cost, with original receipts, up to \$61 per day.~~

- ~~(a) The traveler will qualify for premium rates on the day the travel begins and/or the day the travel ends only if the trip is of sufficient duration to qualify for all meals on that day.~~

~~(b) Complimentary meals of a hotel, motel and/or association and meals included in registration costs are deducted from the premium location allowance as follows:~~

~~Tier I Location~~

- ~~(i) If breakfast is provided deduct \$18, leaving a premium allowance for lunch and dinner of actual up to \$53.~~
- ~~(ii) If lunch is provided deduct \$19, leaving a premium allowance for breakfast and dinner of actual up to \$52.~~
- ~~(iii) If dinner is provided deduct \$34, leaving a premium allowance for breakfast and lunch of actual up to \$37.~~

~~Tier II Location~~

- ~~(i) If breakfast is provided deduct \$16, leaving a premium allowance for lunch and dinner of actual up to \$45.~~
- ~~(ii) If lunch is provided deduct \$17, leaving a premium allowance for breakfast and dinner of actual up to \$44.~~
- ~~(iii) If dinner is provided deduct \$28, leaving a premium allowance for breakfast and lunch of actual up to \$33.~~

~~(c) The traveler must use the same method of reimbursement for an entire day.~~

~~(d) Actual meal cost includes tips.~~

~~(5) When traveling in foreign countries, the traveler may choose to accept the per diem rate for out of state travel (as shown above) or to be reimbursed the actual meal cost, with original receipts, not to exceed the federal reimbursement rate for the location as of the date of travel.~~

~~(a) The traveler may use both reimbursement methods during a trip; however, they must use the same method of reimbursement for an entire day.~~

~~(b) Actual meal cost includes tips.~~

~~(6) The meal reimbursement calculation is comprised of three parts:~~

~~(a) The day the travel begins. The traveler's entitlement is determined by the time of day the traveler leaves their home base (the~~

location the employee leaves from and/or returns to), as illustrated in the following table.

TABLE 3

The Day Travel Begins

1st Quarter a.m. 12:00 5:59 *B, L, D In State \$45.00 Out of State \$50.00	2nd Quarter a.m. 6:00 11:59 *L, D \$34.00	3rd Quarter p.m. 12:00 5:59 *D \$20.00	4th Quarter p.m. 6:00 11:59 *no meals \$0 \$0
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\*B = Breakfast, L = Lunch, D = Dinner

(b) The days at the location.

(i) Complimentary meals of a hotel, motel, and/or association and meals included in the registration cost are deducted from the total daily meal allowance. However, continental breakfasts will not reduce the meal allowance. Please Note: For breakfast, if a hot food item is offered, it is considered a complimentary meal, no matter how it is categorized by the hotel/conference facility. The meal is considered a "continental breakfast" if no hot food items are offered.

(ii) Meals provided on airlines will not reduce the meal allowance.

(c) The day the travel ends. The meal reimbursement the traveler is entitled to is determined by the time of day the traveler returns to their home base, as illustrated in the following table.

TABLE 4

The Day Travel Ends

1st Quarter a.m. 12:00 5:59 *no meals In State \$0	2nd Quarter a.m. 6:00 11:59 *B \$11.00	3rd Quarter p.m. 12:00 5:59 *B, L \$25.00	4th Quarter p.m. 6:00 11:59 *B, L, D \$45.00
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\*B = Breakfast, L = Lunch, D = Dinner

(7) An employee may be authorized by the Department Director or designee to receive a taxable meal allowance when the employee's farthest destination is at least 100 miles one way from their home base and the employee does not stay overnight.

(a) Breakfast is paid when the employee leaves their home base before 6:00 a.m.

(b) Lunch is paid when the trip meets one of the following requirements:

(i) The employee is on an officially approved trip that warrants entitlement to breakfast and dinner.

(ii) The employee leaves their home base before 10 a.m. and returns after 2 p.m.

(iii) The Department Director provides prior written approval based on circumstances.

(c) Dinner is paid when the employee leaves their home base and returns at or after 6:00 p.m.

(d) The allowance is not considered an absolute right of the employee and is authorized at the discretion of the Department Director or designee.

**R25 7 7. Meals for Statutory Non-Salaried State Boards.**

(1) When a board meets and conducts business activities during mealtime, the cost of meals may be charged as public expense.

(2) Where salaried employees of the State of Utah or other advisors or consultants must, of necessity, attend such a meeting in order to permit the board to carry on its business, the meals of such employees, advisors, or consultants may also be paid. In determining whether or not the presence of such employees, advisors, or consultants is necessary, the boards are requested to restrict the attendance of such employees, advisors, or consultants to those absolutely necessary at such mealtime meetings.

**R25 7 8. Reimbursement for Lodging.**

State employees who travel on state business may be eligible for a lodging reimbursement.

(1) For stays at a conference hotel, the state will reimburse the actual cost plus tax and any mandatory fees charged by the hotel for both in-state and out-of-state travel. The traveler must include the conference registration brochure with the Travel Reimbursement Request, form FI 51A, FI 51B, or ESS Travel.

(2) For in-state lodging at a non-conference hotel, the state will reimburse the actual cost up to \$70 per night for single occupancy plus tax and any mandatory fees charged by the hotel except as noted in the table below:

TABLE 5

Cities with Differing Rates

Beaver	\$75.00 plus tax and mandatory fees
Blanding	\$75.00 plus tax and mandatory fees
Bluff	\$95.00 plus tax and mandatory fees
Brigham City	\$80.00 plus tax and mandatory fees
Bryce Canyon City	\$80.00 plus tax and mandatory fees
Cedar City	\$80.00 plus tax and mandatory fees
Duchesne	\$90.00 plus tax and mandatory fees
Ephraim	\$80.00 plus tax and mandatory fees
Farmington	\$90.00 plus tax and mandatory fees
Fillmore	\$80.00 plus tax and mandatory fees
Garden City	\$80.00 plus tax and mandatory fees
Hanksville	\$85.00 plus tax and mandatory fees
Heber	\$85.00 plus tax and mandatory fees
Kanab	\$90.00 plus tax and mandatory fees

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Layton	\$90.00 plus tax and mandatory fees
Logan	\$85.00 plus tax and mandatory fees
Mexican Hat	\$90.00 plus tax and mandatory fees
Moab/Green River	\$110.00 plus tax and mandatory fees
Monticello	\$80.00 plus tax and mandatory fees
Ogden	\$90.00 plus tax and mandatory fees
Panguitch	\$75.00 plus tax and mandatory fees
Park City/Midway	\$110 plus tax and mandatory fees
Price	\$75.00 plus tax and mandatory fees
Provo/Orem/Lehi/American Fork/ Springville	\$85.00 plus tax and mandatory fees
Roosevelt/Ballard	\$90.00 plus tax and mandatory fees
Salt Lake City Metropolitan Area (Draper to Centerville), Tooele	\$100.00 plus tax and mandatory fees
St. George/Washington/Springdale/ Hurricane/La Verkin	\$85.00 plus tax and mandatory fees
Torrey	\$90.00 plus tax and mandatory fees
Tremonton	\$90.00 plus tax and mandatory fees
Vernal	\$95.00 plus tax and mandatory fees
All Other Utah Cities	\$70.00 plus tax and mandatory fees

(3) State employees traveling less than 50 miles from their home base are not entitled to lodging reimbursement. Miles are calculated from either the departure home base or from the destination to the traveler's home base. The traveler may leave from one home base and return to a different home base. For example, if the traveler leaves from their residence, then the home base for departure calculations is their residence. If the traveler returns to where they normally work (ie. Cannon Health Building), then the home base for arrival calculations is the Cannon Health Building.

(a) In some cases, agencies must use judgment to determine a traveler's home base. The following are some things to consider when determining a traveler's home base.

(i) Is the destination less than 50 miles from the traveler's home or normal work location? If the destination is less than 50 miles from either the traveler's home or from their normal work location, then generally the employee should not be reimbursed for lodging.

(ii) Is there a valid business reason for the traveler to go to the office (or to some other location) before driving to the destination?

(iii) Is the traveler required to work at the destination the next day?

(iv) Is the traveler going directly home after the trip, or is there a valid business reason for the traveler to first go to the office (or to some other location)?

(v) Even if "it is not specifically against policy", would the lodging be considered necessary, reasonable and in the best interest of the State?

(4) When the State of Utah pays for a person from out of state to travel to Utah, the in state lodging per diem rates will apply.

(5) For out of state travel stays at a non-conference hotel, the state will reimburse the actual cost per night plus tax and any mandatory fees charged by the hotel, not to exceed the federal lodging rate for the location. These reservations must be made through the State Travel Office.

(6) The state will reimburse the actual cost per night plus tax and any mandatory fees charged by the hotel for in state or out of state travel stays where the department/traveler makes reservations through the State Travel Office.

If lodging is not available at the allowable per diem rate in the area the employee needs to stay, the State Travel Office will book a hotel with the best available rate. In this circumstance, the employee will be reimbursed at the actual rate booked.

If an employee chooses to stay at a hotel that costs more than the allowable per diem rate, the employee will only be reimbursed for the allowable per diem rate plus tax and any mandatory fees charged by the hotel. These instances will be audited 100% by the State Finance Post Auditors for State Government travel.

(7) Lodging is reimbursed at the rates listed in Table 5 for single occupancy only. For double state employee occupancy, add \$20, for triple state employee occupancy, add \$40, for quadruple state employee occupancy, add \$60.

(8) Exceptions will be allowed for unusual circumstances when approved in writing by the traveler's Department Director or designee prior to the trip.

(a) For out of state travel, the approval may be on the form FI 5, in the State's ESS Travel system or another system with equivalent controls and calculations.

(b) Attach the written approval to the Travel Reimbursement Request, form FI 51B, FI 51D, or ESS Travel.

(9) A proper receipt for lodging accommodations must accompany each request for reimbursement.

A proper receipt is a copy of the registration form generally used by motels and hotels which includes the following information: name of motel/hotel, street address, town and state, telephone number, current date, name of person/persons staying at the motel/hotel, date(s) of occupancy, amount and date paid, number in the party, and (single, double, triple, or quadruple occupancy).

(10) When lodging is required, travelers should stay at the lodging facility nearest to the meeting/training/work location where state lodging per diem rates are accepted in order to minimize transportation costs.

(11) Travelers may also elect to stay with friends or relatives or use their personal campers or trailer homes instead of staying in a hotel.

(a) With proof of staying overnight away from home on approved state business, the traveler will be reimbursed the following:

(i) \$25 per night with no receipts required or

(ii) Actual cost up to \$40 per night with a signed receipt from a facility such as a campground or trailer park, not from a private residence.

(12) Travelers who are on assignment away from their home base for longer than 90 days will be reimbursed as follows:

- ~~\_\_\_\_\_ (a) First 30 days follow regular rules for lodging and meals. Lodging receipt is required.~~
- ~~\_\_\_\_\_ (b) After 30 days \$46 per day for lodging and meals. No receipt is required.~~

**R25-7-9. Reimbursement for Incidentals.**

~~\_\_\_\_\_ State employees who travel on state business may be eligible for a reimbursement for incidental expenses.~~

~~\_\_\_\_\_ (1) Travelers will be reimbursed for actual out-of-pocket costs for incidental items such as baggage tips, maid service, and bellman. Gratuities/tips for various services such as assistance with baggage, maid service, and bellman, may be reimbursed up to a combined maximum of \$5.00 per day.~~

~~\_\_\_\_\_ (a) Include an original receipt for each individual incidental item above \$19.99.~~

~~\_\_\_\_\_ (2) The state will reimburse incidental ground transportation and parking expenses.~~

~~\_\_\_\_\_ (a) Travelers shall document all official business use of taxi, bus, parking, and other ground transportation including dates, destinations, parking locations, receipts, and amounts.~~

~~\_\_\_\_\_ (b) Personal use of such transportation to restaurants is not reimbursable.~~

~~\_\_\_\_\_ (c) The maximum that airport parking will be reimbursed is the economy lot parking rate at the airport they are flying out of. A receipt is required for amounts of \$20 or more.~~

~~\_\_\_\_\_ (d) Gratuities/Tips for ground transportation (taxi/shuttle/rideshare) will be reimbursed up to the greater of \$5 or 18% for each ride. Gratuities/Tips must be shown on an original receipt.~~

~~\_\_\_\_\_ (3) Registration should be paid in advance on a state warrant, or with a state purchasing card.~~

~~\_\_\_\_\_ (a) A copy of the approved FI 5 form must be included with the Payment Voucher for out-of-state registrations.~~

~~\_\_\_\_\_ (b) If a traveler must pay the registration when they arrive, the agency is expected to process a Payment Voucher and have the traveler take the state warrant with them.~~

~~\_\_\_\_\_ (4) Telephone calls related to state business are reimbursed at the actual cost.~~

~~\_\_\_\_\_ (a) The traveler shall list the amount of these calls separately on the Travel Reimbursement Request, form FI 51A, FI 51B, or ESS Travel.~~

~~\_\_\_\_\_ (b) The traveler must provide an original lodging receipt or original personal phone bill showing the phone number called and the dollar amount for business telephone calls and personal telephone calls.~~

~~\_\_\_\_\_ (5) Allowances for personal telephone calls made while out of town on state business overnight may be based on the number of nights away from home. The traveler must provide an original lodging receipt or original personal phone bill showing the phone number called and the dollar amount for personal telephone calls.~~

~~\_\_\_\_\_ (a) Four nights or less actual amount up to \$2.50 per night.~~

~~\_\_\_\_\_ (b) Five to eleven nights actual amount up to \$20.00~~

~~\_\_\_\_\_ (c) Twelve nights to thirty nights actual amount up to \$30.00~~

~~\_\_\_\_\_ (d) More than thirty days start over~~

~~\_\_\_\_\_ (6) Actual laundry expenses up to \$18.00 per week will be allowed for trips in excess of six consecutive nights, beginning after the sixth night out.~~

~~\_\_\_\_\_ (a) The traveler must provide receipts for the laundry expense.~~

~~\_\_\_\_\_ (b) For use of coin-operated laundry facilities, the traveler must provide a list of dates, locations, and amounts.~~

~~\_\_\_\_\_ (7) An amount of \$5 per day will be allowed for travelers away in excess of six consecutive nights beginning after the sixth night out.~~

~~\_\_\_\_\_ (a) This amount covers miscellaneous incidentals not covered in this rule.~~

~~\_\_\_\_\_ (b) This allowance is not available for travelers going to conferences.~~

~~\_\_\_\_\_ (8) Travel on a Weekend during Trips of More Than 10 Nights' Duration A department may provide for employees to return home on a weekend when a trip extends longer than ten nights. Reimbursements may be given for costs allowed by these policies.~~

**R25-7-10. Reimbursement for Transportation.**

~~\_\_\_\_\_ State employees who travel on state business may be eligible for a transportation reimbursement.~~

~~\_\_\_\_\_ (1) Air transportation is limited to Air Coach or Excursion class. Priority seating charges will not be reimbursed unless preapproved by the department director or designee.~~

~~\_\_\_\_\_ (a) All reservations (in state and out of state) should be made through the State Travel Office for the least expensive air fare available at the time reservations are made.~~

~~\_\_\_\_\_ (b) Only one change fee per trip will be reimbursed.~~

~~\_\_\_\_\_ (c) The explanation for the change and any other exception to this rule must be given and approved by the Department Director or designee.~~

~~\_\_\_\_\_ (2) Travelers may be reimbursed for mileage to and from the airport and long-term parking or away from the airport parking.~~

~~\_\_\_\_\_ (a) The maximum reimbursement for parking, whether travelers park at the airport or away from the airport, is the long-term parking rate at the airport they are flying out of.~~

~~\_\_\_\_\_ (b) The parking receipt must be included with the Travel Reimbursement Request, form FI 51A, FI 51B, or ESS Travel for amounts of \$20 or more.~~

~~\_\_\_\_\_ (c) Travelers may be reimbursed, up to the maximum reimbursements rate, for mileage to and from the airport to allow someone to drop them off and to pick them up.~~

~~\_\_\_\_\_ (3) Travelers may use private vehicles with approval from the Department Director or designee.~~

~~\_\_\_\_\_ (a) Only one person in a vehicle may receive the reimbursement, regardless of the number of people in the vehicle.~~

~~\_\_\_\_\_ (b) Reimbursement for a private vehicle will be at the rate of 38 cents per mile or 58 cents per mile if a state vehicle is not available to the employee.~~

~~\_\_\_\_\_ (i) To determine which rate to use, the traveler must first determine if their department has an agency vehicle (long-term leased vehicle from Fleet Operations) that meets their needs and is reasonably available for the trip (does not apply to special purpose vehicles). If reasonably available, the employee should use an agency vehicle. If an agency vehicle that meets their needs is not reasonably available, the agency may approve the traveler to use either a daily pool fleet vehicle or a private vehicle. If a daily pool fleet vehicle is not reasonably available, the traveler may be reimbursed at 58 cents per mile.~~

~~\_\_\_\_\_ (ii) If a trip is estimated to average 100 miles or more per day, the agency should approve the traveler to rent a daily pool fleet vehicle if one is reasonably available. Doing so will cost less than if the traveler takes a private vehicle. If the agency approves the traveler to take a private vehicle, the employee will be reimbursed at the lower rate of 38 cents per mile.~~

~~\_\_\_\_\_ (c) Agencies may establish a reimbursement rate that is more restrictive than the rate established in this Section.~~

~~\_\_\_\_\_ (d) Any exceptions to this mileage reimbursement rate guidance must be approved in writing by the employees Executive Director or designee.~~

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~~(e) A cost comparison worksheet is available at <http://fleet.utah.gov/motor-pool-a/demand-motor-pool/personal-vehicle-vs-rental-vehicle/>~~

~~(f) Mileage will be computed using Mapquest or other generally accepted map/route planning website, or from the latest official state road map and will be limited to the most economical, usually traveled routes.~~

~~(g) If the traveler uses a private vehicle on official state business and is reimbursed for mileage, parking charges may be reimbursed as an incidental expense.~~

~~(h) An approved Private Vehicle Usage Report, form FI 40, should be included with the department's payroll documentation reporting miles driven on state business during the payroll period.~~

~~(i) Departments may allow mileage reimbursement on an approved Travel Reimbursement Request, form FI 51A, FI 51B, or ESS Travel, if other costs associated with the trip are to be reimbursed at the same time.~~

~~(4) A traveler may choose to drive instead of flying if preapproved by the Department Director or designee.~~

~~(a) If the traveler drives a state owned vehicle, the traveler may be reimbursed for meals and lodging for a reasonable amount of travel time; however, the total cost of the trip must not exceed the equivalent cost of the airline trip. The traveler may also be reimbursed for incidental expenses such as toll fees and parking fees.~~

~~(b) If the traveler drives a privately owned vehicle, reimbursement will be at the rate of 38 cents per mile or the airplane fare, whichever is less, unless otherwise approved by the Department Director or designee.~~

~~(i) The lowest fare available within 30 days prior to the departure date will be used when calculating the cost of travel for comparison to private vehicle cost.~~

~~(ii) A comparison printout which is available through the State Travel Office is required when the traveler is taking a private vehicle.~~

~~(iii) The traveler may be reimbursed for meals and lodging for a reasonable amount of travel time; however, the total cost of the trip must not exceed the equivalent cost of an airline trip.~~

~~(iv) If the traveler uses a private vehicle on official state business and is reimbursed for mileage, parking charges may be reimbursed as an incidental expense.~~

~~(c) When submitting the reimbursement form, attach a schedule comparing the cost of driving with the cost of flying. The schedule should show that the total cost of the trip driving was less than or equal to the total cost of the trip flying.~~

~~(d) If the travel time taken for driving during the employee's normal work week is greater than that which would have occurred had the employee flown, the excess time used will be taken as annual leave and deducted on the Time and Attendance System.~~

~~(5) Use of rental vehicles must be approved in writing in advance by the Department Director or designee.~~

~~(a) An exception to advance approval of the use of rental vehicles shall be fully explained in writing with the request for reimbursement and approved by the Department Director or designee.~~

~~(b) Detailed explanation is required if a rental vehicle is requested for a traveler staying at a conference hotel.~~

~~(c) When making rental car arrangements through the State Travel Office, reserve the vehicle you need. Upgrades in size or model made when picking up the rental vehicle will not be reimbursed.~~

~~(i) State employees should rent vehicles to be used for state business in their own names, using the state contract so they will have full coverage under the state's liability insurance.~~

~~(ii) Rental vehicle reservations not made through the State Travel Office must be approved in advance by the Department Director or designee.~~

~~(iii) The traveler will be reimbursed the actual rate charged by the rental agency.~~

~~(iv) The traveler must have approval for a rental car in order to be reimbursed for rental car parking.~~

~~(6) Travel by private airplane must be approved in advance by the Department Director or designee.~~

~~(a) The pilot must certify to the Department Director or designee that the pilot is certified to fly the plane being used for state business.~~

~~(b) If the plane is owned by the pilot/employee, the pilot must certify the existence of at least \$500,000 of liability insurance coverage.~~

~~(c) If the plane is a rental, the pilot must provide written certification from the rental agency that the insurance covers the traveler and the state as insured. The insurance must be adequate to cover any physical damage to the plane and at least \$500,000 for liability coverage.~~

~~(d) Reimbursement will be made at 58 cents per mile.~~

~~(e) Mileage calculation is based on air mileage and is limited to the most economical, usually traveled route.~~

~~(7) Travel by private motorcycle must be approved prior to the trip by the Department Director or designee. Travel will be reimbursed at 20 cents per mile.~~

~~(8) A car allowance may be allowed in lieu of mileage reimbursement in certain cases. Prior written approval from the Department Director, the Executive Director of the Department of Administrative Services, and the Governor is required.]~~

**R25-7. Travel-Related Reimbursements for State Travelers.**

**R25-7-1. Purpose.**

The purpose of this rule is to establish procedures to pay travel-related Reimbursements to Travelers of an Agency or a Political Subdivision that is subject to this rule.

**R25-7-2. Authority and Exemptions.**

This rule is established pursuant to:

(1) Section 63A-3-107, which authorizes the Division of Finance to make rules governing in-state and out-of-state travel expenses; and

(2) Section 63A-3-106, which authorizes the Division of Finance to make rules governing meeting Per Diem and travel expenses for Board members attending official meetings.

**R25-7-3. Definitions.**

(1) "Agency" means any Department, division, Board, bureau, office, or other administrative subunit of state government. This definition includes the executive, legislative and judicial branches.

(2) "Board" means a board, commission, council, committee, task force, or similar body established to perform a governmental function.

(3) "Department" means all executive Departments of state government.

(4) "Executive Director" means a Department Executive Director, Department Commissioner, Chief of Staff or the equivalent of a Chief Executive Officer for a Political Subdivision.

(5) "Fleet Vehicle" means a vehicle owned or leased by an Agency or Political Subdivision. This also includes vehicles rented for use as motor pool vehicles by an Agency or Political Subdivision.

(6) "Home Base" means the location from which the Traveler leaves to begin travel and the location to which the Traveler returns to end travel. In determining the Home Base of a Traveler, an Agency should consider at least the following non-exclusive factors:

(a) If the Traveler is leaving on travel directly from home, or if there a valid business reason for the Traveler to go to a designated work location before leaving for the travel destination, the Home Base should be the last location the Traveler was in, home or designated work location, prior to leaving on travel.

(b) If the Traveler is going directly home after the trip, or if there a valid business reason for the Traveler to first go to a designated work location prior to the Traveler returning home, the ending Home Base for travel is the first location the employee goes to when returning from travel.

(7) "Per Diem" means an allowance paid daily.

(8) "Political Subdivision" means a county, city, town, school district, local district, special service district, or any entity, other than an Agency, subject to this rule by statute.

(9) "Rate" means an amount of money.

(10) "Reimbursement" means money paid to compensate a Traveler for money spent.

(11) "Traveler" means any person who is traveling on business for an Agency or Political Subdivision. This definition includes employees, Board members, elected officials, vendors, volunteers and grant recipients or award beneficiaries.

**R25-7-4. Eligible Expenses.**

(1) Reimbursements are intended to cover any travel-related normal areas of expenses that are ordinary and reasonable in the circumstances.

(2) Requests for Reimbursement must be accompanied by original itemized receipts for any expenses except those for which flat allowance amounts are established.

(3) When an original itemized receipt is not available, Agency or Political Subdivision management may use discretion in determining the appropriate amount of alternative documentation prior to Reimbursement of expenses.

(4) Alcoholic Beverages are not reimbursable.

**R25-7-5. Approvals.**

(1) For insurance purposes, state business travel, whether reimbursed or not, must have prior approval by an appropriate authority. This also includes non-state employees where the Agency or Political Subdivision is paying for the travel expenses.

(2) Out-of-state travel must be approved by the Executive Director or designee. The approval of in-state travel Reimbursement forms may be considered as documentation of prior approval for in-state travel. Prior approval for out-of-state travel should be documented on form FI5 - "Request for Out-of-State Travel Authorization", in the State's ESS Travel system, or in another system with equivalent controls and calculations.

(3) Exceptions to the prior approval for out-of-state travel must be justified in the comments section of form FI5 "Request for Out-of-State Travel Authorization", in the State's ESS Travel system or in another system with equivalent controls and calculations, and must be approved by the Executive Director or the designee.

(4) The Executive Director or designee must approve any travel to out-of-state functions where more than two Travelers from the same Department are attending the same function at the same time.

**R25-7-6. Reimbursement for Meals.**

(1) Travelers who travel on business may be eligible for a meal Reimbursement.

(2) The Reimbursement will include tax, tips, and other expenses associated with the meal.

(3) Allowances for in-state travel differ from those for out-of-state travel.

(a) The daily travel meal allowance for in-state travel is \$45.00 and is computed according to the Rates listed in the following table.

TABLE 1

In-State Travel Meal Allowances

Meals	Rate
Breakfast	\$11.00
Lunch	\$14.00
Dinner	\$20.00
Total	\$45.00

(b) The daily travel meal allowance for out-of-state travel is \$50.00 and is computed according to the Rates listed in the following table.

TABLE 2

Out-of-State Travel Meal Allowances

Meals	Rate
Breakfast	\$13.00
Lunch	\$14.00
Dinner	\$23.00
Total	\$50.00

(4) Tier I premium locations in this subsection are Anchorage, Alaska; Chicago, Illinois; each location in Hawaii; New York City, New York; San Francisco, California; and Seattle, Washington. Tier II premium locations in this subsection are Atlanta, Georgia; Baltimore, Maryland; Boston, Massachusetts; Dallas, Texas; Los Angeles, California; San Diego, California; and Washington, DC.

(a) When traveling to a Tier I premium location, the Traveler may choose to accept the Per Diem Rate for out-of-state travel, as shown in Table 2 above, or to be reimbursed at the actual meal cost, with original receipts, up to \$71 per day.

(b) When traveling to a Tier II premium location, the Traveler may choose to accept the Per Diem Rate for out-of-state travel, as shown in Table 2 above, or to be reimbursed at the actual meal cost, with original receipts, up to \$61 per day.

(c) Subject to Subsections 6(a) and 6(b), the Traveler will qualify for premium Rates on the day the travel begins and the day the travel ends only if the trip is of sufficient duration to qualify for meals on that day.

(d) Complimentary meals with lodging accommodations and meals included in event registration costs are deducted from the premium location allowance as follows:

(i) Tier I Location

(a) If breakfast is provided deduct \$18, leaving a premium allowance for lunch and dinner of actual up to \$53.

(b) If lunch is provided deduct \$19, leaving a premium allowance for breakfast and dinner of actual up to \$52.

(c) If dinner is provided deduct \$34, leaving a premium allowance for breakfast and lunch of actual up to \$37.

(ii) Tier II Location

(a) If breakfast is provided deduct \$16, leaving a premium allowance for lunch and dinner of actual up to \$45.

(b) If lunch is provided deduct \$17, leaving a premium allowance for breakfast and dinner of actual up to \$44.

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(c) If dinner is provided deduct \$28, leaving a premium allowance for breakfast and lunch of actual up to \$33.

(d) The Traveler must use the same method of Reimbursement for an entire day.

(e) Actual meal cost includes tips.

(5) When traveling in foreign countries, the Traveler may choose to accept the Per Diem Rate for out-of-state travel, as shown in Table 2, or to be reimbursed the actual meal cost, with original receipts, not to exceed the federal Reimbursement Rate for the location as of the date of travel.

(a) The Traveler may use both Reimbursement methods during a trip; however, they must use the same method of Reimbursement for an entire day.

(b) Actual meal cost includes tips.

(6) The meal Reimbursement calculation is comprised of three parts:

(a) The day the travel begins. The Traveler's entitlement is determined by the time of day the Traveler leaves their Home Base, as illustrated in the following table.

TABLE 3

The Day Travel Begins

1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
12:01 AM - 6:00 AM	6:01 AM - 12:00 PM	12:01 PM - 6:00 PM	6:01 PM - 12:00 AM
*B, L, D	*L, D	*D	*no meals
In-State			
\$45.00	\$34.00	\$20.00	\$0
Out-of-State			
\$50.00	\$37.00	\$23.00	\$0

\*B = Breakfast, L = Lunch, D = Dinner

(b) The days at the location.

(i) Complimentary meals and meals included in a registration cost are deducted from the total daily meal allowance. However, a continental breakfast will not reduce the meal allowance. Please Note: For breakfast, if a hot food item is offered, it is considered a complimentary meal, no matter how it is categorized by the facility. The meal is considered a "continental breakfast" if no hot food items are offered.

(ii) Meals provided on airlines will not reduce the meal allowance.

(c) The day the travel ends. The meal Reimbursement the Traveler is entitled to is determined by the time of day the Traveler returns to their Home Base, as illustrated in the following table.

TABLE 4

The Day Travel Ends

1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
12:01 AM - 6:00 AM	6:01 AM - 12:00 PM	12:01 PM - 6:00 PM	6:01 PM - 12:00 AM
*no meals	*B	*B, L	*B, L, D
In-State			
\$0	\$11.00	\$25.00	\$45.00
Out-of-State			
\$0	\$13.00	\$27.00	\$50.00

\*B = Breakfast, L = Lunch, D = Dinner

(7) A Traveler may be authorized by the Executive Director or designee to receive a taxable meal allowance on an officially approved trip when the Traveler's farthest destination is at least 100 miles one way from their Home Base and the Traveler does not stay overnight.

(a) Breakfast is paid when the Traveler leaves their Home Base before 6:00 a.m.

(b) Lunch is paid when the Traveler leaves their Home Base before 10:00 a.m. and returns after 2:00 p.m.

(c) Dinner is paid when the Traveler leaves their Home Base and returns at or after 6:00 p.m.

(d) The allowance is not considered an absolute right of the Traveler and is authorized at the discretion of the Executive Director or designee.

**R25-7-7. Meals for Statutory Non-Salaried State Boards.**

(1) When a Board meets and conducts business activities during mealtime, the cost of meals may be charged as public expense.

(2) Where employees or other advisors or consultants must, of necessity, attend such a meeting in order to permit the Board to carry on its business, the meals of such employees, advisors, or consultants may also be paid. In determining whether or not the presence of such employees, advisors, or consultants is necessary, the Board is requested to restrict the attendance of such employees, advisors, or consultants to those absolutely necessary at such mealtime meetings.

**R25-7-8. Reimbursement for Lodging.**

A Traveler who travels on business may be eligible for a lodging Reimbursement.

(1) For stays at a conference hotel, the Traveler will be reimbursed the actual cost plus tax and any mandatory fees charged by the hotel for both in-state and out-of-state travel. The Traveler must include the conference registration brochure with the Travel Reimbursement Request, form FI 51A, FI 51B, on ESS Travel, or equivalent form or system.

(2) For in-state lodging at a non-conference hotel, the Traveler will be reimbursed the actual cost up to \$75 per night for single occupancy plus tax and any mandatory fees charged by the hotel except as noted in the table below.

TABLE 5

Cities with Differing Rates

Note: The Rates described below indicate the nightly single occupancy room Rate. Any applicable taxes and mandatory fees are in addition to the Rates below.

City	Rate
Blanding	\$85.00
Bluff	\$100.00
Brigham City	\$80.00
Bryce Canyon City	\$90.00
Cedar City	\$80.00
Duchesne	\$90.00
Ephraim	\$80.00
Fillmore	\$80.00
Hanksville	\$85.00
Heber	\$85.00
Kanab	\$90.00
Lavton	\$90.00
Logan	\$90.00
Mexican Hat	\$90.00
Moab/Green River	\$110.00
Monticello	\$80.00
Ogden	\$95.00
Park City/Midway	\$110.00
Provo/Orem/Lehi/American Fork/Springville	\$85.00
Roosevelt/Ballard	\$90.00
Salt Lake City Metropolitan Area	
(Draper to Farmington), Tooele	\$100.00
St. George/Washington/Springdale/Hurricane/	
La Verkin	\$85.00
Torrey	\$95.00
Tremonton	\$90.00



Tropic	\$95.00
Vernal	\$95.00
Other Utah Cities	\$75.00

(3) Travelers traveling less than 50 miles from their Home Base are not entitled to lodging Reimbursement. Miles are calculated from the Traveler's Home Base. An Executive Director may use discretion to authorize Reimbursement for lodging if the Agency or Political Subdivision determines lodging is reasonable and in the best interest of the state. For example, if the Traveler is required to work at the travel destination after normal working hours or early the next day, or when weather or other safety issues exist, lodging may be appropriate.

(4) When an Agency or Political Subdivision pays for a person from out-of-state to travel to Utah, the in-state lodging Per Diem Rates will apply.

(5) For out-of-state travel stays at a non-conference hotel, the Traveler will be reimbursed the actual cost per night plus tax and any mandatory fees charged by the hotel, not to exceed the federal lodging Rate for the location. For Agency Travelers, these reservations must be made through the State Travel Office.

(6) For Agency Travelers, the State will reimburse the actual cost per night plus tax and any mandatory fees charged by the hotel for in-state or out-of-state travel stays when reservations are made through the State Travel Office.

If lodging is not available at the allowable Per Diem Rate in the area the Traveler needs to stay, the State Travel Office will book a hotel with the best available Rate. In this circumstance, the Traveler will be reimbursed at the actual Rate booked.

If a Traveler chooses to stay at a hotel that costs more than the allowable Per Diem Rate, the Traveler will only be reimbursed for the allowable Per Diem Rate plus tax and any mandatory fees charged by the hotel.

(7) Lodging is reimbursed at the Rates listed in Table 5 for single occupancy only. For double Traveler occupancy, add \$20, for triple Traveler occupancy, add \$40, for quadruple Traveler occupancy, add \$60.

(8) Exceptions will be allowed for unusual circumstances when approved in writing by the Traveler's Executive Director or designee prior to the trip.

(a) For out-of-state travel, the approval may be on the form FI 5, in the State's ESS Travel system, or in another system with equivalent controls and calculations.

(b) Attach the written approval to the Travel Reimbursement Request, form FI 51B, FI 51D, in ESS Travel, or in another equivalent form or system.

(9) A proper receipt for lodging accommodations must accompany each request for Reimbursement.

A proper receipt is a copy of the registration form generally used by a motel or hotel which includes the following information: name of motel/hotel, street address, town and state, telephone number, receipt date, names of occupants dates of occupancy, amount and date paid, number in the party, and single, double, triple, or quadruple occupancy.

(10) When lodging is required, a Traveler should stay at the lodging facility nearest to the ultimate destination point of travel where state lodging Per Diem Rates are accepted in order to minimize transportation costs.

(11) A Traveler may also elect to stay with friends or relatives or use their personal campers or trailer homes instead of staying in a hotel. With proof of staying overnight away from home on approved business, the Traveler will be reimbursed the following:

(a) \$25 per night with no receipts required; or

(b) Actual cost up to \$40 per night with a signed receipt from a facility such as a campground or trailer park, not from a private residence.

(12) A Traveler on assignment away from the Home Base for longer than 90 days will be reimbursed as follows:

(a) First 30 days - follow regular rules for lodging and meals. Lodging receipt is required.

(b) After 30 days - \$46 per day for lodging and meals. No receipt is required.

#### **R25-7-9. Reimbursement for Incidentals.**

Travelers who travel on business may be eligible for a Reimbursement for incidental expenses.

(1) A Traveler will be reimbursed for actual out-of-pocket costs for incidental items such as baggage tips, maid service, and bellman. Gratuities or tips for various services such as assistance with baggage, maid service, and bellman, may be reimbursed up to a combined maximum of \$5.00 per day. Include an original receipt for each individual incidental item above \$19.99.

(2) A Traveler will be reimbursed for incidental ground transportation and parking expenses.

(a) A Traveler shall document all official business use of taxi, bus, parking, and other ground transportation including dates, destinations, parking locations, receipts, and amounts.

(b) Personal use of such transportation to a restaurant is not reimbursable.

(c) The maximum that airport parking will be reimbursed is the economy lot parking Rate at the airport the Traveler is flying out of. A receipt is required for amounts of \$20 or more.

(d) Gratuities and tips for ground transportation will be reimbursed up to the greater of \$5 or 18% for each ride. Gratuities and tips must be shown on an original receipt.

(3) For an Agency, a conference registration should be paid in advance by check or with a purchasing card.

(a) A copy of the approved FI 5 form must be included with the payment voucher or purchase card log for out-of-state registrations.

(b) For an Agency, if a Traveler must pay the registration upon arrival, and does not have a purchase card or personal credit card, the Agency is expected to process a payment document and have the Traveler take the state warrant to the event.

(4) A demonstrable expense for a business call will be reimbursed at the actual cost.

(a) The Traveler shall list the amount of these calls separately on the Travel Reimbursement Request, form FI 51A, FI 51B, or in ESS Travel or equivalent form or system.

(b) The Traveler must provide an original lodging receipt or original personal phone bill showing the phone number called and the dollar amount for business telephone calls and personal telephone calls.

(5) An allowance for personal telephone calls made while out of town on business overnight may be based on the number of nights away from home. The Traveler must provide an original lodging receipt or original personal phone bill showing the phone number called and the dollar amount for personal telephone calls. Reimbursement must be calculated as follows:

(a) four nights or less, actual amount up to \$2.50 per night;

(b) five to eleven nights, actual amount up to \$20.00;

(c) twelve nights to thirty nights, actual amount up to \$30.00; and,

(d) more than thirty days, start over

(6) Laundry expenses up to \$18.00 per week will be allowed for trips in excess of six consecutive nights, beginning after the sixth

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night. For use of coin-operated laundry facilities, the Traveler must provide a list of dates, locations, and amounts.

(7) An amount of \$5 per day will be allowed for Travelers away in excess of six consecutive nights beginning after the sixth night.

(a) This amount covers miscellaneous incidentals not covered in this rule.

(b) This allowance is not available for Travelers going to conferences.

(8) An Agency or Political Subdivision may provide for a Traveler to return home over a weekend when the business portion of a trip extends longer than ten nights. Reimbursements may be given for costs allowed by these policies.

**R25-7-10. Reimbursement for Transportation.**

A Traveler who travels on business may be eligible for a transportation Reimbursement.

(1) Air transportation is limited to Air Coach or Excursion class. Priority seating charges will not be reimbursed unless preapproved by the Executive Director or designee.

(a) For Agency Travelers, all reservations should be made through the State Travel Office for the least expensive air fare available at the time reservations are made.

(b) Only one change fee per trip will be reimbursed.

(c) The explanation for the change and any other exception to this rule must be given and approved by the Executive Director or designee.

(2) A Traveler may be reimbursed for mileage to and from the airport and long-term parking or away-from-the-airport parking.

(a) The maximum Reimbursement for parking, whether a Traveler parks at the airport or away from the airport, is the long term parking Rate at the airport they are flying out of.

(b) The parking receipt must be included with the Travel Reimbursement Request, form FI 51A, FI 51B, in ESS Travel or equivalent form or system for amounts of \$20 or more.

(c) A Traveler may be reimbursed, up to the maximum Reimbursement Rate, for mileage to and from the airport to allow someone to drop them off and to pick them up.

(3) A Traveler may use a private vehicle with approval from the Executive Director or designee.

(a) Only one person in a vehicle may receive the Reimbursement, regardless of the number of people in the vehicle.

(b) Reimbursement for a private vehicle will be at the Rate of 38 cents per mile or 57 cents per mile if a Fleet Vehicle is not available to the Traveler.

(i) To determine which Rate to use, the Traveler must first determine if a Fleet Vehicle is available that meets the Traveler's needs. This does not apply to special purpose vehicles. If reasonably available, the Traveler should use a Fleet Vehicle. If a Fleet Vehicle is not reasonably available, the Agency or Political Subdivision may approve the Traveler to use a private vehicle. If a Fleet Vehicle is not reasonably available, the Traveler may be reimbursed at 57 cents per mile.

(ii) If a trip is estimated to average 100 miles or more per day, the Agency or Political Subdivision should approve the Traveler to reserve a Fleet Vehicle if one is reasonably available. Doing so will cost less than if the Traveler takes a private vehicle. If the Agency or Political Subdivision approves the Traveler to take a private vehicle, the Traveler will be reimbursed at the lower Rate of 38 cents per mile not to exceed the expense calculated in the link located in Subsection (e).

(c) A Reimbursement Rate that is more restrictive than the Rate established in this Section may be established by the Agency or Political Subdivision.

(d) Any exceptions to this mileage Reimbursement Rate guidance must be approved in writing by the Traveler's Executive Director or designee.

(e) A cost comparison worksheet is available at: <http://fleet.utah.gov/motor-pool-a/demand-motor-pool/personal-vehicle-vs-rental-vehicle/>

(f) Mileage will be computed using Mapquest, GoogleMaps or other generally accepted route planning website, or from the latest official state road map and will be limited to the most economical, usually traveled routes.

(g) If the Traveler uses a private vehicle on official business and is reimbursed for mileage, parking charges may be reimbursed as an incidental expense.

(h) For an Agency Traveler, an approved "Private Vehicle Usage Report", form FI 40, should be included with the documentation reporting miles driven on business during the payroll period.

(i) Mileage Reimbursement may be allowed on an approved "Travel Reimbursement Request", form FI 51A, FI 51B, or in ESS Travel, or equivalent form or system, if other costs associated with the trip are to be reimbursed at the same time.

(4) A Traveler may choose to drive instead of flying if preapproved by the Executive Director or designee.

(a) If the Traveler drives a Fleet Vehicle, the Traveler may be reimbursed for meals and lodging for a reasonable amount of travel time; however, the total cost of the trip must not exceed the equivalent cost of the airline trip. The Traveler may also be reimbursed for incidental expenses such as toll fees and parking fees.

(b) If the Traveler drives a privately-owned vehicle, Reimbursement will be at the Rate of 38 cents per mile or the airplane fare, whichever is less, unless otherwise approved by the Executive Director or designee.

(i) The lowest fare available within 30 days prior to the departure date will be used when calculating the cost of travel for comparison to private vehicle cost.

(ii) A comparison printout which is available through the State Travel Office is required when the Traveler is taking a private vehicle.

(iii) The Traveler may be reimbursed for meals and lodging for a reasonable amount of travel time; however, the total cost of the trip must not exceed the equivalent cost of an airline trip.

(iv) If the Traveler uses a private vehicle on official business and is reimbursed for mileage, parking charges may be reimbursed as an incidental expense.

(c) When submitting the Reimbursement form, attach a schedule comparing the cost of driving with the cost of flying. The schedule should show that the total cost of driving was less than or equal to the total cost of flying for the trip.

(d) If the travel time taken for driving during the Traveler's normal work week is greater than that which would have occurred had the Traveler flown, the excess time used must not count as time worked.

(5) Use of non-fleet rental vehicles must be approved in writing in advance by the Executive Director or designee.

(a) An exception to advance approval of the use of rental vehicles shall be fully explained in writing with the request for Reimbursement and approved by the Executive Director or designee.

(b) Detailed explanation is required if a rental vehicle is requested for a Traveler staying at a conference hotel.

(c) When making rental car arrangements through the State Travel Office, reserve the vehicle you need. Upgrades in size or model made when picking up the rental vehicle will not be reimbursed.

(i) A Traveler should rent vehicles to be used for business in their own names, using a contract available to the Traveler's Agency or Political Subdivision to ensure the Agency's or Political Subdivision's insurance coverage is extended in the rental.

(ii) For Agency Travelers, a rental vehicle reservation not made through the State Travel Office must be approved in advance by the Executive Director or designee.

(iii) The Traveler will be reimbursed the actual Rate charged by the rental agency.

(iv) The Traveler must have approval for a rental car in order to be reimbursed for rental car parking.

(6) Travel by private airplane for official business must be approved in advance by the Executive Director or designee.

(a) The pilot must certify to the Executive Director or designee that the pilot is certified to fly the plane being used for business.

(b) If the plane is owned by the pilot, the pilot must certify the existence of at least \$500,000 of liability insurance coverage.

(c) If the plane is a rental, the pilot must provide written certification from the rental agency that the insurance covers the Traveler and the Agency or Political Subdivision as insured. The insurance must be adequate to cover any physical damage to the plane and at least \$500,000 for liability coverage.

(d) Reimbursement will be made at 57 cents per mile.

(e) Mileage calculation is based on air mileage and is limited to the most economical, usually-traveled route.

(7) Travel by private motorcycle must be approved prior to the trip by the Executive Director or designee. Travel will be reimbursed at 20 cents per mile.

(8) For Agency Travelers, a car allowance may be allowed in lieu of mileage Reimbursement in certain cases. Prior written approval from the Executive Director, the Executive Director of the Department of Administrative Services, and the Governor is required.

**KEY:** air travel, per diem allowances, state ~~employees~~ travelers, transportation

**Date of Enactment or Last Substantive Amendment:** ~~July 1, 2019~~ 2020

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**Authorizing, and Implemented or Interpreted Law:** 63A-3-107; 63A-3-106

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R25-21	Filing No. 52932

**Agency Information**

<b>1. Department:</b>	Administrative Services
<b>Agency:</b>	Finance
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John Reidhead	801-957-7734	jreidhead@utah.gov
Cory Weeks	801-957-7713	cweeks@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R25-21. Medical Cannabis Payment Provider Standard
<b>3. Purpose of the new rule or reason for the change:</b>
After issuance of this rule, it was proven untenable for most payment providers in the medical cannabis industry to obtain a letter from a bank certifying as to requirements in Subsection R25-21-3(3)(b). This change removes the requirement.
<b>4. Summary of the new rule or change:</b>
The purpose of this change is to remove the language in Subsection R25-21-3 (3)(b) of this rule.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There are not anticipated costs to state governments because the change does not affect state government.
<b>B) Local governments:</b>
There are not anticipated costs to local governments because the change does not affect local governments.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
The relevant data is unavailable because affected businesses will be able to choose among authorized payment providers and costs are unknown and may vary. Costs are not estimable. Products affected by this rule are optional for businesses affected. Marijuana-related businesses choosing a payment provider would have similar costs with or without this rule.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):

The relevant data is unavailable because affected businesses will be able to choose among authorized payment providers and costs are unknown and may vary. Costs are not estimable. Products affected by this rule are optional for businesses affected. Marijuana-related businesses choosing a payment provider would have similar costs with or without this rule.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This proposed rule change applies only to participating payment providers for Utah cannabis-related businesses. There are not anticipated direct costs or savings to other persons. Costs incurred by Utah cannabis-related businesses will likely be passed on to their customers (indirect costs). However, the costs are not estimable because the relevant data necessary to determine how the costs will be allocated to customers is not available. The Division of Finance also expects customers would have similar costs passed on them with or without this rule.

**F) Compliance costs for affected persons:**

The costs to payment providers cannot reasonably be estimated because the relevant data necessary to determine how the costs will be allocated to customers is not available. The cost to the payment providers would depend on the type of establishment and service each provider offers.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

**Regulatory Impact Table**

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0

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

**H) Department head approval of regulatory impact analysis:**

I have reviewed the regulatory impact table, and agree there are no estimable fiscal impacts associated with this rule change due to the lack of relevant data. Tani Pack Downing, Executive Director

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

There is not an estimable impact on businesses.

**B) Name and title of department head commenting on the fiscal impacts:**

Tani Pack Downing, Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Subsection 26-61a-603(2)(a)		
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	08/31/2020
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<b>10. This rule change MAY become effective on:</b>	09/07/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a

Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	John Reidhead, Director	<b>Date:</b>	07/09/2020
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**R25. Administrative Services, Finance.**

**R25-21. Medical Cannabis Payment Provider Standards.**

**R25-21-1. Purpose and Authority.**

(1) Purpose. This rule establishes the functional, technical and other standards a payment provider must meet in order to be approved to conduct financial transactions for Utah cannabis-related businesses.

(2) Authority. This rule is enacted under the authority of ~~Subsection~~Section 26-61a-603(2)(a).

**R25-21-2. Definitions.**

Terms used in this rule are defined in Section 26-61a-102.

In addition:

(1) "Utah MRB" means any cannabis production establishment, medical cannabis pharmacy, or home delivery medical cannabis pharmacy licensed within the State ~~of Utah~~ in accordance with the Utah Medical Cannabis Act.

(2) "Bank" means any federal or state chartered and regulated depository financial institution.

(3) "Bank of First Deposit" means the first Bank that receives funds from Utah MRB related transactions.

**R25-21-3. Payment Provider Standards.**

(1) Prerequisite to consideration of a Payment Provider under this rule, a Utah MRB must provide the Division of Finance and State Treasurer documentation associated with the Payment Provider in accordance with Subsection 26-61a-603(1).

(2) A Payment Provider must provide certification signed by an officer of the Bank of First Deposit acknowledging that the Payment Provider is facilitating cannabis-related transactions legal under Utah law on behalf of a Utah MRB.

(3) A Payment Provider must provide certification from the Bank of First Deposit that data transmitted to the bank is adequate and transparent for the following regulatory requirements:

(a) Certification as to Know Your Customer (KYC) compliance pursuant to the Federal USA Patriot Act, Public Law 107-56.<sup>[§]</sup>

~~[(b) Certification as to compliance with Suspicious Activity Report (SAR) and Currency Transaction Report (CTR) filings pursuant to the Federal Bank Secrecy Act; and]~~

~~[(c)]~~<sup>(b)</sup> Certification as to due diligence pursuant to the Federal Department of Treasury, Financial Crimes Enforcement Network (FinCEN) guidance given in FIN-2014-G001, "BSA Expectations Regarding Marijuana-Related Businesses," Issued February 14, 2014.

(4) A Payment Provider must provide certification and supporting documentation that Automated Clearing House (ACH) transactions are compliant with National Automated Clearing House Association (NACHA) Rules and Operating Guidelines.

(5) The Payment Card Industry Data Security Standards (PCI-DSS) comprise the security framework the Division of Finance will use to evaluate information security of payment provider solutions. A Payment Provider must provide PCI-DSS assessments, as applicable, including:

(a) PA-DSS certification for devices with a signature from a Payment Application Qualified Security Assessor (PA-QSA); and

(b) PCI-DSS Report on Compliance with a signature from a Qualified Security Assessor (QSA).

(6) A Payment Provider facilitating cash transfers to a Utah MRB's Bank must:

(a) ~~[(c)]~~<sup>(a)</sup> certify that the Payment Provider supplies detailed records of cash transfers to Utah MRBs and their respective Banks;

(b) ~~[(P)]~~<sup>(b)</sup> provide written policies and procedures that demonstrate that the Payment Provider adequately protects the safety of Utah MRB employees and the Payment Provider's drivers; and

(c) ~~[(c)]~~<sup>(c)</sup> certify that the Payment Provider supplies data sufficient for Suspicious Activity Report (SAR) for cash transfers to Bank of First Deposit.

**R25-21-4. Approved Payment Providers.**

(1) A Payment Provider must submit evidence of compliance with Section R25-21-3 to the Department of Administrative Services, Division of Finance for consideration for approval and on an annual basis thereafter.

(2) A Payment Provider must notify the Division of Finance within 30 days of any changes in information reported for compliance to this rule. If required, time to cure non-compliance will be assigned by the Division of Finance upon notification.

(3) Failure to comply with paragraph (2) will result in automatic removal from the approved Payment Provider list.

(4) A Payment Provider that is removed from the approved Payment Provider list may appeal to the Director of the Division of Finance for reinstatement subject to administrative Rule R25-2.

(5) A list of approved Payment Providers is available at [finance.utah.gov/cannabispaymentproviders](http://finance.utah.gov/cannabispaymentproviders).

**KEY: marijuana, medical cannabis, payment provider**

**Date of Enactment or Last Substantive Amendment: ~~March 10, 2020~~**

**Authorizing, and Implemented or Interpreted Law: 26-61a-603(2)(a)**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R156-79	Filing No. 52950

**Agency Information**

<b>1. Department:</b>	Commerce
<b>Agency:</b>	Occupational and Professional Licensing
<b>Building:</b>	Heber M. Wells Building
<b>Street address:</b>	160 E 300 S
<b>City, state:</b>	Salt Lake City UT 84111-2316
<b>Mailing address:</b>	PO Box 146741
<b>City, state, zip:</b>	Salt Lake City UT 84114-6741

Contact person(s):		
Name:	Phone:	Email:
Jana Johansen	801-530-6621	janajohansen@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R156-79. Hunting Guides and Outfitters Licensing Act Rule
<b>3. Purpose of the new rule or reason for the change:</b>
The proposed amendments update this rule in accordance with statutory changes made by S.B. 149 and H.B. 290 passed in the 2020 General Session.
<b>4. Summary of the new rule or change:</b>
In Section R156-79-102, the proposed amendments remove obsolete definitions of components for licensure as the license has changed to a registration.
In Section R156-79-302a (renumbered to R156-79-302), the proposed amendments add insurance requirements for registration in accordance with Section 58-79-302 as amended by S.B. 149 and H.B. 290 (2020) and delete obsolete requirements for licensure.
Sections R156-79-302b through R156-79-302e, which contain requirements for licensure, are deleted as obsolete.
In Section R156-79-303, the proposed amendment substitutes the term "registrants" for "licensees," as these licenses have changed to a registration.
In Section R156-79-502, the proposed amendments delete unprofessional conduct provisions based upon licensure and substitute the term "registrant" for "licensee".
In Section R156-79-601, the proposed amendments remove obsolete hunting guide training programs required for licensure as the license has changed to a registration.
In Section R156-79-602, the proposed amendments remove obsolete outfitter training programs required for licensure as the license has changed to a registration.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
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<b>A) State budget:</b>
No state agencies will be directly or indirectly affected by this filing because the proposed amendments merely update and clarify provisions and conform this rule to statutory changes. Accordingly, the amendments are not expected to impact the state.
<b>B) Local governments:</b>
No local governments will be directly or indirectly affected by this filing because the proposed amendments merely update and clarify provisions and conform this rule to statutory changes.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
There are approximately six small businesses in Utah owned by individuals in the hunting guide and outfitter industries (North American Industry Classification System (NAICS) 114210). No small businesses are expected to be impacted by this filing because the proposed amendments merely update and clarify provisions and conform this rule to statutory changes.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
There are no non-small businesses in Utah in the industries in question.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):
In Utah there are 490 licensed hunting guides and 152 licensed outfitters, and the Division of Occupational and Professional Licensing (Division) averages 15 new applications per year. The Division does not anticipate any cost or savings to these persons from these proposed amendments over and above the enacted registration requirements. In particular, although new applicants may experience a cost from the expense of acquiring liability insurance as required under renumbered Section R156-79-302, this level of liability insurance is already required of applicants by the Utah Division of Wildlife Resources, and the requirement of liability insurance was established in statute.
<b>F) Compliance costs for affected persons:</b>
These proposed amendments are not expected to impose any compliance costs on any affected persons.
<b>G) Regulatory Impact Summary Table</b> (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Commerce, Chris Parker, has reviewed and approved this fiscal analysis.			
<b>6. A) Comments by the department head on the fiscal impact this rule may have on businesses:</b>			
The Division proposes amendments to update this rule according to the statutory changes to Section 58-79-101 et seq. pursuant to S.B. 149 and H.B. 290 (2020). The amendments remove obsolete definitions, add liability insurance requirements for registration, and emphasize the term "registrant" versus "licensee".			
Small Businesses (less than 50 employees): In Utah, there are approximately six small businesses in the hunting guide and outfitting industry (NAICS 114210). There are also 490 licensed hunting guides and 152 licensed outfitters. The Division averages 15 new applications per year and does not anticipate any cost or savings to these persons from these proposed amendments over and above the enacted registration requirements. The liability insurance requirement under Section R156-79-302 is already required of applicants by			

the Utah Division of Wildlife Resources. Accordingly, no fiscal impact is expected for small business over and above any fiscal impact described in the Legislative fiscal note as these costs are either inestimable or there is no fiscal impact.

Regulatory Impact to Non-Small Businesses (50 or more employees): the proposed amendments are not expected to impact non-small businesses because there are no non-small businesses in the hunting guide and outfitting industries (NAICS 114210) in Utah or for the same reasons as described above for small business as the costs are either inestimable, for the reasons stated, or there is not fiscal impact.

**B) Name and title of department head commenting on the fiscal impacts:**

Chris Parker, Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Section 58-79-101	Subsection 58-1-106(1)(a)	Subsection 58-1-202(1)(a)
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**Incorporations by Reference Information**

**8. A) This rule adds, updates, or removes the following title of materials incorporated by references:**

	<b>First Incorporation</b>
<b>Official Title of Materials Incorporated (from title page)</b>	Removes the generally accepted and recognized standards and ethics of the profession, established by the Utah Guides and Outfitters Association
<b>Publisher</b>	Utah Guides and Outfitters Association
<b>Date Issued</b>	July 1, 2006

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2020

<b>B) A public hearing (optional) will be held:</b>		
<b>On:</b>	<b>At:</b>	<b>At:</b>
08/17/2020	10:00 AM	Heber Wells Bldg, 160 E 300 S, Salt Lake City, UT. Electronic rule hearing only - join with Google Meet (meet.google.com/rf c-cfcu-zhm). Join by phone at +1 929-266-3411, PIN 415996459

<b>10. This rule change MAY become effective on:</b>	09/07/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Mark B. Steinagel, Director	<b>Date:</b>	07/14/2020
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**R156. Commerce, Occupational and Professional Licensing.  
R156-79. Hunting Guides and Outfitters [Licensing]Registration Act Rule.**

**R156-79-101. Title.**

This rule is known as the "Hunting Guides and Outfitters [Licensing]Registration Act Rule".

**R156-79-102. Definitions.**

In addition to the definitions in Sections 58-1-102 and 58-79-102, [which shall]that apply to this rule:

- (1) "Client" means [the person]an individual who engages the professional services of a [licensed]registered outfitter.
- (2) "Certification of completion of a first aid and CPR course" means a valid certificate issued by one of the following:
  - (a) the American Red Cross;
  - (b) the American Heart Association; or
  - (c) another organization that offers substantially equivalent first aid and CPR courses as approved by the Division, to denote the individual whose name and signature appear on the certificate has successfully completed the applicable first aid and CPR course.
- (3) "Conviction" means criminal conduct where the filing of a criminal charge has resulted in:
  - (a) a finding of guilt based on evidence presented to a judge or jury;
  - (b) a guilty plea;
  - (c) a plea of nolo contendere;
  - (d) a plea of guilty or nolo contendere that is held in abeyance pending the successful completion of probation;
  - (e) a pending diversion agreement;

- (f) a conviction that has been reduced pursuant to Subsection 76-3-402(1); or
- (g) an equivalent of this Subsection (3)(a) through (f) in another jurisdiction.]
- ([4]2) "Packing" means transporting for hire or compensation hunters, game animals, or equipment in the field.
- ([5]3) "Protecting" means the hunting guide [and]or outfitter protects any clientele.
- [ (6) "Responsible charge" means having principal care for the safety and welfare of a client when and where the hunting guide services are being provided.]
- ([7]4) "Unprofessional conduct"[-] as defined in Title 58, Chapters 1 and 79, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-79-502.

**R156-79-302[a]. Qualifications for [Licensure]Registration - Application Requirements.**

In accordance with Subsection[s 58-1-203(1) and] 58-1-301(3) and Section 58-79-302, an application for registration [the application requirements for licensure are defined herein.

- (1) An application for licensure [as a hunting guide or outfitter shall be accompanied by a current liability insurance policy protecting against injury or damage as a result of negligence by the registrant, which has at least the following minimum limits of coverage:
  - (1) \$25,000 for property damage;
  - (2) \$100,000 for bodily injury or death of one individual in a single accident; and
  - (3) \$300,000 for bodily injury or death to all individuals in a single accident.
- (a) a current certification of criminal history record for the applicant issued by the state of Utah or the applicant's state of residency;
- (b) a current certification of wildlife violation record for the applicant issued by the Utah Division of Wildlife Resources or the State Wildlife Agency of the applicant's state of residency;
- (c) a verification of licensure from any state or territory of the United States or province of Canada in which the applicant has been licensed as a hunting guide; and
- (d) a copy of a current photo identification for the applicant showing the applicant is at least 18 years of age. Acceptable photo identification shall include:
  - (i) a driver license issued by a state of the United States of America or the District of Columbia; or
  - (ii) an identification card issued by a federal, state or local government agency of the United States of America.
- (2) An application for licensure as an outfitter shall be accompanied by:
  - (a) a current certification of criminal history record for the applicant issued by the state of Utah or the applicant's state of residency;
  - (b) a current certification of wildlife violation record for the applicant issued by the Utah Division of Wildlife Resources or the State Wildlife Agency of the applicant's state of residency;
  - (c) a verification of licensure from any state or territory of the United States or province of Canada in which the applicant has been licensed; and
  - (d) a copy of a current photo identification for the applicant showing the applicant is at least 18 years of age. Acceptable photo identification shall include:
    - (i) a driver license issued by a state of the United States of America or the District of Columbia; or



~~(ii) an identification card issued by a federal, state or local government agency of the United States of America.~~

**~~R156-79-302c. Qualifications for Licensure — Examination Requirements.~~**

~~(1) For the purposes of this rule, to show an applicant possesses a minimum degree of skill and ability, the applicant shall meet one of the following requirements:~~

~~(a) an applicant as a hunting guide shall pass the Utah Hunting Guide Examination or the Utah Outfitters Examination with a passing score of at least 75%; or~~

~~(b) an applicant as an outfitter shall pass the Utah Outfitters Examination with a passing score of at least 75%.~~

~~(2) An individual who fails an examination may retake the failed examination as follows:~~

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

~~(b) no sooner than six months following any failure thereafter.~~

~~(3) The examination shall include an assessment of the applicant's knowledge of the Division hunting guide and outfitter statute and rules, the Utah Division of Wildlife Resources statutes and rules, the United States Forest Service and the Federal Bureau of Land Management hunting guidelines and rules and the Utah Hunter Safety Course guidelines and rules.~~

**~~R156-79-302d. Qualifications for Licensure — Good Moral Character.~~**

~~(1) Per Subsection 58-1-501(2) and Section R156-1-302, any one or more of the following may disqualify an individual from obtaining or holding a hunting guide or outfitters license:~~

~~(a) a violation of a state or federal wildlife, hunting guide or outfitter statute or regulation that includes:~~

~~(i) an imprisonment for more than five days within the previous five years;~~

~~(ii) an unsuspended fine of more than \$2,000 imposed in the previous 12 months;~~

~~(iii) an unsuspended fine of more than \$3,000 imposed in the previous 36 months; or~~

~~(iv) an unsuspended fine of more than \$5,000 imposed in the previous 60 months;~~

~~(b) any felony conviction within the last five years;~~

~~(c) a conviction for a felony offense against a person under Title 76, Chapter 5, Utah Criminal Code, Offenses Against the Person, within the last ten years;~~

~~(d) a conviction for one or more misdemeanors involving wildlife violations;~~

~~(e) a conviction for a misdemeanor crime of moral turpitude;~~

~~(f) a suspension or disciplinary action involving an individual obtaining or exercising the privileges granted by a hunting guide or outfitter license in this state or another state of the United States, province of Canada, by the Federal Bureau of Land Management or by the United States Forest Service; and~~

~~(g) a loss of the privilege to hunt in this state or another state of the United States or province of Canada.~~

**~~R156-79-302e. Qualifications for Licensure — Equivalent Training Requirements.~~**

~~(1)(a) An applicant for licensure as a hunting guide shall submit evidence of having successfully completed the following training:~~

~~(i) a first aid and CPR course as required under Subsection R156-79-102(2); and~~

~~(ii)(A) a basic hunting guide training program pursuant to Section R156-79-601; or~~

~~(B) 100 days of on the job training that is substantially equivalent to the basic hunting guide training program.~~

~~(b) No more than 15 days of on the job training may be accepted for any single item of training listed in Section R156-79-601.~~

~~(2)(a) An applicant for licensure as an outfitter shall submit evidence of having successfully completed the following training:~~

~~(i) a first aid and CPR course as required under Subsection R156-79-102(2); and~~

~~(ii)(A) a basic outfitter training program pursuant to Section R156-79-602; or~~

~~(B) 100 days of on the job training that is substantially equivalent to the basic outfitter training program.~~

~~(b) No more than 15 days of on the job training may be accepted for any single item of training listed in Section R156-79-602.~~

~~(3) An applicant shall document on the job training through:~~

~~(a) an affidavit by a licensed hunting guide or outfitter, as applicable to the license sought, attesting to the on the job training claimed by the applicant;~~

~~(b) for an outfitter who has been licensed in another state, self authenticating guarantees of reliability, such as:~~

~~(i) federal land agency records;~~

~~(ii) approved training program records; or~~

~~(iii) client affidavits or letters.~~

~~(4) Three days of on the job training may be waived by the Division for every day of training completed by an applicant who has attended a hunting guide or outfitter school that, as of the date of attendance, has been approved by the Division.]~~

**R156-79-303. Renewal Cycle - Procedures.**

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to ~~[licensees]~~registrants under Title 58, Chapter 79 is established by rule in Section R156-1-308a.

(2) Renewal procedures shall be in accordance with Sections R156-1-308b through R156-1-308l.

**R156-79-502. Unprofessional Conduct.**

"Unprofessional conduct" includes:

(1) engaging in fraud in advertising when soliciting hunting guide or outfitter services to the public;

(2) intentionally obstructing, hindering, or attempting to obstruct or hinder lawful hunting by a person who is not a client or an employee of the ~~[licensee]~~registrant;

(3) failing to report to the Division within 20 days any violation of a state or federal wildlife, big game, or guiding statute by a client or by an employee of the ~~[licensee]~~registrant;

(4) materially breaching a contract with a person using the hunting guide or outfitting services of the ~~[licensee]~~registrant;

(5) failing to provide any animal used in the conduct of business with proper food or drink, or otherwise subjecting any animal used in the conduct of business to abuse or cruel and inhumane treatment;

(6) failing to allow the Division or its agents access at any time to inspect hunting camps, whether or not the ~~[licensee]~~registrant is present;

NOTICES OF PROPOSED RULES

(7) failing to provide a hunting guide for every two hunters in wilderness areas and for up to six hunters in any other areas of the state;

(8) failing to maintain a neat, orderly, and sanitary camp by not disposing of garbage, debris, ~~or~~ human waste appropriately;

(9) failing to provide clean drinking water or failing to protect food from contamination;

(10) failing to separate livestock facilities and camp facilities, ~~or~~ to protect streams from contamination;

(11) failing to report any serious injury or fatality of a client or outfitter staff to a federal, state, county, or local law enforcement authority;

(12) failing to comply with state ~~and~~ or federal laws and rules regarding hunting guides and outfitters;

(13) failing to comply with state or federal wildlife laws and rules;

(14) failing to adequately maintain general liability insurance coverage as required by the United States Forest Service or the Bureau of Land Management;

~~[(15) failing as a licensee to carry an original license, as issued by the Division, when providing outfitting or hunting guide services;]~~

~~[(16)]~~ providing outfitter services to a person who is not properly licensed to hunt for the species sought by that person; and

~~[(17)]~~ failing to conform to the generally accepted and recognized standards and ethics of the profession ~~including those established by the Utah Guides and Outfitters Association, adopted July 1, 2006, which is hereby incorporated by reference].~~

**~~[R156-79-601. Content of the Hunting Guide Basic Training Program.~~**

~~The basic training program for hunting guides as required in Subsection 58-79-302(1)(e) shall be approved by the Division and may include the following components or their equivalent:~~

- ~~(1) hunter ethics and attitude;~~
- ~~(2) horsemanship;~~
- ~~(3) packing skills;~~
- ~~(4) transporting livestock;~~
- ~~(5) shoeing skills;~~
- ~~(6) use of a crosscut saw and ax;~~
- ~~(7) use of a chain saw;~~
- ~~(8) general weapon knowledge;~~
- ~~(9) guiding skills;~~
- ~~(10) game care;~~
- ~~(11) setting up camps;~~
- ~~(12) hunting guide regulations;~~
- ~~(13) first aid and CPR training provided by:~~
  - ~~(a) the American Red Cross;~~
  - ~~(b) the American Heart Association; or~~
  - ~~(c) another organization that offers substantially equivalent training as approved by the Division;~~
- ~~(14) orienteering and map reading;~~
- ~~(15) a basic off-highway vehicle safety course;~~
- ~~(16) basic survival skills;~~
- ~~(17) trophy judging skills;~~
- ~~(18) other topics pertinent to the hunting guide industry as approved by the Division.~~

**~~R156-79-602. Content of the Outfitter Basic Training Program.~~**

~~The basic training program for outfitters as required in Subsection 58-79-302(2)(e) shall be approved by the Division and may include the following components or their equivalent:~~

- ~~(1) hunter ethics and attitude;~~
- ~~(2) horsemanship;~~
- ~~(3) packing skills;~~
- ~~(4) transporting livestock;~~
- ~~(5) shoeing skills;~~
- ~~(6) use of a crosscut saw and ax;~~
- ~~(7) use of a chain saw;~~
- ~~(8) general weapon knowledge;~~
- ~~(9) guiding skills;~~
- ~~(10) game care;~~
- ~~(11) setting up camps;~~
- ~~(12) outfitter regulations;~~
- ~~(13) first aid and CPR training provided by:~~
  - ~~(a) the American Red Cross;~~
  - ~~(b) the American Heart Association; or~~
  - ~~(c) another organization that offers substantially equivalent training as approved by the Division;~~
- ~~(14) a basic off-highway vehicle safety course;~~
- ~~(15) supervising clientele;~~
- ~~(16) hiring and supervising personnel;~~
- ~~(17) outfitter advertising;~~
- ~~(18) booking clientele;~~
- ~~(19) going into business for oneself;~~
- ~~(20) wilderness and back-country manners;~~
- ~~(21) applying federal and state land-use policies;~~
- ~~(22) obtaining any necessary licenses and permits and permissions for the client;~~
- ~~(23) providing staff and facilities for hunting;~~
- ~~(24) providing a hunting guide;~~
- ~~(25) orienteering and map reading;~~
- ~~(26) basic survival skills;~~
- ~~(27) trophy judging skills;~~
- ~~(28) other topics pertinent to the outfitter industry as approved by the Division.]~~

**KEY: licensing, hunting guides, outfitters**

**Date of Enactment or Last Substantive Amendment: [June 23, 2020**

**Notice of Continuation: July 8, 2019**

**Authorizing, and Implemented or Interpreted Law: 58-79-101; 58-1-106(1)(a); 58-1-202(1)(a)**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	R277-310	Filing No. 52960

**Agency Information**

<b>1. Department:</b>	Education
<b>Agency:</b>	Administration
<b>Building:</b>	Board of Education
<b>Street address:</b>	250 E 500 S
<b>City, state:</b>	Salt Lake City, UT 84111

<b>Mailing address:</b> PO Box 144200		
<b>City, state, zip:</b> Salt Lake City, UT 84114-4200		
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R277-310. International Guest Teachers
<b>3. Purpose of the new rule or reason for the change:</b>
Utah State Board of Education (Board) Rule R277-310 establishes procedures for local education agencies (LEAs) to place qualified individuals through International Guest Teacher agreements.
<b>4. Summary of the new rule or change:</b>
The new Board Rule R277-310 adopts the new numbering protocol for licensing rules, brings the rule into conformance with the new licensing structure, and makes other technical updates.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This proposed rule is not expected to have independent fiscal impact on state government revenues or expenditures. This rule brings licensing for international guest teachers into conformity with the state's new licensing systems.
<b>B) Local governments:</b>
This proposed rule is not expected to have independent fiscal impact on local governments' revenues or expenditures. This rule brings licensing for international guest teachers into conformity with the state's new licensing systems.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
This proposed rule is not expected to have independent fiscal impact on small businesses' revenues or expenditures. This rule brings licensing for international guest teachers into conformity with the state's new licensing systems.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed new rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This proposed rule is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. This rule brings licensing for international guest teachers into conformity with the state's new licensing systems.

**F) Compliance costs for affected persons:**

There are no significant compliance costs for affected persons. This rule brings licensing for international guest teachers into conformity with the state's new licensing systems.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

**Regulatory Impact Table**

<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0

NOTICES OF PROPOSED RULES

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

**H) Department head approval of regulatory impact analysis:**

The State Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on LEAs and will not have a fiscal impact on small businesses either.

**B) Name and title of department head commenting on the fiscal impacts:**

Sydnee Dickson, State Superintendent

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Article X, Section 3	Subsection 53E-3-401(4)	Subsection 53E-6-201(3)(a)
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in

the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2020

**10. This rule change MAY become effective on:** 09/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent	<b>Date:</b>	07/15/2020
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**R277. Education, Administration.**

**R277-310. International Guest Teachers.**

**R277-310-1. Authority and Purpose.**

(1) This rule is authorized by:

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

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

(c) Subsection 53E-6-201(3)(a), which allows the Board to establish the criteria for obtaining educator licenses.

(2) The purpose of this rule is to establish procedures for qualified international guest teachers to be effectively hired and placed by a Utah LEA with assistance and direction from the Superintendent to encourage cultural exchange and foreign language development among Utah public school students.

**R277-310-2. Definitions.**

(1) "International guest teacher" or "guest teacher" means a foreign educator who:

(a) has earned a public teaching credential or license in a foreign country;

(b) is currently legally residing in the United States and the state of Utah with the specific purpose to teach in Utah public schools; and

(c) is a resident of a foreign country that has a memorandum of understanding with the Board as described in Subsection R277-301-3(1).

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

**R277-310-3. Superintendent Responsibilities.**

(1) On behalf of the board, the Superintendent shall sign a Board-approved memorandum of understanding with the appropriate government agency of the country of origin.

(2) The Superintendent may work with guest teachers and their resident countries and the United States Department of State, if necessary, to secure appropriate visas or travel and work documents for guest teachers to legally teach in the public schools in Utah.

(3) The Superintendent shall verify that guest teachers have appropriate licenses or credentials from the guest teachers' resident countries that satisfy the requirements of Utah law and any applicable federal requirements.

(4) The Superintendent shall work with interested LEAs to make schools aware of guest teachers with specific credentials and language skills and to inform guest teachers about openings in specific grade levels and curriculum areas in various geographic locations in Utah.

(5)(a) The Superintendent shall review and approve a sending country's background check process.

(b) If an applicant successfully passes an approved background vetting process, the applicant meets the requirements of Subsection 53G-11-403(1) and Subsection R277-301-4(4)(a).

(6) The Board may determine that it will seek guest teachers only from foreign countries that provide transportation or per diem expenses or both for the Superintendent representatives to screen and interview potential guest teachers.

(7)(a) Following review and approval of a guest teacher's credentials and background, a guest teacher may receive a professional license.

(b) Notwithstanding Subsection R277-301-5(2), a professional license issued in accordance with this Rule R277-310 is valid for three years.

**R277-310-4. International Guest Teacher Requirements.**

(1) A guest teacher shall have a United States issued social security number prior to an LEA processing any payment to the guest teacher.

(2) A guest teacher shall cooperate with the Superintendent in required submission of information including criminal background check information, copies of credentials, copies of transcripts in the language and format designated by the Superintendent.

(3) A guest teacher shall assume all responsibility for living and transportation expenses while participating in the international guest teachers program.

(4) A guest teacher shall be responsible for compliance with all professional and ethical public school educator requirements.

(5) A guest teacher who violates an LEA employment policy or the Educator standards under Rule R277-217 may have the teacher's guest employment contract terminated consistent with at will employment provisions.

(6) The conduct of an individual guest teacher may influence continued participation in an international guest teacher program between the Board and a guest teacher's resident country.

**R277-310-5. Other Provisions.**

(1) The opportunity for a teacher from outside the United States to be licensed to teach in Utah schools with assistance provided by the Superintendent under this rule shall be available only to individuals from countries with which the Board has a memorandum of understanding.

(2) A business or third party may not facilitate a memorandum of understanding between a foreign country and the Board, but may facilitate the hiring process at the request of an LEA.

(3) Notwithstanding this Rule R277-310, an internationally credentialed educator may seek appropriate licensing to teach in Utah schools in accordance with Rule R277-301, even without a host country with a memorandum of understanding with the Board.

(4) It is the responsibility of a prospective guest teacher or the guest teacher's home country to ensure that the guest teacher has

the appropriate visa or authorization or both to live and teach in the United States for the agreed upon time period and teaching assignment.

**KEY: international guest teachers**

**Date of Enactment or Last Substantive Amendment: 2020**

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

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Utah Admin. Code Ref (R no.):	R277-418	Filing No. 52961

**Agency Information**

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov

Please address questions regarding information on this notice to the agency.

**General Information**

2. Rule or section catchline:
R277-418. Distance, Blended, Online, or Competency Based Learning Program
3. Purpose of the new rule or reason for the change:
The issues governed by Utah State Board of Education (Board) Rule R277-418 are now covered in other board rules.
4. Summary of the new rule or change:
The Board recommends this rule be repealed because it is no longer needed. This rule is repealed in its entirety.

**Fiscal Information**

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule repeal is not expected to have independent fiscal impact on state government revenues or expenditures. The issues governed by this rule are covered in other board rules. Therefore, this rule is being repealed.

<b>B) Local governments:</b>			
This rule repeal is not expected to have independent fiscal impact on local governments' revenues or expenditures. The issues governed by this rule are covered in other board rules. Therefore, this rule is being repealed.			
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):			
This rule repeal is not expected to have independent fiscal impact on small businesses' revenues or expenditures. The issues governed by this rule are covered in other board rules. Therefore, this rule is being repealed.			
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):			
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed repeal is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.			
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):			
This rule repeal is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The issues governed by this rule are covered in other board rules. Therefore, this rule is being repealed.			
<b>F) Compliance costs for affected persons:</b>			
There are no compliance costs for affected persons. The issues governed by this rule are covered in other board rules. Therefore, this rule is being repealed.			
<b>G) Regulatory Impact Summary Table</b> (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head approval of regulatory impact analysis:</b>			
The State Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.			
<b>6. A) Comments by the department head on the fiscal impact this rule may have on businesses:</b>			
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed repeal is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable large businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule repeal has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.			
<b>B) Name and title of department head commenting on the fiscal impacts:</b>			
Sydnee Dickson, State Superintendent			

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations**

<b>(required):</b>		
Article X, Section 3	Subsection 53E-3-401(4)	

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	08/31/2020
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<b>10. This rule change MAY become effective on:</b>	09/07/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent	<b>Date:</b>	07/15/2020
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**R277. Education, Administration.**

~~**[R277-418. Distance, Blended, Online, or Competency Based Learning Program.**~~

~~**R277-418-1. Definitions.**~~

~~A. "Blended learning program" means a program under the direction of an LEA:~~

- ~~(1) where a student learns at least in part:~~
  - ~~(a) at a supervised brick and mortar location away from home; and~~
  - ~~(b) at least in part through an online delivery; and~~
  - ~~(2) that may include some element of student control over time, place, or path, or pace.~~

~~B. "Board" means the Utah State Board of Education.~~

~~C. "Distance learning program" means a program, under the direction of an LEA, in which the participants are a distance from each other in space.~~

~~D. "Enrollment verification data" includes:~~

- ~~(1) a student's birth certificate or other verification of age;~~
- ~~(2) verification of immunization or exemption from immunization form;~~
- ~~(3) proof of Utah public school residency;~~
- ~~(4) family income verification; or~~
- ~~(5) special education program information, including information for:~~
  - ~~(a) an individualized education program;~~

- ~~(b) a Section 504 accommodation plan; and~~
- ~~(c) an English learner plan.~~
- ~~E. "Competency based learning program" means an education program that requires a student to acquire a competency and includes a classroom structure and operation that aid and facilitate the acquisition of specified competencies on an individual basis wherein a student is allowed to master and demonstrate competencies as fast as the student is able.~~
- ~~F. "LEA" or "local education agency" means a school district or charter school.~~
- ~~F. "Nontraditional Program" means a program within an LEA that consists of eligible, enrolled public school students where the student receives instruction through a:~~
  - ~~(1) distance learning program;~~
  - ~~(2) online learning program;~~
  - ~~(3) blended learning program; or~~
  - ~~(4) competency based learning program.~~
- ~~G. "Online learning program" means a program, under the direction of an LEA, where there is an organized offering of courses delivered primarily over the internet.~~
- ~~H. "Superintendent" means the State Superintendent of Public Instruction or the Superintendent's designee.~~
- ~~I. "Third party provider" means a third party who provides educational services on behalf of an LEA.~~

~~**R277-418-2. Authority and Purpose.**~~

~~A. This rule is authorized under Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board and by Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities.~~

~~B. The purpose of this rule is to provide standards and procedures for nontraditional programs.~~

~~**R277-418-3. Distance, Blended, Online, or Competency Based Learning Program Standards.**~~

~~A. An LEA offering a nontraditional program shall comply with the following standards:~~

- ~~(1) student eligibility and membership/enrollment requirements described in R277-419-5, 419-6, and 419-7;~~
- ~~(2) school and program requirements described in R277-419-3(A);~~
- ~~(3) minimum school day requirements described in R277-419-4(A)1-2;~~
- ~~(4) compliance with official record standards and membership audit requirements described in:~~
  - ~~(a) R277-419-4B(1) and (2); and~~
  - ~~(b) R277-419-4C and 4D;~~
- ~~(5) educator licensure requirements described in R277-502;~~
- ~~(6) fingerprint and background check requirements for educators, employees and volunteers, described in:~~
  - ~~(a) Title 53G, Chapter 11, Part 4, Background Checks;~~
  - ~~(b) Section 53G-5-402;~~
  - ~~(c) Section 53E-6-403;~~
  - ~~(d) R277-516; and~~
  - ~~(e) R277-520;~~
- ~~(7) integration of the Utah Core Standards in the nontraditional program's student instruction consistent with Subsection 53E-3-501(1)(a) and R277-700;~~
- ~~(8) compliance with statewide assessment administration requirements by the LEA, as required under:~~
  - ~~(a) Title 53E, Chapter 4, Part 3, Achievement Tests; and~~

NOTICES OF PROPOSED RULES

~~(b) R277-404; and~~  
~~(9) compliance with the public school data confidentiality and disclosure requirements described in R277-487.~~  
~~B. An LEA that contracts with a third party provider to provide educational services on behalf of the LEA for the LEA's nontraditional program shall:~~  
~~(1) develop a written monitoring plan to supervise the activities and services provided by the third party provider;~~  
~~(2) ensure the third party provider is complying with:~~  
~~(a) federal law;~~  
~~(b) state law; and~~  
~~(c) Board rules;~~  
~~(3) monitor and supervise all activities of the third party provider related to services provided by the third party provider to the LEA; and~~  
~~(4) maintain documentation of the LEA's supervisory activities consistent with the LEA's administrative records retention schedule.~~  
~~C. An LEA shall:~~  
~~(1) verify the accuracy and validity of a student's enrollment verification data, prior to enrolling a student in the LEA; and~~  
~~(2) provide a student and the student's parent or guardian with notification of the student's enrollment in a school or program within the LEA.~~  
~~D. The Board or the Superintendent may require an LEA to repay public funds to the Superintendent if:~~  
~~(1) the LEA or the LEA's third party provider fails to comply with the provisions of this R277-418; and~~  
~~(2) the repayment is made in accordance with the procedures established in R277-114.~~  
~~E. An LEA offering a nontraditional program shall retain sufficient documentation to demonstrate the nontraditional program's compliance with this R277-418-3.~~

~~**KEY: student, enrollment, nontraditional learning programs**~~  
~~**Date of Enactment or Last Substantive Amendment: July 8, 2015**~~  
~~**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4)]**~~

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-488	Filing No. 52962

**Agency Information**

<b>1. Department:</b>	Education
<b>Agency:</b>	Administration
<b>Building:</b>	Board of Education
<b>Street address:</b>	250 E 500 S
<b>City, state:</b>	Salt Lake City, UT 84111
<b>Mailing address:</b>	PO Box 144200
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4200
<b>Contact person(s):</b>	

Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov

Please address questions regarding information on this notice to the agency.

**General Information**

<b>2. Rule or section catchline:</b>
R277-488. Dual Language Immersion Program
<b>3. Purpose of the new rule or reason for the change:</b>
Rule R277-488 establishes requirements for distribution of funds for the Dual Language Immersion Program.
<b>4. Summary of the new rule or change:</b>
The Utah State Board of Education (Board) Rule R277-488 updates include recommendations to update the application process and change the deadline for submission of annual reports to the Board and updated procedural requirements for funding.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This rule change is not expected to have independent fiscal impact on state government revenues or expenditures. The amendments are minor and clarifying in nature.
<b>B) Local governments:</b>
This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. The amendments are minor and clarifying in nature.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
This rule change is not expected to have independent fiscal impact on small businesses' revenues or expenditures. The amendments are minor and clarifying in nature.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues



or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have independent fiscal impacts on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The amendments are minor and clarifying in nature.

**F) Compliance costs for affected persons:**

There are no compliance costs for affected persons. The amendments are minor and clarifying in nature.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

**Regulatory Impact Table**

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

The State Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

**B) Name and title of department head commenting on the fiscal impacts:**

Sydnee Dickson, State Superintendent

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Article X, Section 3	Section 53F-2-502	Subsection 53E-3-401(4)
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2020

**B) A public hearing (optional) will be held:**

**10. This rule change MAY become effective on:** 09/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a

Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent	<b>Date:</b>	07/15/2020
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**R277. Education, Administration.**

**R277-488. Dual Language Immersion Program.**

**R277-488-1. Authority and Purpose.**

- (1) This rule is authorized by:
  - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
  - (b) Section 53F-2-502, which requires the Board to establish a Dual Language Immersion program; and
  - (c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.
- (2) The purpose of this rule is to:
  - (a) establish criteria and procedures for distributing funds to elementary and secondary schools participating in the Dual Language Immersion Program;
  - (b) increase the number of students who reach proficiency in world languages;
  - (c) build overall world language capacity in the state of Utah; and
  - (d) increase the number of biliterate and bilingual students.

**R277-488-2. Definitions.**

- (1) "Dual language immersion" or "DLI" means a distinctive dual language education program in which native English speakers and active speakers of another language are integrated for academic content.
- (2) "Secondary school" means grades 7-12 in whatever schools the grade levels exist.

**R277-488-3. Dual Language Immersion Program Requirements.**

- (1) The Superintendent shall disburse DLI program funds by July 1 of each fiscal year subject to state appropriation.
- (2) The DLI program shall support world languages approved by the Superintendent.
- (3) The Superintendent shall [~~annually~~] provide an initial application for an LEA to receive funding for DLI programs.
- (4) An LEA shall submit an application described in Subsection (3) no later than the deadline specified in the application [~~annually~~] to be considered for elementary school DLI program funding in the subsequent school year.
- (5) An application for DLI program funds shall include a plan that includes:
  - (a) a world language approved by the Superintendent;
  - (b) a timeline that begins the instructional model in kindergarten or grade 1, adds an additional grade each year; and
  - (c) a plan and procedure in place to notify students and parents of the availability of at least one DLI course.
- (6) The Superintendent shall give priority in DLI program funding to an LEA that:
  - (a) does not currently teach the requested language choice;
  - (b) demonstrates adequate local funding and infrastructure to begin a program or expand existing programs;

- (c) demonstrates community interest and students committed and prepared to participate in a new or expanded program, including prepared instructors for the program;
- (d) has adequate interest, resources, and infrastructure, but does not presently have a DLI program; and
- (e) has a demonstrated community need for improved or expanded world language instruction in a specific school or community.
- (7) A school receiving DLI program funds shall hire qualified world language teachers who:
  - (a) have a world language endorsement in the language of instruction and a DLI endorsement; and
  - (b) are Utah licensed elementary or secondary educators.

**R277-488-4. Proficiency Assessment Requirements.**

- (1) The Superintendent shall select a proficiency assessment through an appropriate procurement process.
- (2) The proficiency assessment described in Subsection (1) shall assess the following areas of proficiency:
  - (a) listening;
  - (b) speaking;
  - (c) reading; and
  - (d) writing.
- (3) An LEA DLI program shall administer the proficiency assessment selected by the Superintendent as described in Subsection (1) for certain areas of proficiency listed in subsection (2) at each grade level starting at Grade 3 and through Grade 9.

**R277-488-5. International Guest Teacher Requirements.**

- (1) An LEA may offer world languages through the DLI program using an international guest teacher as outlined in R277-527.

**R277-488-6. Dual Language Immersion Funds.**

- (1) Elementary schools shall be selected for funding for the DLI program based on an evaluation of applications by the Superintendent.
  - (a) Secondary schools shall receive funding as recipients of DLI students through the regular school feeder system.
  - (2) The Superintendent shall make an award to an individual elementary or secondary school and allocate funds to the school's LEA to be fully distributed to the school based on the annual legislative funding allocation.
  - (3) The Superintendent shall notify a new school eligible for funding of a funds award for the subsequent fiscal year by June 1 annually.

**R277-488-7. Evaluation and Reports.**

- (1) Each school selected for funding shall submit an [~~annual~~] evaluation report to the Superintendent by June 30 annually.
- (2) The Superintendent may request additional data from a secondary or elementary school that receives funding.

**KEY: critical languages, dual language immersion**  
**Date of Enactment or Last Substantive Amendment: [~~December 10, 2018~~2020**  
**Notice of Continuation: June 6, 2017**  
**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53F-2-502; 53E-3-401**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Utah Admin. Code Ref (R no.):	R277-527	Filing No. 52963

**Agency Information**

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R277-527. International Guest Teachers
<b>3. Purpose of the new rule or reason for the change:</b>
The issues governed by State Board of Education (Board) Rule R277-527 are now covered in Board Rule R277-310. This rule is now obsolete. (EDITOR'S NOTE: The proposed new Rule R277-310 is under Filing No. 52960 in this issue, August 1, 2020, of the Bulletin.)
<b>4. Summary of the new rule or change:</b>
Board Rule R277-527 is no longer necessary and repealed in its entirety.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This rule repeal is not expected to have independent fiscal impact on state government revenues or expenditures. The issues governed by Board Rule R277-527 are now covered in Board Rule R277-310.
<b>B) Local governments:</b>
This rule repeal is not expected to have independent fiscal impact on local governments' revenues or expenditures. The issues governed by Board Rule R277-527 are now covered in Board Rule R277-310.

**C) Small businesses** ("small business" means a business employing 1-49 persons):

This rule repeal is not expected to have independent fiscal impact on small businesses' revenues or expenditures. The issues governed by Board Rule R277-527 are now covered in Board Rule R277-310.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed repeal is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule repeal is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The issues governed by Board Rule R277-527 are now covered in Board Rule R277-310.

**F) Compliance costs for affected persons:**

There are no compliance costs for affected persons. The issues governed by Board Rule R277-527 are now covered in Board Rule R277-310.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

**Regulatory Impact Table**

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0

<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

The State Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This repeal is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

**B) Name and title of department head commenting on the fiscal impacts:**

Sydnee Dickson, State Superintendent

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Article X, Section 3	Subsection 53E-3-401(4)	Subsection 53A-1-402(1)(a)
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2020

**10. This rule change MAY become effective on:** 09/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent	<b>Date:</b>	07/15/2020
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**R277. Education, Administration.**

~~**R277-527. International Guest Teachers.**~~

~~**R277-527-1. Authority and Purpose.**~~

- ~~(1) This rule is authorized by:~~
  - ~~(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;~~
  - ~~(b) Section 53E-3-401(4) which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and~~
  - ~~(c) Section 53A-1-402(1)(a) which directs the Board to establish rules and minimum standards for the qualification and licensing of educators and ancillary personnel who provide direct student services.~~
- ~~(2) The purpose of this rule is to establish procedures for qualified international guest teachers who meet the definition of Section R277-527-1 to be effectively hired and placed by a Utah LEA with assistance and direction from the Superintendent to encourage cultural exchange and foreign language development among Utah public school students.~~

~~**R277-527-2. Definitions.**~~

- ~~(1) "International guest teacher" or "guest teacher" means a foreign educator who:~~
  - ~~(a) has earned a public teaching credential or license in a foreign country;~~
  - ~~(b) is currently legally residing in the United States and the state of Utah with the specific purpose to teach in Utah public schools; and~~

~~(c) is a resident of a foreign country that has a Memorandum of Understanding with the Board as described in Subsection R277-527-3.~~

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

**R277-527-3. Superintendent Responsibilities.**

~~(1) On behalf of the board, the Superintendent shall sign a Memorandum of Understanding between the Board and the appropriate government agency of the country of origin of guest teachers, as approved by the Board.~~

~~(2) The Superintendent shall work with guest teachers and their resident countries and the United States Department of State, if necessary, to secure appropriate visas or travel and work documents for guest teachers to legally teach in the public schools in Utah.~~

~~(3) The Superintendent shall verify that guest teachers have appropriate licenses or credentials from the guest teachers' resident countries that satisfy the requirements of Utah law and any applicable federal requirements.~~

~~(4) The Superintendent shall work with interested LEAs to make schools aware of guest teachers with specific credentials and language skills and to inform guest teachers about openings in specific grade levels and curriculum areas in various geographic locations in Utah.~~

~~(5) The Superintendent shall require and review a guest teacher's criminal background checks required under Section 53G-11-403 and a criminal background clearance from the guest teacher's resident country or both prior to authorizing the guest teacher to work in Utah.~~

~~(6) The Board may determine that it will seek guest teachers only from foreign countries that provide transportation or per diem expenses or both for the Superintendent representatives to screen and interview potential guest teachers.~~

~~(7) Following review and approval of a guest teacher's credentials and background, a guest teacher may receive an International Guest Teacher license equivalent to a Level 1 or professional license.~~

**R277-527-4. International Guest Teacher Requirements.**

~~(1) A Guest teacher shall have a United States issued social security number prior to an LEA processing any payment to the guest teacher.~~

~~(2) A Guest teacher shall cooperate with the Superintendent in required submission of information including criminal background check information, copies of credentials, copies of transcripts in the language and format designated by the Superintendent.~~

~~(3) A Guest teacher shall assume all responsibility for living and transportation expenses while participating in the International Guest Teachers Program.~~

~~(4) A Guest teacher shall be responsible for compliance with all state of Utah Board and employing LEA professional and ethical public school educator requirements.~~

~~(5) A guest teacher who violates an LEA employment or state of Utah, Board or local professional practice may have the teacher's guest employment contract terminated consistent with at will employment provisions.~~

~~(6) The conduct of an individual guest teacher may influence continued participation in an International Guest Teacher Program between the Board and a guest teacher's resident country.~~

**R277-527-5. Other Provisions.**

~~(1) The opportunity for a teacher from outside the United States to be licensed to teach in Utah schools with assistance provided by the Superintendent under this rule shall be available only to individuals from countries with which the Board has signed a Memorandum of Understanding.~~

~~(2) A business or third party may not facilitate a Memorandum of Understanding between a foreign country and the Board, but may facilitate the hiring process at the request of an LEA.~~

~~(3)(a) An internationally credentialed educator may seek appropriate licensing to teach in Utah schools.~~

~~(b) An educator from a country that does not have Memoranda of Understanding with the Board shall be licensed under R277-502.~~

~~(4) It is the responsibility of a prospective guest teacher or the guest teacher's home country to ensure that the guest teacher has the appropriate visa or authorization or both to live and teach in the United States for the agreed upon time period and teaching assignment.~~

**KEY: international guest teachers**

**Date of Enactment or Last Substantive Amendment: November 7, 2018**

**Notice of Continuation: September 13, 2018**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(3); 53E-3-501(1)(a)]**

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Amendment

<b>Utah Admin. Code Ref (R no.):</b>	<b>R277-622</b>	<b>Filing No. 52965</b>
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**Agency Information**

<b>1. Department:</b>	Education
<b>Agency:</b>	Administration
<b>Building:</b>	Board of Education
<b>Street address:</b>	250 E 500 S
<b>City, state:</b>	Salt Lake City, UT 84111
<b>Mailing address:</b>	PO Box 144200
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4200

**Contact person(s):**

<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov

Please address questions regarding information on this notice to the agency.

**General Information**

**2. Rule or section catchline:**

R277-622. School-based Mental Health Qualified Grant Program

<p><b>3. Purpose of the new rule or reason for the change:</b></p> <p>This rule is being amended to reflect the changes made to its authorizing law by House Bill (H.B.) 323, which passed in the 2020 General Session.</p>
<p><b>4. Summary of the new rule or change:</b></p> <p>The rule is being updated to remove a match requirement for funds awarded to a local education agency (LEA) for a plan submitted after April 1, 2020. This rule is also modified to allow an LEA to use the LEA's Teacher and Student Success Account as a source of matching funds.</p>

**Fiscal Information**

<p><b>5. Aggregate anticipated cost or savings to:</b></p>
<p><b>A) State budget:</b></p> <p>This rule change is not expected to have independent fiscal impact on state government revenues or expenditures. The amendments reflect changes made in law by H.B. 323 (2020).</p>
<p><b>B) Local governments:</b></p> <p>This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. The amendments reflect changes made in law by H.B. 323 (2020).</p>
<p><b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):</p> <p>This rule change is not expected to have independent fiscal impact on small businesses' revenues or expenditures. The amendments reflect changes made in law by H.B. 323 (2020).</p>
<p><b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):</p> <p>There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.</p>
<p><b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b>):</p>

This rule change is not expected to have independent fiscal impacts on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The amendments reflect changes made in law by H.B. 323 (2020).

<p><b>F) Compliance costs for affected persons:</b></p> <p>There are no independent compliance costs for affected persons. The amendments reflect changes made in law by H.B. 323 (2020).</p>
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**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<p><b>H) Department head approval of regulatory impact analysis:</b></p> <p>The State Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.</p>
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**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

**B) Name and title of department head commenting on the fiscal impacts:**

Sydnee Dickson, State Superintendent

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Article X, Section 3	Subsection 53E-3-401(4)	Section 53F-2-415
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2020

**10. This rule change MAY become effective on:** 09/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent	<b>Date:</b>	07/15/2020
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**R277. Education, Administration.**

**R277-622. School-based Mental Health Qualified Grant Program.**

**R277-622-1. Authority and Purpose.**

- (1) This rule is authorized by:
  - (a) Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board;
  - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
  - (c) Section 53F-2-415 which requires the Board to make rules that establish:
    - (i) procedures for submitting a plan for the School-based Mental Health Qualified Grant Program;
    - (ii) a distribution formula the Board will use to distribute funds to an LEA; and
    - (iii) annual reporting requirements for an LEA that receives funds pursuant to the School-based Mental Health Qualified Grant Program.
- (2) The purpose of this rule is to establish the procedures for an LEA to receive a School-based Mental Health Qualified Grant including:
  - (i) plan submission process, format, and requirements;
  - (ii) funding distribution methods; and
  - (iii) additional requirements including reporting and accountability.

**R277-622-2. Definitions.**

- (1) "Plan" means a School-based Mental Health Qualified Grant plan described in Section R277-622-3.
- (2) "Qualified Personnel" means the same as the term is defined in Subsection 53F-2-415(1).
- (3) "Related Services" means mental-health or school nursing services provided by the local mental health authority or a private provider through a contract.

**R277-622-3. School-based Mental Health Plan.**

- (1) To qualify for a School-based Mental Health Qualified Grant, an LEA shall submit a plan to the Superintendent.
- (2) The plan shall include:
  - (a) a three-year projection for the LEA's goals, metrics, and outcomes;
  - (b) requirements outlined in Subsection 53F-2-415(3);
  - (c) plan for improving access to students who are underserved or at risk;
  - (d) how qualified personnel will increase access to mental health services;
  - (e) a process for utilization of qualified personnel in participating with an LEA's care team as outlined in R277-400;
  - (f) the source of the LEA's matching funds; and
  - (g) a timeline and process for stakeholder training in trauma-informed practices.
- (3) Except as provided in Subsection (4), an LEA shall submit the LEA's plan no later than May 31 for a funding distribution to be made for the upcoming school year.

NOTICES OF PROPOSED RULES

(4) An LEA shall submit a plan no later than June 7 for a funding distribution to be made in Fiscal Year 20.

(5) An LEA's approved plan is valid for three years and may be required to be reapproved after three years of implementation.

(6) An LEA may submit a revised plan for approval by the board, in a manner described by the Superintendent, if the LEA identifies deficiencies with the LEA's ability to implement the LEA's plan including a change in available funding.

**R277-622-4. Board Approval or Denial of LEA Plan.**

(1) The Board shall approve or deny each LEA plan submitted by the Superintendent.

(2) If the Board denies an LEA's plan, the LEA may amend and resubmit the LEA's plan to the Superintendent until the Board approves the LEA plan.

**R277-622-5. School-Based Mental Health Grant Distribution.**

(1) An LEA with an approved plan pursuant to subsection R277-622-4 shall receive a School-based Mental Health Grant distribution.

(2) The funding amount distributed to an approved LEA shall be the sum of:

(a) \$25,000; and

(b) a per student allocation based on the number of students in an LEA divided by the total available grant appropriation less the aggregate amount of appropriation allocated as described in Subsection (2)(a).

(3) The number of students used in Subsection (2)(b) shall be:

(i) based on the October 1 headcount in the prior year; or

(ii) for a new LEA, based on the new LEA's projected October 1 headcount.

(4) An LEA may only receive an initial distribution totaling 25% of the allocation upon plan approval.

(5) An LEA may receive a second distribution totaling 75% of the allocation upon demonstration to the Superintendent of:

(a) contracting of services for qualified personnel; or

(b) hiring qualified personnel.

(6) After the distribution described in subsections (2)(a) and (b), and by October 1 of each year, the Superintendent shall distribute any undistributed funds as an additional allocation to an LEA.

(7) An LEA may qualify for the additional allocation described in Subsection (6) if the LEA demonstrates an intent to collaborate with the Local Mental Health Authority of the county the LEA is located.

(8) The additional allocation described in subsection (6) shall be:

(a) the aggregate total of undistributed funds;

(b) subject to all matching fund requirements described in section R277-622-3;

(c) distributed to an eligible LEA in an amount equal to the LEA's portion of the student headcount of all eligible and participating LEAs; and

(d) used for collaboration with the Local Mental Health Authority of the County the LEA is located.

**R277-622-6. Matching Funds.**

(1) To qualify for a School-based Mental Health Qualified Grant, an LEA, that submits a plan prior to April 1, 2020, shall provide matching funds as required by Subsection 53F-2-415(4)(b).

(2) To qualify as matching funds the LEA's funds may come from any of the following sources or procedures:

(a) prioritizing of existing unrestricted state or local funds including:

(i) an unrestricted donation; or

(ii) new funds available in the next fiscal year;

(b) funds generated from property tax;

(c) charter school local replacement funds;

(d) unrestricted MSP Basic program funds;

(e) money distributed to the LEA under Section 53G-7-1303;

or

([e]f) another source of unrestricted state funds or local funds as approved by the Superintendent.

(3) Funds may not qualify as a match if:

(a) the funds are from restricted state funds including:

(i) funds granted to an LEA for a specific program created in statute or rule;

(ii) funds that have already been used as a match in a different state grant program; or

(iii) funds from a federal source; or

(b) the funds are described in Subsection 53F-2-415(5).

(4) An LEA shall demonstrate that all matching funds fit within the scope of work for school-based mental health and general health services as outlined in an LEA's plan.

(5) An LEA shall report revenues and expenditures of program funds by location code according to the Board approved chart of accounts.

**R277-622-7. Allowable Uses of Funds.**

(1) An LEA that receives a distribution pursuant to Section R277-622-6 may use the funds only for the following:

(a) salary and benefits for the hiring of qualified personnel;

or

(b) procuring a contract for related services;

(2) If an LEA fails to hire qualified personnel by January 31 the allocated funds shall be returned to the Board.

(3) All unexpended funds distributed to an LEA shall be returned to the Board at the end of the LEA's school year and redistributed in the following year's distribution.

(4) An LEA shall use the LEA's matching funds and allocation within the fiscal year the funds are distributed.

(5) An LEA that has remaining balances at year end shall report the remaining balances in the LEA's annual program report described in R277-484.

(6) An LEA with remaining balances shall receive a reduction totaling the remaining balances in the LEA's award for the following fiscal year.

**R277-622-8. Annual Reporting and Accountability.**

(1) An LEA with an approved plan and funding amount shall provide the Superintendent with an annual report no later than October 1 of each year.

(2) The annual report shall include:

(a) a total baseline count of qualified personnel in an LEA before receiving the initial funding allocation;

(b) the number of qualified personnel hired above the baseline count using the funding allocation;

(c) the progress made toward achieving goals and outcomes outlined in the LEA's plan; and

(d) other information requested by the Superintendent.

**KEY: mental health, programs, reporting**

**Date of Enactment or Last Substantive Amendment: ~~July 31, 2019~~2020**



Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 53E-4-302(1)(a)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	R277-701	Filing No. 52966

**Agency Information**

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R277-701. Early College Programs
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being created to address edits to both programs made by S.B. 151, which passed in the 2020 General Session.
<b>4. Summary of the new rule or change:</b>
The bill splits the advanced placement/international baccalaureate (AP/IB) programs out from the Enhancement for Accelerated Students Program and creates the Early College Program which includes AP/IB programs.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This proposed rule is not expected to have independent fiscal impact on state government revenues or expenditures. This new rule is being created to address edits made by S.B. 151 (2020).

<b>B) Local governments:</b>			
This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. This new rule is being created to address edits made by S.B. 151 (2020).			
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>			
This rule change is not expected to have independent fiscal impact on small businesses' revenues or expenditures. This new rule is being created to address edits made by S.B. 151 (2020).			
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>			
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.			
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):</b>			
This rule change is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. This new rule is being created to address edits made by S.B. 151 (2020).			
<b>F) Compliance costs for affected persons:</b>			
There are no independent compliance costs for affected persons. This new rule is being created to address edits made by S.B. 151 (2020).			
<b>G) Regulatory Impact Summary Table (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 will be included in narratives above.)</b>			
<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

NOTICES OF PROPOSED RULES

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

The State Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This proposed rule has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

**B) Name and title of department head commenting on the fiscal impacts:**

Sydnee Dickson, State Superintendent

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations**

<b>(required):</b>		
Article X, Section 3	Section 53F-2-409	Section 53F-2-408.5
Subsection 53E-3-401(4)		

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2020

**10. This rule change MAY become effective on:** 09/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent	<b>Date:</b>	07/15/2020
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**R277. Education, Administration.**

**R277-701. Early College Programs.**

**R277-701-1. Authority and Purpose.**

(1) This rule is authorized by:

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

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

(c) Section 53F-2-408.5, which requires the Board to establish a distribution formula for the expenditure of funds appropriated for Early College Programs; and

(d) Section 53F-2-409, which directs the Board to provide for the distribution of concurrent enrollment dollars in rule.

(2) The purpose of this rule is to:

(a) specify the procedures for distributing funds appropriated under Sections 53F-2-408.5 and 53F-2-409 to LEAs;

(b) provide resources to LEAs for early college programs; and

(c) specify the standards and procedures for concurrent enrollment courses and the criteria for funding appropriate concurrent enrollment expenditures.

**R277-701-2. Definitions.**

(1) "Advanced placement" or "AP" courses means the same as the term is defined in Section 53F-2-408.5.

(2) "Concurrent enrollment" or "CE" means the same as the term is defined in.

(3) "Early college programs" means an LEA's AP courses, IB programs and CE programs.

(4) "Enhancement of Accelerated Students Programs" means the same as the term is defined in Section R277-707-2.

(5) "International Baccalaureate" or "IB" Program means the same as the term is defined in Section 53F-2-408.5.

(6) "Master course list" means a list of approved CE courses, maintained by the Superintendent and USHE, which may be offered and funded.

(7) "Successfully completed" means that a student received USHE credit for a CE course.

(8) "Underrepresented students" means the same as the term is defined in Section R277-707-2.

(9) "USHE" means the Utah System of Higher Education as described in Section 53B-1-102.

**R277-701-3. Eligibility and Application.**

(1) All LEAs are eligible to apply for the Early College Program funds annually.

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

(a) how the LEA intends to spend program money;

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

(c) how the LEA intends to eliminate barriers and increase student enrollment, in Early college programs, including underrepresented students.

(3) The Superintendent shall publish:

(a) expectations;

(b) targets related to gap closures for underrepresented students; and

(c) timelines related to an LEA application.

**R277-701-4. Distribution and Use of Funds for AP and IB Programs.**

(1) The Superintendent shall distribute the total allocation for Enhancement of Accelerated Students program as follows:

(a) 40% of the total allocation to AP and IB programs as described in R277-701 including up to \$100,000 to support IB programs; and

(b) 60% of the total allocation to LEAs to support Gifted and Talented programs as described in R277-707.

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

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

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

(b) The Superintendent shall determine 30% of the funding to be awarded for LEA AP programs by:

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

(ii) multiplying the result from Subsection (2)(b)(i) by 30% of the total AP allocation.

(c) The Superintendent shall determine 70% of the funding to be awarded for LEA AP programs by:

(i) dividing the number of students in the LEA receiving a three or higher on an AP examination by the total number of students receiving a three or higher on an AP examination throughout the state; and

(ii) multiplying the result from Subsection (2)(c)(i) by 70% of the total AP allocation.

(3) An LEA may use the LEA's allocation of funds for:

(a) professional learning for teachers;

(b) identification of underrepresented students;

(c) Advanced Placement courses;

(d) International Baccalaureate programs; or

(e) International Baccalaureate test fees of eligible low-income students.

(4) An LEA shall use at least a portion of the LEA's allocation for Advanced Placement test fees of eligible low-income students, as defined in Section 53F-2-408.5.

**R277-701-5. Distribution and Use of Funds for CE Programs.**

(1) CE funds shall be allocated in accordance with Section 53F-2-409.

(2) CE funds allocated to LEAs may not be used for any other program or purpose, except as provided in Section 53F-2-206.

(3) CE funding may not be used to fund a parent or student-initiated college-level course at an institution of higher education.

(4) The Superintendent may not distribute CE funds to an LEA for reimbursement of a CE course:

(a) that is not on the master course list;

(b) for a student that has exceeded 30 semester hours of CE for the school year;

(c) for a CE course repeated by a student; or

(d) taken by a student:

(i) who has received a diploma;

(ii) whose class has graduated; or

(iii) who has participated in graduation exercises.

(5) An LEA shall receive a pro-rated amount of the funds appropriated for CE according to the number of semester hours successfully completed by students registered through the LEA in the prior year compared to the state total of completed CE hours.

(6) An LEA's use of state funds for CE is limited to the following:

(a) increasing access for groups of students who are underrepresented;

(b) aid in professional development of an eligible CE instructor in cooperation with the participating USHE institution;

(c) assistance with delivery costs for distance learning programs;

(d) participation in the costs of LEA personnel who work with the program;

(e) student textbooks and other instructional materials;

(f) fee waivers for costs or expenses related to CE for fee waiver eligible students under R277-407;

(g) purchases by LEAs of classroom equipment required to conduct CE courses; and

(h) other uses approved in writing by the Superintendent consistent with the law and purposes of this rule.

(7) An LEA that receives program funds shall provide the Superintendent with the following:

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- (a) end-of-year expenditures reports;
- (b) an annual report containing:
  - (i) supervisory services and professional development provided by a USHE institution; and
  - (ii) data as required by Subsection R277-701-12.
- (8) Appropriate reimbursement may be verified at any time by an audit of the LEA.

**R277-701-6. Early College Programs Funding Requirements.**

- (1) If an LEA fails to demonstrate progress in meeting plan goals, the Superintendent may:
  - (a) place the LEA on probation and provide targeted technical assistance; and
  - (b) reduce funding to the LEA.
- (2) Excepted as described in Subsection (3) and subject to the general requirements of Section R277-700-7:
  - (a) A middle school or high school:
    - (i) shall provide all course registration opportunities to each student; and
    - (ii) through consultation with students, parents, educators, and administrators, may consider academic readiness, but may not require prerequisites for enrolling in an AP, IB, or CE course.
  - (b) Except as described in USHE Policy R165, a school that offers an early college program may not prohibit a student from enrolling in the course based on the student's:
    - (i) grades or grade point average;
    - (ii) state standardized assessment scores; or
    - (iii) referral or lack of a referral from an educator;
  - (c) In addition to the restrictions listed in Subsection (d), an Early College Program may not prohibit a student from enrolling in a course based on the student's:
    - (i) grade level;
    - (ii) participation in or passing a pre-requisite course;
    - (iii) participation in or passing an honors-level or college-preparatory course; or
    - (iv) requirements over the summer.

**R277-701-7. Student Eligibility and Participation for CE.**

- (1) A student participating in CE shall be an "eligible student" as described in Subsection 53E-10-301(5).
- (2) Student eligibility requirements for CE shall be:
  - (a) established by an LEA and a USHE institution;
  - (b) sufficiently selective to predict a successful experience;
- and
  - (c) in accordance with Subsection R277-701-5(3)(b).
- (3) An LEA has the primary responsibility for identifying a student who is eligible to participate in a CE course.
- (4) An LEA shall appropriately evaluate the supports the LEA employs to assist in achieving the highest access rate reasonable for all students to enroll in a CE course.

**R277-701-8. CE Course Credit and Offerings -- CE Course Approval Process.**

- (1) Credit earned through a CE course:
  - (a) has the same credit hour value as the CE course's counterpart on a college campus;
  - (b) applies toward graduation on the same basis as a course taught at a USHE institution to which the credits are submitted;
  - (c) generates higher education credit that becomes a part of a student's permanent college transcript;
  - (d) generates high school credit that is consistent with the LEA policies for awarding credit for graduation; and

- (e) is transferable from one USHE institution to another.
- (2) A USHE institution is responsible to determine the credit for a CE course, consistent with State Board of Regents' policies.
- (3) An LEA and a USHE institution shall provide the Superintendent and USHE with proposed new course offerings, including syllabi and curriculum materials, by November 15 of the year preceding the school year in which the courses would be offered.
- (4) A CE course shall be approved by the Superintendent and USHE, and designated on the master course list, maintained by the Superintendent and USHE.
- (5)(a) CE course offerings shall reflect the strengths and resources of the respective schools and USHE institutions and be based upon student needs.
  - (b) The number of courses selected shall be kept small enough to ensure coordinated statewide development and professional development activities for participating teachers.
- (6) To provide for the focus of energy and resources on quality instruction in the CE program, CE courses shall be limited to courses in:
  - (a) English;
  - (b) mathematics;
  - (c) fine arts;
  - (d) humanities;
  - (e) science;
  - (f) social science;
  - (g) world languages; and
  - (h) career and technical education.
- (7) A CE course may not be approved if the course is a postsecondary course below the 1000 level.
- (8) The appropriate USHE institution shall take responsibility for:
  - (a) course content;
  - (b) procedures;
  - (c) examinations;
  - (d) teaching materials; and
  - (e) program monitoring.
- (9) CE procedures and materials shall be:
  - (a) consistent with Utah law; and
  - (b) ensure quality and comparability with CE courses offered on a college or university campus.

**R277-701-9. CE Program Management and Delivery.**

- (1) An LEA shall use a Superintendent-designated 11-digit course code for a CE course.
- (2) An LEA and a USHE institution shall jointly align information technology systems with all individual student academic achievement data so that student information will be tracked through both education systems consistent with Section 53E-4-308.
- (3) An LEA shall only receive funds for the LEA's CE program if the LEA's course enrollment matches the USHE institution enrollment in the technology systems as described in Subsection (2).

**R277-701-10. Faculty and Educator Requirements.**

- (1) An educator who is not employed by a USHE institution and teaches a CE course shall:
  - (a) be employed by an LEA; and
  - (b) meet the requirements of Subsections 53E-10-302(5) and (6).

(2) An educator employed by an LEA who teaches a CE course shall be approved as an adjunct faculty member at the contracting USHE institution prior to teaching the CE course.

(3) High school educators who hold adjunct or part time faculty status with a USHE institution for the purpose of teaching CE courses shall be included as fully as possible in the academic life of the supervising academic department at the USHE institution.

(4) An LEA and a USHE institution shall share expertise and professional development, as necessary, to adequately prepare a teacher to teach in the CE program, including federal and state laws specific to student privacy and student records.

(5) A USHE institution that employs a faculty member who teaches in a high school has responsibility for ensuring and maintaining documentation that the faculty member has successfully completed a criminal background check, consistent with Section 53G-11-402.

**R277-701-11. Student Tuition and Fees.**

(1) A CE program student may be charged partial tuition and program-related fees, in accordance with Section 53E-10-305.

(2) Postsecondary tuition and participation fees charged to a CE student are not fees, as defined in R277-407, and do not qualify for a fee waiver under R277-407.

(3)(a) All costs related to CE courses that are not tuition and participation fees are subject to a fee waiver consistent with R277-407.

(b) CE costs subject to fee waiver may include:

(i) consumables;

(ii) lab fees;

(iii) copying;

(iv) material costs;

(v) application fees; and

(vi) textbooks required for the course.

(4)(a) Except as provided in Subsection (4)(b), an LEA shall be responsible for fee waivers.

(b) An agreement between a USHE institution and an LEA may address the responsibility for fee waivers.

**R277-701-12. Annual Contracts and Other Student Instruction Issues.**

(1) An LEA and a USHE institution that plan to collaborate to offer a CE course shall enter into an annual contract for the upcoming school year by no later than May 30.

(2) An LEA shall provide the USHE with a copy of each annual contract entered into between the LEA and a USHE institution for the upcoming school year by no later than May 30.

(3) An LEA and a USHE institution shall use the standard contract language developed by the Superintendent and USHE.

**R277-701-13. Performance Criteria and Reports.**

(1) An LEA receiving an allocation of funds shall submit an annual evaluation report to the Superintendent consistent with Section 53F-2-408.5.

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

(3) The report shall include the following:

(a) an accounting of student performance, disaggregated by student group for each early college program that the LEA participates;

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

(c) an accounting of how the LEA's funds were disbursed to the teacher level; and

(d) evidence that the LEA is making progress toward the LEA's plan goals.

**KEY: early college program, advanced placement, international baccalaureate, concurrent enrollment**

**Date of Enactment or Last Substantive Amendment: 2020**

**Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-2-408.5; 53F-2-409**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-707	Filing No. 52967

**Agency Information**

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R277-707. Enhancement for Accelerated Students Programs
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being amended as a result of S.B. 151, which passed the 2020 General Session. The bill split out the Gifted and Talented program from the AP/IB program and renamed the AP/IB the Early College Program.
<b>4. Summary of the new rule or change:</b>
This rule is being amended to remain named "Enhancement for Accelerated Students." But this rule will now only contain the Gifted and Talented Program because it is now statutorily its own part of Utah Code and is not a program that provides early college credits. This rule makes amendments to clarify the required elements of the Gifted and Talented Program.

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**

This rule change is not expected to have independent fiscal impact on state government revenues or expenditures. These amendments are a result of S.B. 151 (2020).

**B) Local governments:**

This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. These amendments are a result of S.B. 151 (2020).

**C) Small businesses** ("small business" means a business employing 1-49 persons):

This rule change is not expected to have independent fiscal impact on small businesses' revenues or expenditures. These amendments are a result of S.B. 151 (2020).

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. These proposed rule changes are not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of or generate revenue for non-small businesses.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. These amendments are a result of S.B. 151 (2020).

**F) Compliance costs for affected persons:**

There are no independent compliance costs for affected persons. These amendments are a result of S.B. (2020).

**G) Regulatory Impact Summary Table** (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 will be included in

narratives above.)			
<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head approval of regulatory impact analysis:</b>			
The State Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.			
<b>6. A) Comments by the department head on the fiscal impact this rule may have on businesses:</b>			
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. These rule changes are not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. These rule changes have no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.			

<b>B) Name and title of department head commenting on the fiscal impacts:</b>
Sydnee Dickson, State Superintendent

**Citation Information**

<b>7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):</b>		
Article X, Section 3	Subsection 53E-3-401(4)	Subsection 53F-2-408(2)

**Public Notice Information**

<b>9. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)	
<b>A) Comments will be accepted until:</b>	08/31/2020

<b>10. This rule change MAY become effective on:</b>	09/07/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent	<b>Date:</b>	07/15/2020
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**R277. Education, Administration.**

**R277-707. Enhancement for Accelerated Students Program.**

**R277-707-1. Authority and Purpose.**

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

- (2)[(a)] The purpose of this rule is:
  - ~~(a) to specify the procedures for distributing funds appropriated under Section 53F-2-408(2) to LEAs; and[-]~~
  - ~~(b) The intent of this appropriation is to provide resources to LEAs to enhance the academic growth of students whose academic achievement is accelerated]~~
  - (b) to establish a method for an LEA to identify a gifted and talented student to receive extended or accelerated opportunities for the student to achieve growth annually at the highest level possible.

**R277-707-2. Definitions.**

- ~~(1) "Accelerated students" means students participating in accelerated programs.~~
- ~~(2) "Accelerated programs" means student services with increased depth, complexity, or rigor, which may include above grade level coursework, including:
 
  - ~~(a) Gifted and Talented programs;~~
  - ~~(b) IB programs; or~~
  - ~~(c) AP courses.~~~~
- ~~(3) "Advanced placement" or "AP" courses means rigorous courses developed by the College Board where:
 
  - ~~(a) each course is developed by a committee composed of college faculty and AP teachers, and covers the breadth of information, skills, and assignments found in the corresponding college course; and~~
  - ~~(b) students who perform well on the AP exam may be:
 
    - ~~(i) granted credit; or~~
    - ~~(ii) advanced standing at participating colleges or universities.~~~~
  - ~~(4)(a) "Gifted and talented programs" means programs to identify, through multiple assessment instruments, and serve students with outstanding abilities in the following areas:
 
    - ~~(i) general intellectual ability;~~
    - ~~(ii) specific academic aptitude; and~~
    - ~~(iii) creative or productive thinking.~~~~
  - ~~(b) Instruments for identifying gifted and talented students shall not be solely dependent upon English vocabulary or comprehension skills and shall take into consideration abilities of culturally diverse students and students with disabilities.~~~~
- ~~(5) "International Baccalaureate" or "IB" Program means one of the following programs established by the International Baccalaureate Organization:
 
  - ~~(a) the Diploma Program;~~
  - ~~(b) the Middle Years Program; or~~
  - ~~(c) the Primary Years Program.]~~~~
- (1) "Gifted and talented programs" means the process an LEA uses to identify and serve a gifted and talented student.
- (2) "Gifted and talented student" means a student in grades K-8 that the LEA identifies as having an ability that is significantly above the typical ability of a student within the same age group in:
 
  - (a) general intellectual ability;
  - (b) specific academic fields including:
 
    - (i) language arts;
    - (ii) mathematics; or
    - (iii) science; or
    - (c) creative thinking.
- (3) "Identify" or "identifies" means the use of multiple measures to determine if a student qualifies for gifted and talented services.
- (4)(a) "Measures" means an instrument or tool used to identify if a student qualifies for gifted and talented services and shall account for:
 
  - (i) disabilities;

NOTICES OF PROPOSED RULES

- ~~(ii) potential language barriers;~~
- ~~(iii) culturally diverse perspectives; and~~
- ~~(iv) multilingual learners.~~
- ~~(b) Measures may not be solely dependent on a student's English vocabulary or comprehension skills.~~
- ~~(5) "Serve" or "services" means opportunities with increased depth, complexity, or rigor provided to a gifted and talented student which may include:~~
  - ~~(a) accommodations in the regular classroom;~~
  - ~~(b) pull-out programs;~~
  - ~~(c) advanced classes;~~
  - ~~(d) varied grouping strategies;~~
  - ~~(e) enrichment;~~
  - ~~(f) acceleration;~~
  - ~~(g) differentiation of curriculum and instruction~~
  - ~~(h) dual enrollment;~~
  - ~~(i) magnet schools;~~
  - ~~(j) academic competitions; or~~
  - ~~(k) other services approved by the Superintendent.~~
- ~~(6) "Underrepresented students" means a subset of students, as determined by an LEA and approved by the Superintendent, that holds a smaller percentage in a program as compared to the overall LEA population.~~
- ~~(7) "Weighted Pupil Unit" means the basic state funding unit.]~~

**R277-707-3. Eligibility and Application.**

- (1) All LEAs are eligible to apply for the Enhancement for Accelerated Students Program funds annually.
- (2) An LEA shall have a process for identifying and serving students whose academic achievement would benefit from the support of ~~[accelerated programs]~~ gifted and talented services.
- (3) To receive program money, an LEA shall submit an application to the Superintendent that includes an LEA's plan for:
  - ~~(a) how the LEA intends to engage all parents so that parents understand the opportunities available for their children in elementary, middle school, high school and beyond, including how the LEA will comply with Rule R277-462;]~~
  - (a) how the LEA will identify a student for a gifted and talented services using approved measures as described by the Superintendent;
  - (b) the services the LEA shall provide to an identified student;
  - (c) how the LEA plans to provide professional learning opportunities for a teacher to serve an identified student;
  - (d) how the LEA intends to spend program money;
  - (e) how the LEA plans to increase identification of underrepresented students;
  - (f) how the LEA intends to engage all parents so that parents understand the opportunities available for their children in elementary and middle school including how the LEA will comply with Rule R277-462; and
  - (g) how the LEA intends to eliminate barriers for student success.
  - ~~(b) how the LEA intends to spend program money; and~~
  - ~~(c) how the LEA intends to eliminate barriers and increase student enrollment, in accelerated academic programs, including underrepresented students.]~~
- (4) The Superintendent shall publish:
  - (a) expectations[~~, growth percentage capacities,~~];
  - (b) timelines; and
  - (c) targets related to enrollment gap closures for underrepresented students[~~, funding dates, and required submission dates related to an LEA application and plan for increasing enrollment,~~

~~including underrepresented students, in accelerated academic programs].~~

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

- (1) The Superintendent shall distribute the total allocation for Enhancement of Accelerated Students program ~~[funds]~~ as follows:
  - ~~(a) 40% of the total allocation to Early College Programs as described in R277-701 [the greater of 1.5% or \$100,000 to support IB programs]; and~~
  - ~~(b) 60% of the total [EASP-]allocation to LEAs to support [G]gifted and [F]talented programs as described in R277-707. [; and~~
  - ~~(c) the remaining funds to LEAs to support AP programs.~~
- ~~(2)(a) The Superintendent shall determine funding to be awarded to an LEA's IB programs by:~~
  - ~~(i) dividing the number of students enrolled in an LEA's IB program by the total enrollment of students in IB programs throughout the state; and~~
  - ~~(ii) multiplying the result from Subsection (2)(a)(i) by the total IB allocation.~~
- ~~(b) The Superintendent shall determine 30% of the funding to be awarded for LEA AP programs by:~~
  - ~~(i) dividing the number of students enrolled in an LEA's AP classes by the total enrollment of students in AP classes throughout the state; and~~
  - ~~(ii) multiplying the result from Subsection (2)(b)(i) by 30% of the total AP allocation.~~
- ~~(c) The Superintendent shall determine 70% of the funding to be awarded for LEA AP programs by:~~
  - ~~(i) dividing the number of students in the LEA receiving a three or higher on an AP examination by the total number of students receiving a three or higher on an AP examination throughout the state; and~~
  - ~~(ii) multiplying the result from Subsection (2)(c)(i) by 70% of the total AP allocation.]~~
- (2) The Superintendent shall distribute the funds described in Subsection (1)(b) to an LEA as follows:
  - (a) an LEA that has submitted an approved application shall receive a distribution of funds that is proportionate to the LEA's amount of grade K-8 students to the total number of grade K-8 students of all LEAs that have applied.
  - (b) the LEA's grades K-8 student headcount used in Subsection (2)(a) shall be from:
    - (i) the LEA's October 1 student headcount of the previous school year for funding distributions made before October of the current school year; and
    - (ii) the LEA's October 1 student headcount of the current school year for funding distributions made after October of the current school year.
- (3) If an LEA fails to demonstrate progress in meeting plan goals for placing and retaining underrepresented students in accelerated programs, the Superintendent may:
  - (a) place the LEA on probation and provide targeted technical assistance; and
  - (b) reduce funding to the LEA.
- (4) Subject to the general requirements of Section R277-700-7~~]~~:
  - ~~(a) A middle school or high school:~~
    - ~~(i) shall provide all course registration opportunities to each student; and~~
    - ~~(ii) through consultation with students, parents, educators, and administrators, may consider academic readiness, but may not require prerequisites for enrolling in an AP or IB course.~~



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

- ~~(i)~~ a grades or grade point average;
- ~~(ii)~~ b state standardized assessment scores; ~~or~~
- ~~(iii)~~ c referral or lack of a referral from an educator; or

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

- ~~(i) grade level;~~
- ~~(ii) participation in or passing a pre-requisite course;~~
- ~~(iii) participation in or passing an honors level or college-preparatory course; or~~
- ~~(iv)~~ d requirements over the summer.

(5) An LEA may use ~~[Enhancement for Accelerated Students Program]~~ a distribution of funds described in Subsection (2) for a gifted and talented program including:

- ~~(a) [gifted and talented programs, including]~~ professional learning for teachers;
- ~~(b) identifying [location] and serving students including [of]~~ underrepresented students;
- ~~(c) salaries of teachers;~~
- ~~(d) employee benefits of teachers;~~
- ~~(e) purchased professional and tech services;~~
- ~~(f) travel;~~
- ~~(g) supplies and materials; and~~
- ~~(h) property including equipment.~~
- ~~(c) Advanced Placement courses;~~
- ~~(d) Advanced Placement test fees of eligible low-income students, as defined in Section 53F-2-408;~~
- ~~(e) International Baccalaureate programs; or~~
- ~~(f) International Baccalaureate test fees of eligible low-income students, as defined in Section 53F-2-408.]~~

**R277-707-5. Performance Criteria and Reports.**

(1) An LEA receiving funds shall submit an annual evaluation report to the Superintendent ~~[consistent with Section 53F-2-408].~~

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

(3) At a minimum and in a form described by the Superintendent, the report shall include the following performance criteria related to the identified students who ~~[se academic achievement is accelerated]~~ receive gifted and talented services ~~[, which shall be disaggregated by groups as defined in the State Accountability System]:~~

- ~~(a) number of elementary [;] and middle school [; and high school] students [participating in G] receiving gifted and [F]talented [programs] services;~~
- ~~(b) an accounting of student performance for students receiving gifted and talented services disaggregated by student group as defined in the State Accountability System;~~
- ~~(c) evidence of stakeholder input demonstrating the LEA engaged parents;~~
- ~~(d) an accounting of how the LEA's funds were disbursed to the teacher level; and~~
- ~~(e) evidence that the LEA is making progress toward the LEA's plan and goals including increasing student participation and retention in the LEA's gifted and talented program including underrepresented students.~~
- ~~(b) number of AP classes taken, completed, and exams passed with a score of 2 or above;~~

~~(c) number of IB classes taken, completed, and exams passed with a score of 4 or above; and~~

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

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

- ~~(a) an accounting of how the LEA's funds were disbursed to the teacher level; and~~
- ~~(b) evidence, disaggregated by subgroups, demonstrating that the LEA is:~~
  - ~~(i) increasing student enrollment, in the LEA's accelerated academic courses, including underrepresented students; or~~
  - ~~(ii) meeting goals in the LEA's plan to increase enrollment and retention, in the LEA's accelerated academic courses, including underrepresented students.]~~

**KEY: accelerated learning, enhancement programs, gifted and talented**

**Date of Enactment or Last Substantive Amendment: [August 19, 2019]2020**

**Notice of Continuation: July 15, 2020**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53F-2-408; 53E-3-401(4)**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Utah Admin. Code Ref (R no.):	R277-713	Filing No. 52968

**Agency Information**

<b>1. Department:</b>	Education
<b>Agency:</b>	Administration
<b>Building:</b>	Board of Education
<b>Street address:</b>	250 E 500 S
<b>City, state:</b>	Salt Lake City, UT 84111
<b>Mailing address:</b>	PO Box 144200
<b>City, state, zip:</b>	Salt Lake, UT 84114-4200

Contact person(s):		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov

Please address questions regarding information on this notice to the agency.

**General Information**

<b>2. Rule or section catchline:</b>
R277-713. Concurrent Enrollment of Students in College Courses
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being merged with the new Rule R277-701, Early College Programs. (EDITOR'S NOTE: The

proposed new Rule R277-701 is under Filing No. 52966 in this issue, August 1, 2020, of the Bulletin.)

**4. Summary of the new rule or change:**

Rule R277-713 is being repealed in its entirety.

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**

This rule repeal is not expected to have independent fiscal impact on state government revenues or expenditures. This rule is being merged with the new Rule R277-701.

**B) Local governments:**

This rule repeal is not expected to have independent fiscal impact on local governments' revenues or expenditures. This rule is being merged with the new Rule R277-701.

**C) Small businesses** ("small business" means a business employing 1-49 persons):

This rule repeal is not expected to have independent fiscal impact on small businesses' revenues or expenditures. This rule is being merged with the new Rule R277-701.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed repeal is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule repeal is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. This rule is being merged with the new Rule R277-701.

**F) Compliance costs for affected persons:**

There are no compliance costs for affected persons. This rule is being merged with the new Rule R277-701.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

**Regulatory Impact Table**

<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

The State Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This repeal is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This repeal

has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

**B) Name and title of department head commenting on the fiscal impacts:**

Sydnee Dickson, State Superintendent

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Article X, Section 3	Subsection 53E-3-401(4)	Section 53F-2-409
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	08/31/2020
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<b>10. This rule change MAY become effective on:</b>	09/07/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent	<b>Date:</b>	07/15/2020
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**R277. Education, Administration.**

~~**[R277-713. Concurrent Enrollment of Students in College Courses.**~~

~~**R277-713-1. Authority and Purpose.**~~

- ~~(1) This rule is authorized by:~~
  - ~~(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;~~
  - ~~(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and~~
  - ~~(c) Section 53F-2-409, which directs the Board to provide for the distribution of concurrent enrollment dollars in rule.~~

~~(2) The purpose of the concurrent enrollment program is to provide a challenging college-level and productive experience to eligible students, and to provide transition courses that can be applied to postsecondary education.~~

~~(3) The purpose of this rule is to specify the standards and procedures for concurrent enrollment courses and the criteria for funding appropriate concurrent enrollment expenditures.~~

~~**R277-713-2. Definitions.**~~

~~(1) "Concurrent enrollment" means a public high school student is enrolled in a course that satisfies both high school graduation requirements and qualifies for higher education credit at a USHE institution.~~

~~(2) "Concurrent enrollment program" or "program" means the program created in Section 53E-10-302 that receives funding in accordance with Section 53F-2-409, which allows students to participate in concurrent enrollment courses.~~

~~(3) "Master course list" means a list of approved courses, maintained by the Superintendent and USHE, which may be offered and funded through the concurrent enrollment program.~~

~~(4) "USHE" means the Utah System of Higher Education as described in Section 53B-1-102.~~

~~**R277-713-3. Student Eligibility and Participation.**~~

~~(1) A student participating in the program shall:~~

~~(a) be an "eligible student" as described in Subsection 53E-10-301(5); and~~

~~(b) have completed a concurrent enrollment participation form, including a parent permission form and acknowledgment of program participation requirements, as required in section 53E-10-304.~~

~~(2) Student eligibility requirements for the program shall be:~~

~~(a) established by an LEA and a USHE institution; and~~

~~(b) sufficiently selective to predict a successful experience for qualified students.~~

~~(3) An LEA has the primary responsibility for identifying a student who is eligible to participate in a concurrent enrollment class.~~

~~(4) To ensure that a student is prepared for college-level work, an LEA shall appropriately evaluate the student's abilities prior to participation in concurrent enrollment courses, and to determine that the student meets prerequisites previously established for the same campus-based course by the sponsoring USHE institution.~~

~~**R277-713-4. Course Credit and Offerings—Course Approval Process.**~~

~~(1) Credit earned through a concurrent enrollment course:~~

~~(a) has the same credit hour value as when taught on a college campus;~~

~~(b) applies toward graduation on the same basis as a course taught at a USHE institution to which the credits are submitted;~~

~~(c) generates higher education credit that becomes a part of a student's permanent college transcript;~~

~~(d) generates high school credit that is consistent with the LEA policies for awarding credit for graduation; and~~

~~(e) is transferable from one USHE institution to another.~~

~~(2) A USHE institution is responsible to determine the credit for a concurrent enrollment course, consistent with State Board of Regents' policies.~~

~~(3) An LEA and a USHE institution shall provide the Superintendent and USHE with proposed new course offerings;~~

including syllabi and curriculum materials, by November 15 of the year preceding the school year in which the courses would be offered.

~~(4) A concurrent enrollment course shall be approved by the Superintendent and USHE, and designated on the master course list, maintained by the Superintendent and USHE.~~

~~(5)(a) Concurrent enrollment course offerings shall reflect the strengths and resources of the respective schools and USHE institutions and be based upon student needs.~~

~~(b) The number of courses selected shall be kept small enough to ensure coordinated statewide development and professional development activities for participating teachers.~~

~~(6) To provide for the focus of energy and resources on quality instruction in the concurrent enrollment program, program courses shall be limited to courses in:~~

- ~~(a) English;~~
- ~~(b) mathematics;~~
- ~~(c) fine arts;~~
- ~~(d) humanities;~~
- ~~(e) science;~~
- ~~(f) social science;~~
- ~~(g) world languages; and~~
- ~~(h) career and technical education.~~

~~(7) A Technology intensive concurrent enrollment (TICE) course is a hybrid course, having a blend of different learning activities, available both in the classroom and online, or may be delivered exclusively online.~~

~~(8) A concurrent enrollment course shall be a course at the 1000 or 2000 level in postsecondary education, except for a 3000-level accelerated foreign language course, which may be approved as a concurrent enrollment course for eligible students.~~

~~(9) A course may not be approved as a concurrent enrollment course if the course is:~~

- ~~(a) a high school course that is typically offered in grade 9 or 10; or~~
- ~~(b) a postsecondary course below the 1000 level.~~

~~(10) The appropriate USHE institution shall take responsibility for:~~

- ~~(a) course content;~~
- ~~(b) procedures;~~
- ~~(c) examinations;~~
- ~~(d) teaching materials; and~~
- ~~(e) program monitoring.~~

~~(11) Concurrent enrollment procedures and materials shall be:~~

- ~~(a) consistent with Utah law; and~~
- ~~(b) ensure quality and comparability with courses offered on a college or university campus.~~

**R277-713-5. Program Management and Delivery.**

~~(1)(a) Concurrent enrollment courses and curriculum may be provided through live classroom instruction or by other means, including electronic communications.~~

~~(b) An LEA and a USHE institution shall design and implement courses to take full advantage of the most currently available educational technology.~~

~~(2) An LEA shall use a Superintendent designated 11 digit course code for a concurrent enrollment course.~~

~~(3) An LEA and a USHE institution shall jointly align information technology systems with all individual student academic achievement data so that student information will be tracked through both education systems consistent with Section 53E-4-308.~~

**R277-713-6. Faculty and Educator Requirements.**

~~(1) An educator who is not employed by a USHE institution and teaches a concurrent enrollment course shall:~~

- ~~(a) be employed by an LEA; and~~
- ~~(b) meet the requirements of Subsections 53E-10-302(5) and (6).~~

~~(2) An educator employed by an LEA who teaches a concurrent enrollment course shall be approved as an adjunct faculty member at the contracting USHE institution prior to teaching the concurrent enrollment course.~~

~~(3) High school educators who hold adjunct or part time faculty status with a USHE institution for the purpose of teaching concurrent enrollment courses shall be included as fully as possible in the academic life of the supervising academic department at the USHE institution.~~

~~(4) An LEA and a USHE institution shall share expertise and professional development, as necessary, to adequately prepare a teacher to teach in the concurrent enrollment program, including federal and state laws specific to student privacy and student records.~~

~~(5) A USHE institution that employs a faculty member who teaches in a high school has responsibility for ensuring and maintaining documentation that the faculty member has successfully completed a criminal background check, consistent with Section 53G-11-402.~~

**R277-713-7. Concurrent Enrollment Funding and Use of Concurrent Enrollment Funds.**

~~(1) Program funds shall be allocated in accordance with Section 53F-2-409.~~

~~(2) Program funds allocated to LEAs may not be used for any other program or purpose, except as provided in Section 53F-2-206.~~

~~(3) Concurrent enrollment funding may not be used to fund a parent- or student-initiated college-level course at an institution of higher education.~~

~~(4) The Superintendent may not distribute concurrent enrollment funds to an LEA for reimbursement of a concurrent enrollment course:~~

- ~~(a) that is not on the master course list;~~
- ~~(b) for a student that has exceeded 30 semester hours of concurrent enrollment for the school year;~~
- ~~(c) for a concurrent enrollment course repeated by a student; or~~
- ~~(d) taken by a student:
 
  - ~~(i) who has received a diploma;~~
  - ~~(ii) whose class has graduated; or~~
  - ~~(iii) who has participated in graduation exercises.~~~~

~~(5)(a) An LEA shall receive a pro-rated amount of the funds appropriated for concurrent enrollment according to the number of semester hours successfully completed by students registered through the LEA in the prior year compared to the state total of completed concurrent enrollment hours.~~

~~(b) Successfully completed means that a student received USHE credit for the course.~~

~~(6) An LEA's use of state funds for concurrent enrollment is limited to the following:~~

- ~~(a) aid in professional development of adjunct faculty in cooperation with the participating USHE institution;~~
- ~~(b) assistance with delivery costs for distance learning programs;~~

- ~~(c) participation in the costs of LEA personnel who work with the program;~~
- ~~(d) student textbooks and other instructional materials;~~
- ~~(e) fee waivers for costs or expenses related to concurrent enrollment for fee waiver eligible students under R277-407;~~
- ~~(f) purchases by LEAs of classroom equipment required to conduct concurrent enrollment courses; and~~
- ~~(g) other uses approved in writing by the Superintendent consistent with the law and purposes of this rule.~~
- ~~(7) An LEA that receives program funds shall provide the Superintendent with the following:~~
  - ~~(a) end of year expenditures reports; and~~
  - ~~(b) an annual report regarding supervisory services and professional development provided by a USHE institution.~~
- ~~(8) Appropriate reimbursement may be verified at any time by an audit.~~

**R277-713-8. Student Tuition and Fees.**

- ~~(1) A concurrent enrollment program student may be charged partial tuition and program related fees, in accordance with Section 53E-10-305.~~
- ~~(2) Postsecondary tuition and participation fees charged to a concurrent enrollment student are not fees, as defined in R277-407, and do not qualify for a fee waiver under R277-407.~~
- ~~(3)(a) All costs related to concurrent enrollment classes that are not tuition and participation fees are subject to a fee waiver consistent with R277-407.~~
- ~~(b) Concurrent enrollment costs subject to fee waiver may include consumables, lab fees, copying, material costs, and textbooks required for the course.~~
- ~~(4)(a) Except as provided in Subsection (4)(b), an LEA shall be responsible for fee waivers.~~
- ~~(b) An agreement between a USHE institution and an LEA may address the responsibility for fee waivers.~~

**R277-713-9. Annual Contracts and Other Student Instruction Issues.**

- ~~(1) An LEA and a USHE institution that plan to collaborate to offer a concurrent enrollment course shall enter into an annual contract for the upcoming school year by no later than May 30.~~
- ~~(2) An LEA shall provide the Superintendent a copy of each annual contract entered into between the LEA and a USHE institution for the upcoming school year by no later than May 30.~~
- ~~(3) An LEA and a USHE institution shall use the standard contract language developed by the Superintendent and USHE.~~

**KEY:** students, curricula, higher education  
**Date of Enactment or Last Substantive Amendment:** ~~October 8, 2019~~  
**Notice of Continuation:** ~~July 19, 2017~~  
**Authorizing, and Implemented or Interpreted Law:** ~~Art X Sec 3; 53E-3-401(4); 53E-3-501(1)(c); 53E-10-3]~~

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	R277-723	Filing No. 52969

**Agency Information**

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov

Please address questions regarding information on this notice to the agency.

**General Information**

<b>2. Rule or section catchline:</b>
R277-723. Start Smart Utah Program
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being created as a result of the passage of H.B. 222 from the 2020 General Session. H.B. 222 requires the Utah State Board of Education to create a waiver process for the breakfast requirements listed in the legislation.
<b>4. Summary of the new rule or change:</b>
This rule creates a process for a local education agency (LEA) to seek a waiver from the requirements to serve alternative breakfast models if the LEA has taken the waiver request through an open meeting of the LEA's board. The request must then be reviewed by a review committee that will determine if the LEA has demonstrated a logistical or financial hardship that merits waiver from the new legal requirements listed in H.B. 222 (2020).

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This proposed rule is not expected to have independent fiscal impact on state government revenues or expenditures. This new rule is a result of H.B. 222 (2020).
<b>B) Local governments:</b>
This proposed rule is not expected to have independent fiscal impact on local governments' revenues or expenditures. This new rule is a result of H.B. 222 (2020).
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):

This proposed rule is not expected to have independent fiscal impact on small businesses' revenues or expenditures. This new rule is a result of H.B. 222 (2020).

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This proposed rule is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. This new rule is a result of H.B. 222 (2020).

**F) Compliance costs for affected persons:**

There are no independent compliance costs for affected persons. This new rule is a result of H.B. 222 (2020).

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			

State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

The State Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This proposed rule has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

**B) Name and title of department head commenting on the fiscal impacts:**

Sydnee Dickson, State Superintendent

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Article X, Section 3	Subsection 53E-3-401(4)	Subsection 53G-9-205.1(3)
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members.)

Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2020

**10. This rule change MAY become effective on:** 09/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent	<b>Date:</b>	07/15/2020
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**R277. Education, Administration.**

**R277-723. Start Smart Utah Program.**

**R277-723-1. Authority and Purpose.**

(1) This rule is authorized by:

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

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

(c) Section 53G-9-205.1(3) which directs the Board to create a waiver application, submission, review, and approval process.

(2) The purpose of this rule is to provide the process to apply for and receive a waiver from the requirements of 53G-9-205.1(2).

**R277-723-2. Definitions.**

(1) "Alternative breakfast service model" means the same as the term is defined in Subsection 53G-9-205.1(1)(a).

(2) "Financial hardship" means a school cannot maintain a positive financial balance in the School food service account due to the operation of an alternative breakfast service model or school breakfast program.

(3) "Logistical hardship" means a school lacks any capacity or resources to perform the required duties and work flow to support an alternative breakfast service model or school breakfast program.

(4) "Nonprofit school food service account" means the same as the term is defined in 7 CFR 210.12

(5) "Undue hardship" means a logistical or financial hardship.

**R277-723-3. Procedures for Waiver Requests.**

(1)(a) An LEA board may request a waiver from some or all of the requirements of Subsection 53G-9-205.1(2) by filing a written request.

(b) A written request under Subsection (1)(a) shall include:

(i) verification that the LEA board voted to request the waiver in an open meeting;

(ii) the requirements as described in Subsection 53G-9-205.1(2) for which the LEA is seeking a waiver;

(iii) documentation demonstrating the logistical or financial hardship resulting in the need for a waiver including:

(A) cost benefit analysis showing reimbursement will not fully cover anticipated costs;

(B) facility capacity unable to support food service needs;

(C) documentation related to recommendations as outlined in Subsection 53G-9-205(1)(b); or

(D) other data demonstrating logistical or financial hardship;

(iv) possible solutions to mitigate the future need for a waiver; and

(v) alternative practices to ensure the LEA's free and reduced lunch student population has the most access possible to nutrition programs during regular school hours.

(2) An LEA shall submit a separate waiver for each school within the LEA that the LEA seeks to exempt from the requirements of Subsection 53G-9-205.1(2).

(3) An LEA that satisfies the requirements of Subsection 53G-9-205.1(2)(d)(ii) is exempt from needing to apply for a waiver.

(4) The Superintendent shall establish a review committee that consists of three or more members from relevant staff.

(5) The review committee shall review a waiver request for approval or denial within 30 days of receipt of the waiver request.

(6) If the review committee denies an LEA's waiver request, an LEA may appeal to the Board in writing within 10 calendar days of notice of denial.

(7) A waiver granted under R277-723 expires at the end of the school year for which the waiver was granted.

(8) An LEA may create an implementation plan as part of the LEA's efforts to mitigate the need for a future waiver.

(9) The Superintendent may provide additional supports and resources to an LEA for the purposes of creating an implementation plan.

(10) An LEA may implement alternative breakfast service models before the LEA's waiver has expired.

**R277-723-4. Corrective Action Plan**

(1) If an LEA is found to be non-compliant with Section 53G-9-205.1 and has not applied for a waiver pursuant to R277-723, the LEA may be placed on a corrective action plan described in R277-114.

**KEY: Start Smart Utah; breakfast after the bell; breakfast**

**Date of Enactment or Last Substantive Amendment: 2020**

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

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-912	Filing No. 52970

**Agency Information**

1. Department: Education

NOTICES OF PROPOSED RULES

<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R277-912. Law Enforcement Related Incident Reporting
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being amended as a result of S.B. 166, passed in the 2020 General Session. The current law requires law enforcement to provide and validate information necessary for the state board to complete a required report on incidents that occur on school grounds. The Board is required to begin producing this report July 1, 2020. S.B. 166 (2020) changes the date of the first required report to July 1, 2023.
<b>4. Summary of the new rule or change:</b>
This rule makes the updated date change to reflect the new required date of the initial report.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This rule change is not expected to have independent fiscal impact on state government revenues or expenditures. The changes in this rule are a result of S.B. 166 (2020).
<b>B) Local governments:</b>
This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. The changes in this rule are a result of S.B. 166 (2020).
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
This rule change is not expected to have independent fiscal impact on small businesses' revenues or expenditures. The changes in this rule are a result of S.B. 166 (2020).

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The changes in this rule are a result of S.B. 166 (2020).

**F) Compliance costs for affected persons:**

There are no independent compliance costs for affected persons. The changes in this rule are a result of S.B. 166 (2020).

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0



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

**H) Department head approval of regulatory impact analysis:**

The State Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

**B) Name and title of department head commenting on the fiscal impacts:**

Sydnee Dickson, State Superintendent

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Article X, Section 3	Subsection 53E-3-516(2)	Subsection 53E-3-516
Subsection 53E-3-401(4)		

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members.

Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2020

**10. This rule change MAY become effective on:** 09/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent	<b>Date:</b>	07/15/2020
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**R277. Education, Administration.**

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

**R277-912-1. Authority and Purpose.**

- (1) This rule is authorized by:
  - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
  - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
  - (c) Subsection 53E-3-516 which directs the Board to establish rules regarding a collaborative annual report meeting all the requirements of Subsection 53E-3-516(2).
- (2) The purpose of this rule is to generate the report required by Subsection 53E-3-516 and the form that the report may be accessed.

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

- (1) An LEA shall work with the Superintendent and the relevant law enforcement agencies and school personnel to collect the following data for incidents [data] that occurred on school grounds while school is in session or during a school-sponsored activity:
  - (a) arrests of a minor;
  - (b) other law enforcement activities as defined in Section 53E-3-516(1);
  - (c) disciplinary actions as defined in section 53E-3-516(1); and
  - (d) all other data as outlined in subsection 53E-3-516(3) and
- (4).
  - (2) An LEA shall collect the data in a form agreed upon by the Superintendent and the relevant law enforcement agencies.
  - (3) An LEA shall report the data required to the Superintendent in a timely manner;
  - (4) Beginning in the ~~[2020-21]~~2022-2023 school year, an LEA shall report the data compiled for each school year to the Superintendent on or before September 1st of the year in which the school year ended.
  - (5) An LEA shall report the data to the Superintendent as prescribed by the Superintendent.

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

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

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

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

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

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

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

**KEY: incident reporting; law enforcement**

**Date of Enactment or Last Substantive Amendment:** ~~February 7, 2019~~ **2020**

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

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R315-261	Filing No. 52923

**Agency Information**

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Waste Management and Radiation Control, Waste Management	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state:</b>	Salt Lake City, UT	
<b>Mailing address:</b>	PO Box 144880	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4880	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Thomas Ball	801-536-0251	tball@utah.gov
Rusty Lundberg	801-536-4257	rlundberg@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R315-261. General Requirements – Identification and Listing of Hazardous Waste
<b>3. Purpose of the new rule or reason for the change:</b>
Under the current rules for management of hazardous waste, a small portion of pharmaceuticals are regulated as hazardous wastes when disposed. Hospitals, clinics, nursing homes, and other facilities that generate hazardous waste pharmaceuticals have experienced difficulty complying with the framework of the hazardous waste rules. To respond to these concerns and facilitate compliance among healthcare facilities, the Environmental Protection Agency (EPA) has finalized a tailored, sector-specific regulatory framework for managing hazardous waste pharmaceuticals at healthcare facilities and reverse distributors (facilities that receive and accumulate prescription pharmaceuticals for the purpose of facilitating manufacturer credit). On February 22, 2019, the EPA published the final rule in the Federal Register (84 FR 5816). The final rule entitled, Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine, applies to healthcare facilities that generate, accumulate, or otherwise handle hazardous waste pharmaceuticals and reverse distributors engaged in the management of prescription hazardous waste pharmaceuticals.
As stated above the rule provides a new set of sector-specific standards for healthcare facilities (for both humans and animals) and reverse distributors for management of their hazardous waste pharmaceuticals in lieu of the existing hazardous waste generator regulations. The final rule promulgates Sections R315-266-500 through R315-266-510. Healthcare facilities and reverse distributors must manage their hazardous waste pharmaceuticals under this new set of rules in lieu of operating under Rule R315-262 as they have been. These operating standards include a prohibition on disposing of hazardous waste pharmaceuticals in the sewer, called sewerage. The new rules also include a conditional exemption for hazardous waste pharmaceuticals that are also identified as controlled substances by the Drug Enforcement Administration (DEA). Further, the rules redefine when containers that held hazardous waste pharmaceuticals are considered empty. Healthcare facilities that are very small quantity generators (VSQGs) must comply with the sewer prohibition for their hazardous waste pharmaceuticals under the new rules and have the option of complying with Sections R315-266-500 through R315-266-510 in lieu of operating under the conditional exemption found in Section R315-262-14. Additionally, the final rule amends the P075 acute hazardous waste listing for nicotine and salts to indicate that U.S. Food and Drug Administration (FDA)-approved over-the-counter (OTC) nicotine replacement therapies (NRTs) are not included in the listing.

These rule changes became effective at the Federal level on August 21, 2019. (EDITOR'S NOTE: The proposed amendment to Rule R315-262 is under Filing No. 52924 and the proposed amendment to Rule R315-266 is under Filing No. 52927 in this issue, August 1, 2020, of the Bulletin.)

**4. Summary of the new rule or change:**

Subsection R315-261-4(a)(1)(ii) is amended to include the prohibition on sewerage of hazardous waste pharmaceuticals found in the new Section R315-266-505.

Subsection R315-261-6(a)(2) is amended to remove references to several rules that do not exist in Rule R315-266.

Subsection R315-261-7(c) is added. This subsection refers the reader to the new Section R315-266-507 for the requirements for determining if containers of hazardous waste pharmaceuticals are considered empty.

Subsection R315-261-33(c) is amended to include reference to the new Section R315-266-507 for the requirements for an empty container that once held hazardous waste pharmaceuticals.

The listing for Nicotine, P075, in the Table in Subsection R315-261-33(e) was amended to exclude patches, gums, and lozenges that are FDA approved over-the-counter nicotine replacement therapies from the listing.

In addition to the amendments listed above, nonsubstantive changes were made to correct typographical errors and to the format and the wording throughout the amended rule to correct format and wording that was not consistent with the current Rulewriting Manual for Utah Rulewriters.

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**

The operates one hospital. This hospital is not currently listed as a generator of hazardous waste which could mean that the hospital does not generate any hazardous waste or is a VSQG of hazardous waste. However, this hospital could be subject to the new rules because it falls under the definition of healthcare facility as contained in the rules.

Adoption of these new rules could result in no change to the state budget if the hospital does not generate any hazardous waste.

If the hospital were to generate hazardous waste, then the estimated cost due to the adoption of this rule is approximately \$85 per year. The estimated savings due to the adoption of this rule is approximately \$245 per year and would result in an overall cost savings of approximately \$160 per year.

Data to assist in making this determination was obtained from the EPA document entitled "Regulatory Impact Analysis for EPA's Final Regulations for the Management of Hazardous Waste Pharmaceuticals" dated October 2018.

**B) Local governments:**

It is not anticipated that adoption of these rule changes will have any effect on local governments because no local governments in the operate healthcare facilities or reverse distributors.

**C) Small businesses ("small business" means a business employing 1-49 persons):**

There are approximately 7,437 facilities in the that are healthcare facilities and reverse distributors as defined by this rule. Approximately 6,956 of these facilities are small businesses that would potentially be affected by this rule. Not all healthcare facilities and reverse distributors are generators of hazardous waste so it is not possible to determine exactly how many of these businesses will be affected by this rule adoption. Based on information obtained from EPA, it is estimated that approximately 904 of these facilities are generators of hazardous waste. The estimated cost to small businesses due to the adoption of this rule is approximately \$85 per year. The estimated savings to small businesses due to the adoption of this rule is approximately \$245 per year resulting in an overall cost savings of approximately \$160 per year.

Data to assist in making this determination was obtained from the EPA document entitled "Regulatory Impact Analysis for EPA's Final Regulations for the Management of Hazardous Waste Pharmaceuticals" dated October 2018.

**D) Non-small businesses ("non-small business" means a business employing 50 or more persons):**

As stated previously, there are approximately 7,437 facilities in the that are healthcare facilities and reverse distributors as defined by this rule. Approximately 476 of these facilities are non-small businesses that would potentially be affected by this rule. Not all healthcare facilities and reverse distributors are generators of hazardous waste so it is not possible to determine exactly how many of these businesses will be affected by this rule adoption. Based on information obtained from EPA, it is estimated that approximately 62 of these facilities are generators of hazardous waste. The estimated cost to non-small businesses due to the adoption of this rule is approximately \$85 per year. The estimated savings to non-small businesses due to the adoption of this rule is approximately \$245 per year resulting in an overall cost savings of approximately \$160 per year.

Data to assist in making this determination was obtained from the EPA document entitled "Regulatory Impact Analysis for EPA's Final Regulations for the Management

of Hazardous Waste Pharmaceuticals" dated October 2018.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The Division believes that all facilities that could be impacted fiscally by this rule are captured in the four previous categories. It is anticipated if there are any persons other than small businesses, non-small businesses, state, or local governments that are healthcare facilities or reverse distributors, that these persons would see a cost savings with the adoption of this rule similar to the savings discussed previously.

**F) Compliance costs for affected persons:**

It is not anticipated that there will be any additional compliance costs for affected persons due to the adoption of this rule other than those mentioned above.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$85	\$85	\$85
Local Governments	\$0	\$0	\$0
Small Businesses	\$76,840	\$76,840	\$76,840
Non-Small Businesses	\$5,270	\$5,270	\$5,270
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$82,195</b>	<b>\$82,195</b>	<b>\$82,195</b>
<b>Fiscal Benefits</b>			
State Government	\$245	\$245	\$245
Local Governments	\$0	\$0	\$0
Small Businesses	\$221,480	\$221,480	\$221,480
Non-Small Businesses	\$15,190	\$15,190	\$15,190
Other Persons	\$0	\$0	\$0

<b>Total Fiscal Benefits</b>	<b>\$236,915</b>	<b>\$236,915</b>	<b>\$236,915</b>
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<b>Net Fiscal Benefits</b>	<b>\$154,720</b>	<b>\$154,720</b>	<b>\$154,720</b>
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**H) Department head approval of regulatory impact analysis:**

The Executive Director of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

It is not anticipated that these rule changes will have a negative fiscal impact on any healthcare facility or reverse distributor involved in the management of hazardous waste pharmaceuticals. This rule simplifies requirements and provides regulatory flexibilities and thereby improves regulatory clarity for healthcare facilities and provides more regulatory certainty for reverse distributors. The simplification and clarity provided by these rule changes will reduce the regulatory burden on these facilities, increase compliance, and result in better protection of human health and the environment.

**B) Name and title of department head commenting on the fiscal impacts:**

L. Scott Baird, Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Section 19-6-104	Section 19-6-105	Section 19-6-106
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2020

**10. This rule change MAY become effective on:** 09/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative

Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Ty L. Howard, Director	<b>Date:</b>	07/09/2020
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### R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.

#### R315-261. General Requirements -- Identification and Listing of Hazardous Waste.

##### R315-261-4. Exclusions.

(a) Materials which are not solid wastes. The following materials are not solid wastes for the purpose of Rule R315-261:

(1)(i) Domestic sewage; and

(ii) Any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly-owned treatment works for treatment, except as prohibited by Section R315-266-505 and Clean Water Act requirements at 40 CFR 403.5(b). "Domestic sewage" means untreated sanitary wastes that pass through a sewer system.

(2) Industrial wastewater discharges that are point source discharges subject to regulation under section 402 of the Clean Water Act, as amended. This exclusion applies only to the actual point source discharge. It does not exclude industrial wastewaters while they are being collected, stored or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment.

(3) Irrigation return flows.

(4) Source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq.

(5) Materials subjected to in-situ mining techniques which are not removed from the ground as part of the extraction process.

(6) Pulping liquors~~[, i.e.,]~~ that is black liquor, that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless it is accumulated speculatively as defined in Subsection R315-261-1(c).

(7) Spent sulfuric acid used to produce virgin sulfuric acid provided it is not accumulated speculatively as defined in Subsection R315-261-1(c).

(8) Secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided:

(i) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;

(ii) Reclamation does not involve controlled flame combustion, such as occurs in boilers, industrial furnaces, or incinerators;

(iii) The secondary materials are never accumulated in such tanks for over twelve months without being reclaimed; and

(iv) The reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal.

(9)(i) Spent wood preserving solutions that have been reclaimed and are reused for their original intended purpose; and

(ii) Wastewaters from the wood preserving process that have been reclaimed and are reused to treat wood.

(iii) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in Subsections R315-261-4(a)(9)(i) and (ii), so long as they meet ~~[all of]~~ the following conditions:

(A) The wood preserving wastewaters and spent wood preserving solutions are reused on-site at water borne plants in the production process for their original intended purpose;

(B) Prior to reuse, the wastewaters and spent wood preserving solutions are managed to prevent release to either land or groundwater or both;

(C) Any unit used to manage wastewaters ~~[and]~~ or spent wood preserving solutions or both prior to reuse can be visually or otherwise determined to prevent such releases;

(D) Any drip pad used to manage the wastewaters ~~[and]~~ or spent wood preserving solutions or both prior to reuse complies with the standards in 40 CFR 265.440 through 265.445, which are adopted and incorporated by reference, regardless of whether the plant generates a total of less than 100 kg/month of hazardous waste; and

(E) Prior to operating pursuant to this exclusion, the plant owner or operator prepares a one-time notification stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant shall maintain a copy of that document in its on-site records until closure of the facility. The exclusion applies so long as the plant meets ~~[all]~~ each of the conditions. If the plant goes out of compliance with any condition, it may apply to the Director for reinstatement. The Director may reinstate the exclusion upon finding that the plant has returned to compliance with ~~[all]~~ each of the conditions and that the violations are not likely to recur.

(10) EPA Hazardous Waste Nos. K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are hazardous only because they exhibit the Toxicity Characteristic specified in Section R315-261-24, subsequent to generation, these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar, or mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the wastes from the point they are generated to the point they are recycled to coke ovens or tar recovery or refining processes, or mixed with coal tar.

(11) Nonwastewater splash condenser dross residue from the treatment of K061 in high temperature metals recovery units, provided it is shipped in drums, if shipped and not land disposed before recovery.

(12)(i) Oil-bearing hazardous secondary materials~~[, i.e.,]~~ that is sludges, byproducts, or spent materials, that are generated at a petroleum refinery, SIC code 2911, and are inserted into the petroleum refining process, SIC code 2911-including, but not limited to, distillation, catalytic cracking, fractionation, or thermal cracking units~~[, i.e.,]~~ namely cokers, unless the material is placed on the land, or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under Subsection R315-261-4(12)(i), provided that the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the ~~[same]~~ the petroleum refinery where they are generated, or sent directly to another petroleum refinery and still be excluded under this provision. Except as provided in Subsection R315-261-4(a)(12)(ii), oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry~~[, i.e.,]~~ namely from sources other than petroleum refineries, are not excluded under Section R315-261-4. Residuals generated from processing or recycling materials excluded under Subsection R315-261-4(a)(12)(i), where such materials as generated would have otherwise met a listing under Sections R315-261-30 through R315-261-35, are designated as F037 listed wastes ~~[when]~~ if disposed of or intended for disposal.

(ii) Recovered oil that is recycled in the ~~[same]~~ manner and with the ~~[same]~~ conditions as described in Subsection R315-261-4(a)(12)(i). Recovered oil is oil that has been reclaimed from secondary materials, including wastewater, generated from normal petroleum industry practices, including refining, exploration and production, bulk storage, and transportation incident thereto, SIC codes 1311, 1321, 1381, 1382, 1389, 2911, 4612, 4613, 4922, 4923, 4789, 5171, and 5172. Recovered oil does not include oil-bearing hazardous wastes listed in Sections R315-261-30 through 35; however, oil recovered from such wastes may be considered recovered oil. Recovered oil does not include used oil as defined in Subsection 19-6-703(19).

(13) Excluded scrap metal includes ~~[t]~~ processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal ~~]~~ being recycled.

(14) Shredded circuit boards being recycled provided that they are:

(i) Stored in containers sufficient to prevent a release to the environment prior to recovery; and

(ii) Free of mercury switches, mercury relays and nickel-cadmium batteries and lithium batteries.

(15) Condensates derived from the overhead gases from kraft mill steam strippers that are used to comply with 40 CFR 63.446(e). The exemption applies only to combustion at the mill generating the condensates.

(16) Reserved.

(17) Spent materials, as defined in Section R315-261-1, other than hazardous wastes listed in Sections R315-261-30 through 35, generated within the primary mineral processing industry from which minerals, acids, cyanide, water, or other values are recovered by mineral processing or by beneficiation, provided that:

(i) The spent material is legitimately recycled to recover minerals, acids, cyanide, water or other values;

(ii) The spent material is not accumulated speculatively;

(iii) Except as provided in Subsection R315-261-4(a)(17)(iv), the spent material is stored in tanks, containers, or buildings meeting the following minimum integrity standards: a building shall be an engineered structure with a floor, walls, and a roof ~~[at]~~ each ~~[of which are]~~ being made of non-earthen materials providing structural support, except smelter buildings may have partially earthen floors provided the secondary material is stored on the non-earthen portion, and have a roof suitable for diverting rainwater away from the foundation; a tank shall be free standing, not be a surface impoundment, as defined in Section R315-260-10, and be manufactured of a material suitable for containment of its contents; a container shall be free standing and be manufactured of a material suitable for containment of its contents. If tanks or containers contain any particulate which may be subject to wind dispersal, the owner ~~[r]~~ or operator shall operate these units in a manner which controls fugitive dust. Tanks, containers, and buildings shall be designed, constructed and operated to prevent significant releases to the environment of these materials.

(iv) The Director may make a site-specific determination, after public review and comment, that only solid mineral processing spent material may be placed on pads rather than tanks containers, or buildings. Solid mineral processing spent materials do not contain any free liquid. The Director shall affirm that pads are designed, constructed and operated to prevent significant releases of the secondary material into the environment. Pads shall provide the ~~[same]~~ degree of containment afforded by the non-RCRA tanks, containers and buildings eligible for exclusion.

(A) The Director shall also consider if storage on pads poses the potential for significant releases via groundwater, surface water, and air exposure pathways. Factors to be considered for assessing the

groundwater, surface water, air exposure pathways are: The volume and physical and chemical properties of the secondary material, including its potential for migration off the pad; the potential for human or environmental exposure to hazardous constituents migrating from the pad via each exposure pathway, and the possibility and extent of harm to human and environmental receptors via each exposure pathway.

(B) Pads shall meet the following minimum standards: Be designed of non-earthen material that is compatible with the chemical nature of the mineral processing spent material, capable of withstanding physical stresses associated with placement and removal, have run on ~~[r]~~ and runoff controls, or both, be operated in a manner which controls fugitive dust, and have integrity assurance through inspections and maintenance programs.

(C) Before making a determination under Subsection R315-261-4(a)(17)(iv), the Director shall provide notice and the opportunity for comment to ~~[at]~~ each person ~~[s]~~ potentially interested in the determination. This can be accomplished by placing notice of this action in major local newspapers, or broadcasting notice over local radio stations.

(v) The owner or operator provides notice to the Director providing the following information: The types of materials to be recycled; the type and location of the storage units and recycling processes; and the annual quantities expected to be placed in land-based units. This notification shall be updated ~~[when]~~ if there is a change in the type of materials recycled or the location of the recycling process.

(vi) For purposes of Subsection R315-261-4(b)(7), mineral processing spent materials shall be the result of mineral processing and may not include any listed hazardous wastes. Listed hazardous wastes and characteristic hazardous wastes generated by non-mineral processing industries are not eligible for the conditional exclusion from the definition of solid waste.

(18) Petrochemical recovered oil from an associated organic chemical manufacturing facility, where the oil is to be inserted into the petroleum refining process, SIC code 2911, along with normal petroleum refinery process streams, provided:

(i) The oil is hazardous only because it exhibits the characteristic of ignitability, as defined in Section R315-261-21, ~~[and]~~ or toxicity for benzene or both, Section R315-261-24, waste code D018; and

(ii) The oil generated by the organic chemical manufacturing facility is not placed on the land, or speculatively accumulated before being recycled into the petroleum refining process. An "associated organic chemical manufacturing facility" is a facility where the primary SIC code is 2869, but where operations may also include SIC codes 2821, 2822, and 2865; and is physically co-located with a petroleum refinery; and where the petroleum refinery to which the oil being recycled is returned also provides hydrocarbon feedstocks to the organic chemical manufacturing facility. "Petrochemical recovered oil" is oil that has been reclaimed from secondary materials ~~[i.e.,]~~ that is sludges, byproducts, or spent materials, including wastewater, from normal organic chemical manufacturing operations, as well as oil recovered from organic chemical manufacturing processes.

(19) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or naphthenic acid unless the material is placed on the land, or accumulated speculatively as defined in Subsection R315-261-1(c).

(20) Hazardous secondary materials used to make zinc fertilizers, provided that the following conditions specified are satisfied:

(i) Hazardous secondary materials used to make zinc micronutrient fertilizers shall not be accumulated speculatively, as defined in Subsection R315-261-1(c)(8).

(ii) Generators and intermediate handlers of zinc-bearing hazardous secondary materials that are to be incorporated into zinc fertilizers shall:

(A) Submit a one-time notice to the Director, which contains the name, address and EPA ID number of the generator or intermediate handler facility, provides a brief description of the secondary material that will be subject to the exclusion, and identifies when the manufacturer intends to begin managing excluded, zinc-bearing hazardous secondary materials under the conditions specified in Subsection R315-261-4(a)(20).

(B) Store the excluded secondary material in tanks, containers, or buildings that are constructed and maintained in a way that prevents releases of the secondary materials into the environment. At a minimum, any building used for this purpose shall be an engineered structure made of non-earthen materials that provide structural support, and shall have a floor, walls and a roof that prevent wind dispersal and contact with rainwater. Tanks used for this purpose shall be structurally sound and, if outdoors, shall have roofs or covers that prevent contact with wind and rain. Containers used for this purpose shall be kept closed except when it is necessary to add or remove material, and shall be in sound condition. Containers that are stored outdoors shall be managed within storage areas that:

(I) Have containment structures or systems sufficiently impervious to contain leaks, spills and accumulated precipitation; and

(II) Provide for effective drainage and removal of leaks, spills and accumulated precipitation; and

(III) Prevent run-on into the containment system.

(C) With each off-site shipment of excluded hazardous secondary materials, provide written notice to the receiving facility that the material is subject to the conditions of Subsection R315-261-4(a)(20).

(D) Maintain at the generator's or intermediate handlers's facility for no less than three years records of ~~each~~ shipment[s] of excluded hazardous secondary materials. For each shipment these records shall at a minimum contain the following information:

(I) Name of the transporter and date of the shipment;

(II) Name and address of the facility that received the excluded material, and documentation confirming receipt of the shipment; and

(III) Type and quantity of excluded secondary material in each shipment.

(iii) Manufacturers of zinc fertilizers or zinc fertilizer ingredients made from excluded hazardous secondary materials shall:

(A) Store excluded hazardous secondary materials in accordance with the storage requirements for generators and intermediate handlers, as specified in Subsection R315-261-4(a)(20)(ii)(B).

(B) Submit a one-time notification to the Director that, at a minimum, specifies the name, address and EPA ID number of the manufacturing facility, and identifies when the manufacturer intends to begin managing excluded, zinc-bearing hazardous secondary materials under the conditions specified in Subsection R315-261-4(a)(20).

(C) Maintain for a minimum of three years records of ~~each~~ shipment[s] of excluded hazardous secondary materials received by the manufacturer, which shall at a minimum identify for each shipment the name and address of the generating facility, name of transporter and date the materials were received, the quantity received, and a brief description of the industrial process that generated the material.

(D) Submit to the Director an annual report that identifies the total quantities of ~~any~~ excluded hazardous secondary materials that were used to manufacture zinc fertilizers or zinc fertilizer ingredients in

the previous year, the name and address of each generating facility, and the industrial processes~~(s)~~ from which they were generated.

(iv) Nothing in Section R315-261-4 preempts, overrides or otherwise negates the provision in Section R315-262-11, which requires any person who generates a solid waste to determine if that waste is a hazardous waste.

(v) Interim status and permitted storage units that have been used to store only zinc-bearing hazardous wastes prior to the submission of the one-time notice described in Subsection R315-261-4(a)(20)(ii)(A), and that afterward will be used only to store hazardous secondary materials excluded under Subsection R315-261-4(a)(20), are not subject to the closure requirements of Rules R315-264 and R315-265.

(21) Zinc fertilizers made from hazardous wastes, or hazardous secondary materials that are excluded under Subsection R315-261-4(a)(20), provided that:

(i) The fertilizers meet the following contaminant limits:

(A) For metal contaminants:

TABLE

Constituent	Maximum Allowable Total Concentration in Fertilizer, per Unit (1%) of Zinc ppm
Arsenic	0.3
Cadmium	1.4
Chromium	0.6
Lead	2.8
Mercury	0.3

(B) For dioxin contaminants the fertilizer shall contain no more than eight (8) parts per trillion of dioxin, measured as toxic equivalent.

(ii) The manufacturer performs sampling and analysis of the fertilizer product to determine compliance with the contaminant limits for metals no less than every six months, and for dioxins no less than every twelve months. Testing shall also be performed ~~whenever~~ if changes occur to manufacturing processes or ingredients that could significantly affect the amounts of contaminants in the fertilizer product. The manufacturer may use any reliable analytical method to demonstrate that no constituent of concern is present in the product at concentrations above the applicable limits. It is the responsibility of the manufacturer to ensure that the sampling and analysis are unbiased, precise, and representative of the product(s) introduced into commerce.

(iii) The manufacturer maintains for no less than three years records of ~~each~~ sampling and analyses performed for purposes of determining compliance with the requirements of Subsection R315-261-4(a)(21)(ii). Such records shall at a minimum include:

(A) The dates and times product samples were taken, and the dates the samples were analyzed;

(B) The names and qualifications of the person or persons~~(s)~~ taking the samples;

(C) A description of the methods and equipment used to take the samples;

(D) The name and address of the laboratory facility at which analyses of the samples were performed;

(E) A description of the analytical methods used, including any cleanup and sample preparation methods; and

(F) ~~Any~~ laboratory analytical results used to determine compliance with the contaminant limits specified in this Subsection R315-261-4(a)(21).

(22) Used cathode ray tubes (CRTs)

(i) Used, intact CRTs as defined in Section R315-260-10 are not solid wastes within the United States unless they are disposed, or

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unless they are speculatively accumulated as defined in Subsection R315-261-1(c)(8) by CRT collectors or glass processors.

(ii) Used, intact CRTs as defined in Section R315-260-10 are not solid wastes ~~when~~ if exported for recycling provided that they meet the requirements of Section R315-261-40.

(iii) Used, broken CRTs as defined in Section R315-260-10 are not solid wastes provided that they meet the requirements of Section R315-261-39.

(iv) Glass removed from CRTs is not a solid waste provided that it meets the requirements of Section R315-261-39(c).

(23) Hazardous secondary material generated and legitimately reclaimed within the United States or its territories and under the control of the generator, provided that the material complies with Subsections R315-261-4(a)(23)(i) and (ii):

(i)(A) The hazardous secondary material is generated and reclaimed at the generating facility, for purposes of this definition, generating facility means ~~an~~ any contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator; or

(B) The hazardous secondary material is generated and reclaimed at different facilities, if the reclaiming facility is controlled by the generator or if both the generating facility and the reclaiming facility are controlled by a person as defined in Section R315-260-10, and if the generator provides one of the following certifications: "on behalf of (insert generator facility name), I certify that this facility will send the indicated hazardous secondary material to (insert reclaimer facility name), which is controlled by (insert generator facility name) and that (insert name of either facility) has acknowledged full responsibility for the safe management of the hazardous secondary material," or "on behalf of (insert generator facility name), I certify that this facility will send the indicated hazardous secondary material to (insert reclaimer facility name), that both facilities are under common control, and that (insert name of either facility) has acknowledged full responsibility for the safe management of the hazardous secondary material." For purposes of this paragraph, "control" means the power to direct the policies of the facility, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate facilities on behalf of a different person as defined in Section R315-260-10 shall not be deemed to "control" such facilities. The generating and receiving facilities shall both maintain at their facilities for no less than three years records of hazardous secondary materials sent or received under this exclusion. In both cases, the records shall contain the name of the transporter, the date of the shipment, and the type and quantity of the hazardous secondary material shipped or received under the exclusion. These requirements may be satisfied by routine business records~~[, e.g.,]~~ such as financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations; or

(C) The hazardous secondary material is generated pursuant to a written contract between a tolling contractor and a toll manufacturer and is reclaimed by the tolling contractor, if the tolling contractor certifies the following: "On behalf of (insert tolling contractor name), I certify that (insert tolling contractor name) has a written contract with (insert toll manufacturer name) to manufacture (insert name of product or intermediate) which is made from specified unused materials, and that (insert tolling contractor name) will reclaim the hazardous secondary materials generated during this manufacture. On behalf of (insert tolling contractor name), I also certify that (insert tolling contractor name) retains ownership of, and responsibility for, the hazardous secondary materials that are generated during the course of the manufacture, including any releases of hazardous secondary materials that occur during the manufacturing process". The tolling contractor shall maintain at its facility for no less than three years records

of hazardous secondary materials received pursuant to its written contract with the tolling manufacturer, and the tolling manufacturer shall maintain at its facility for no less than three years records of hazardous secondary materials shipped pursuant to its written contract with the tolling contractor. In both cases, the records shall contain the name of the transporter, the date of the shipment, and the type and quantity of the hazardous secondary material shipped or received pursuant to the written contract. These requirements may be satisfied by routine business records~~[, e.g.,]~~ such as financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations. For purposes of Subsection R315-261-4(a)(23)(i)(C), tolling contractor means a person who arranges for the production of a product or intermediate made from specified unused materials through a written contract with a toll manufacturer. Toll manufacturer means a person who produces a product or intermediate made from specified unused materials pursuant to a written contract with a tolling contractor.

(ii)(A) The hazardous secondary material is contained as defined in Section R315-260-10. A hazardous secondary material released to the environment is discarded and a solid waste unless it is immediately recovered for the purpose of reclamation. Hazardous secondary material managed in a unit with leaks or other continuing or intermittent unpermitted releases is discarded and a solid waste.

(B) The hazardous secondary material is not speculatively accumulated, as defined in Subsection R315-261-1(c)(8).

(C) Notice is provided as required by Section R315-260-42.

(D) The material is not otherwise subject to material-specific management conditions under Subsection R315-261-4(a) ~~when~~ if reclaimed, and it is not a spent lead-acid battery, see Sections R315-266-80 and R315-273-2.

(E) Persons performing the recycling of hazardous secondary materials under this exclusion shall maintain documentation of their legitimacy determination on-site. Documentation shall be a written description of how the recycling meets ~~an~~ the three factors in Subsection R315-260-43(a) and how the factor in Subsection R315-260-43(b) was considered. Documentation shall be maintained for three years after the recycling operation has ceased.

(F) The emergency preparedness and response requirements found in Sections R315-261-400, 410, 411 and 420 are met.

(24) Hazardous secondary material that is generated and then transferred to another person for the purpose of reclamation is not a solid waste, provided that:

(i) The material is not speculatively accumulated, as defined in Subsection R315-261-1(c)(8);

(ii) The material is not handled by any person or facility other than the hazardous secondary material generator, the transporter, an intermediate facility or a reclaimer, and, while in transport, is not stored for more than 10 days at a transfer facility, as defined in Section R315-260-10, and is packaged according to applicable Department of Transportation regulations at 49 CFR parts 173, 178, and 179 while in transport;

(iii) The material is not otherwise subject to material-specific management conditions under Subsection R315-261-4(a) ~~when~~ if reclaimed, and it is not a spent lead-acid battery, see Sections R315-266-80 and R315-273-2;

(iv) The reclamation of the material is legitimate, as specified under Section R315-260-43;

(v) The hazardous secondary material generator satisfies ~~an~~ the following conditions:

(A) The material shall be contained as defined in Section R315-260-10. A hazardous secondary material released to the environment is discarded and a solid waste unless it is immediately recovered for the purpose of recycling. Hazardous secondary material



managed in a unit with leaks or other continuing releases is discarded and a solid waste.

(B) Prior to arranging for transport of hazardous secondary materials to a reclamation facility, [(or facilities)], where the management of the hazardous secondary materials is not addressed under a hazardous waste part B permit or interim status standards, the hazardous secondary material generator shall make reasonable efforts to ensure that each reclaimer intends to properly and legitimately reclaim the hazardous secondary material and not discard it, and that each reclaimer will manage the hazardous secondary material in a manner that is protective of human health and the environment. If the hazardous secondary material will be passing through an intermediate facility where the management of the hazardous secondary materials is not addressed under a hazardous waste part B permit or interim status standards, the hazardous secondary material generator shall make contractual arrangements with the intermediate facility to ensure that the hazardous secondary material is sent to the reclamation facility identified by the hazardous secondary material generator, and the hazardous secondary material generator shall perform reasonable efforts to ensure that the intermediate facility will manage the hazardous secondary material in a manner that is protective of human health and the environment. Reasonable efforts shall be repeated at a minimum of every three years for the hazardous secondary material generator to claim the exclusion and to send the hazardous secondary materials to each reclaimer and any intermediate facility. In making these reasonable efforts, the generator may use any credible evidence available, including information gathered by the hazardous secondary material generator, provided by the reclaimer or either the intermediate facility, [and/or provided by] a third party, or both. The hazardous secondary material generator shall affirmatively answer ~~[all of]~~ the following questions for each reclamation facility and any intermediate facility:

(I) Does the available information indicate that the reclamation process is legitimate pursuant to Section R315-260-43? In answering this question, the hazardous secondary material generator can rely on their existing knowledge of the physical and chemical properties of the hazardous secondary material, as well as information from other sources including the reclamation facility and audit reports about the reclamation process.

(II) Does the publicly available information indicate that the reclamation facility and any intermediate facility that is used by the hazardous secondary material generator notified the appropriate authorities of hazardous secondary materials reclamation activities pursuant to Section R315-260-42 and have they notified the appropriate authorities that the financial assurance condition is satisfied per Subsection R315-261-4(a)(24)(vi)(F)? In answering these questions, the hazardous secondary material generator can rely on the available information documenting the reclamation facility's and any intermediate facility's compliance with the notification requirements per Section R315-260-42, including the requirement in Subsection R315-260-42(a)(5) to notify the Director whether the reclaimer or intermediate facility has financial assurance.

(III) Does publicly available information indicate that the reclamation facility or any intermediate facility that is used by the hazardous secondary material generator has not had any formal enforcement actions taken against the facility in the previous three years for violations of Sections R315-260 through R315-268, R315-270, and R315-273 and has not been classified as a significant non-complier with Sections R315-260 through R315-268, R315-270, and R315-273? In answering this question, the hazardous secondary material generator can rely on the publicly available information from EPA or the state. If the reclamation facility or any intermediate facility that is used by the hazardous secondary material generator has had a formal enforcement

action taken against the facility in the previous three years for violations of Sections R315-260 through R315-268, R315-270, and R315-273 and has been classified as a significant non-complier with Sections R315-260 through R315-268, R315-270, and R315-273, does the hazardous secondary material generator have credible evidence that the facilities will manage the hazardous secondary materials properly? In answering this question, the hazardous secondary material generator can obtain additional information from EPA, the state, or the facility itself that the facility has addressed the violations, taken remedial steps to address the violations and prevent future violations, or that the violations are not relevant to the proper management of the hazardous secondary materials.

(IV) Does the available information indicate that the reclamation facility and any intermediate facility that is used by the hazardous secondary material generator have the equipment and trained personnel to safely recycle the hazardous secondary material? In answering this question, the generator may rely on a description by the reclamation facility or by an independent third party of the equipment and trained personnel to be used to recycle the generator's hazardous secondary material.

(V) If residuals are generated from the reclamation of the excluded hazardous secondary materials, does the reclamation facility have the permits required, [(if any)], to manage the residuals? If not, does the reclamation facility have a contract with an appropriately permitted facility to dispose of the residuals? If not, does the hazardous secondary material generator have credible evidence that the residuals will be managed in a manner that is protective of human health and the environment? In answering these questions, the hazardous secondary material generator can rely on publicly available information from EPA or the state, or information provided by the facility itself.

(C) The hazardous secondary material generator shall maintain for a minimum of three years documentation and certification that reasonable efforts were made for each reclamation facility and, if applicable, intermediate facility where the management of the hazardous secondary materials is not addressed under a hazardous waste part B permit or interim status standards prior to transferring hazardous secondary material. Documentation and certification shall be made available upon request by the Director within 72 hours, or within a longer period of time as specified by the Director. The certification statement shall:

(I) Include the printed name and official title of an authorized representative of the hazardous secondary material generator company, the authorized representative's signature, and the date signed;

(II) Incorporate the following language: "I hereby certify in good faith and to the best of my knowledge that, prior to arranging for transport of excluded hazardous secondary materials to (insert name(s) of reclamation facility and any intermediate facility), reasonable efforts were made in accordance with Subsection R315-261-4(a)(24)(v)(B) to ensure that the hazardous secondary materials would be recycled legitimately, and otherwise managed in a manner that is protective of human health and the environment, and that such efforts were based on current and accurate information."

(D) The hazardous secondary material generator shall maintain at the generating facility for no less than three years records of ~~[all]~~each off-site shipment[s] of hazardous secondary materials. For each shipment, these records shall, at a minimum, contain the following information:

(I) Name of the transporter and date of the shipment;

(II) Name and address of each reclaimer and, if applicable, the name and address of each intermediate facility to which the hazardous secondary material was sent;

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(III) The type and quantity of hazardous secondary material in the shipment.

(E) The hazardous secondary material generator shall maintain at the generating facility for no less than three years confirmations of receipt from each reclaimer and, if applicable, each intermediate facility for ~~all~~each off-site shipment[s] of hazardous secondary materials. Confirmations of receipt shall include the name and address of the reclaimer, or intermediate facility, the type and quantity of the hazardous secondary materials received and the date which the hazardous secondary materials were received. This requirement may be satisfied by routine business records~~[, e.g.,]~~ such as financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations of receipt;

(F) The hazardous secondary material generator shall comply with the emergency preparedness and response conditions in Sections R315-261-400, 410, 411, and 420.

(vi) Reclaimers of hazardous secondary material excluded from regulation under this exclusion and intermediate facilities as defined in Section R315-260-10 satisfy ~~all of~~the following conditions:

(A) The reclaimer and intermediate facility shall maintain at its facility for no less than three years records of ~~all~~each shipment[s] of hazardous secondary materials that were received at the facility and, if applicable, for ~~all~~each shipment[s] of hazardous secondary materials that were received and subsequently sent off-site from the facility for further reclamation. For each shipment, these records shall at a minimum contain the following information:

(I) Name of the transporter and date of the shipment;

(II) Name and address of the hazardous secondary material generator and, if applicable, the name and address of the reclaimer or intermediate facility which the hazardous secondary materials were received from;

(III) The type and quantity of hazardous secondary material in the shipment; and

(IV) For hazardous secondary materials that, after being received by the reclaimer or intermediate facility, were subsequently transferred off-site for further reclamation, the name and address of the subsequent reclaimer and, if applicable, the name and address of each intermediate facility to which the hazardous secondary material was sent.

(B) The intermediate facility shall send the hazardous secondary material to the reclaimer, or reclaimers~~(s)]~~ designated by the hazardous secondary materials generator.

(C) The reclaimer and intermediate facility shall send to the hazardous secondary material generator confirmations of receipt for ~~all~~each off-site shipment[s] of hazardous secondary materials. Confirmations of receipt shall include the name and address of the reclaimer, or intermediate facility, the type and quantity of the hazardous secondary materials received and the date which the hazardous secondary materials were received. This requirement may be satisfied by routine business records~~[, e.g.,]~~ such as financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations of receipt.

(D) The reclaimer and intermediate facility shall manage the hazardous secondary material in a manner that is at least as protective as that employed for analogous raw material and shall be contained. An "analogous raw material" is a raw material for which a hazardous secondary material is a substitute and serves the ~~same~~function and has similar physical and chemical properties as the hazardous secondary material.

(E) Any residuals that are generated from reclamation processes shall be managed in a manner that is protective of human health and the environment. If any residuals exhibit a hazardous

characteristic according to Sections R315-261-20 through 24, or if they themselves are specifically listed in Sections R315-261-30 through 35, such residuals are hazardous wastes and shall be managed in accordance with the applicable requirements of Rules R315-260 through R315-266, R315-268, and R315-270.

(F) The reclaimer and intermediate facility have financial assurance as required under Sections R315-261-140 through 151,

(vii) In addition, ~~all~~each person[s] claiming the exclusion under Subsection R315-261-4(a)(24) provide notification as required under Section R315-260-42.

(25) Hazardous secondary material that is exported from the United States and reclaimed at a reclamation facility located in a foreign country is not a solid waste, provided that the hazardous secondary material generator complies with the applicable requirements of Subsection R315-261-4(a)(24)(i)-(v), excepting Subsection R315-261-4(a)(24)(v)(B)(2) for foreign reclaimers and foreign intermediate facilities, and that the hazardous secondary material generator also complies with the following requirements:

(i) Notify EPA of an intended export before the hazardous secondary material is scheduled to leave the United States. A complete notification shall be submitted at least sixty days before the initial shipment is intended to be shipped off-site. This notification may cover export activities extending over a twelve month or lesser period. The notification shall be in writing, signed by the hazardous secondary material generator, and include the following information:

(A) Name, mailing address, telephone number and EPA ID number, if applicable, of the hazardous secondary material generator;

(B) A description of the hazardous secondary material and the EPA hazardous waste number that would apply if the hazardous secondary material was managed as hazardous waste and the U.S. DOT proper shipping name, hazard class and ID number, UN/NA, for each hazardous secondary material as identified in 49 CFR parts 171 through 177;

(C) The estimated frequency or rate at which the hazardous secondary material is to be exported and the period of time over which the hazardous secondary material is to be exported;

(D) The estimated total quantity of hazardous secondary material;

(E) ~~All~~Each point[s] of entry to and departure from each foreign country through which the hazardous secondary material will pass;

(F) A description of the means by which each shipment of the hazardous secondary material will be transported, for example mode of transportation vehicle including air, highway, rail and water, and types of containers including drums, boxes and tanks;

(G) A description of the manner in which the hazardous secondary material will be reclaimed in the country of import;

(H) The name and address of the reclaimer, any intermediate facility and any alternate reclaimer and intermediate facilities; and

(I) The name of any countries of transit through which the hazardous secondary material will be sent and a description of the approximate length of time it will remain in such countries and the nature of its handling while there, for purposes of this section, the terms "EPA Acknowledgement of Consent", "country of import" and "country of transit" are used as defined in ~~[40 CFR]~~Section R315-262[-]-81 with the exception that the terms in Section R315-261-4 refer to hazardous secondary materials, rather than hazardous waste:

(ii) Notifications shall be submitted electronically using EPA's Waste Import Export Tracking System, WIETS, or its successor system.

(iii) Except for changes to the telephone number in Subsection R315-261-4(a)(25)(i)(A) and decreases in the quantity of

hazardous secondary material indicated pursuant to Subsection R315-261-4(a)(25)(i)(D), ~~when~~ if the conditions specified on the original notification change, including any exceedance of the estimate of the quantity of hazardous secondary material specified in the original notification, the hazardous secondary material generator shall provide EPA with a written renotification of the change. The shipment cannot take place until consent of the country of import to the changes, except for changes to Subsection R315-261-4(a)(25)(i)(I) and in the ports of entry to and departure from countries of transit pursuant to Subsection R315-261-4(a)(25)(i)(E), has been obtained and the hazardous secondary material generator receives from EPA an EPA Acknowledgment of Consent reflecting the country of import's consent to the changes.

(iv) Upon request by EPA, the hazardous secondary material generator shall furnish to EPA any additional information which a country of import requests in order to respond to a notification.

(v) EPA will provide a complete notification to the country of import and any countries of transit. A notification is complete when EPA receives a notification which EPA determines satisfies the requirements of Subsection R315-261-4(a)(25)(i). Where a claim of confidentiality is asserted with respect to any notification information required by Subsection R315-261-4(a)(25)(i), EPA may find the notification not complete until any such claim is resolved in accordance with 40 CFR 260.2.

(vi) The export of hazardous secondary material under Subsection R315-261-4(a)(25) is prohibited unless the country of import consents to the intended export. ~~When~~ If the country of import consents in writing to the receipt of the hazardous secondary material, EPA will send an EPA Acknowledgment of Consent to the hazardous secondary material generator. Where the country of import objects to receipt of the hazardous secondary material or withdraws a prior consent, EPA will notify the hazardous secondary material generator in writing. EPA will also notify the hazardous secondary material generator of any responses from countries of transit.

(vii) For exports to OECD Member countries, the receiving country may respond to the notification using tacit consent. If no objection has been lodged by any country of import or countries of transit to a notification provided pursuant to Subsection R315-261-4(a)(25)(i) within thirty days after the date of issuance of the acknowledgement of receipt of notification by the competent authority of the country of import, the transboundary movement may commence. In such cases, EPA will send an EPA Acknowledgment of Consent to inform the hazardous secondary material generator that the country of import and any relevant countries of transit have not objected to the shipment, and are thus presumed to have consented tacitly. Tacit consent expires one calendar year after the close of the thirty-[-]day period; renotification and renewal of ~~an~~ ~~each~~ consent[s] is required for exports after that date.

(viii) A copy of the EPA Acknowledgment of Consent shall accompany the shipment. The shipment shall conform to the terms of the EPA Acknowledgment of Consent.

(ix) If a shipment cannot be delivered for any reason to the reclaimer, intermediate facility or the alternate reclaimer or alternate intermediate facility, the hazardous secondary material generator shall re-notify EPA of a change in the conditions of the original notification to allow shipment to a new reclaimer in accordance with Subsection R315-261-4(a)(25)(iii) and obtain another EPA Acknowledgment of Consent.

(x) Hazardous secondary material generators shall keep a copy of each notification of intent to export and each EPA Acknowledgment of Consent for a period of three years following receipt of the EPA Acknowledgment of Consent. They may satisfy this

recordkeeping requirement by retaining electronically submitted notifications or electronically generated Acknowledgements in their account on EPA's Waste Import Export Tracking System, WIETS, or its successor system, provided that such copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No hazardous secondary material generator may be held liable for the inability to produce a notification or Acknowledgement for inspection under Subsection R315-261-4(a)(25) if they can demonstrate that the inability to produce such copies are due exclusively to technical difficulty with EPA's Waste Import Export Tracking System, WIETS, or its successor system for which the hazardous secondary material generator bears no responsibility.

(xi) Hazardous secondary material generators shall file with the Administrator no later than March 1 of each year, a report summarizing the types, quantities, frequency and ultimate destination of ~~an~~ ~~each~~ hazardous secondary material[s] exported during the previous calendar year. Annual reports shall be submitted electronically using EPA's Waste Import Export Tracking System, WIETS, or its successor system. Such reports shall include the following information:

(A) Name, mailing and site address, and EPA ID number, if applicable, of the hazardous secondary material generator;

(B) The calendar year covered by the report;

(C) The name and site address of each reclaimer and intermediate facility;

(D) By reclaimer and intermediate facility, for each hazardous secondary material exported, a description of the hazardous secondary material and the EPA hazardous waste number that would apply if the hazardous secondary material was managed as hazardous waste, the DOT hazard class, the name and U.S. EPA ID number, where applicable, for each transporter used, the total amount of hazardous secondary material shipped and the number of shipments pursuant to each notification;

(E) A certification signed by the hazardous secondary material generator which states: "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and ~~an~~ ~~each~~ attached document[s], and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment."

(xii) ~~An~~ ~~Each~~ person[s] claiming an exclusion under Subsection R315-261-4(a)(25) shall provide notification as required by Section R315-260-42.

(26) Solvent-contaminated wipes that are sent for cleaning and reuse are not solid wastes from the point of generation, provided that

(i) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes." The containers shall be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed ~~when~~ if there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, or when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container shall be sealed with ~~an~~ ~~the~~ lids properly and securely affixed to the container and ~~an~~ ~~any~~ openings tightly bound or closed sufficiently to prevent leaks and emissions;

(ii) The solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for cleaning;

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(iii) At the point of being sent for cleaning on-site or at the point of being transported off-site for cleaning, the solvent-contaminated wipes shall contain no free liquids as defined in Section R315-260-10.

(iv) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes shall be managed according to the applicable ~~regulations~~ rules found in Rules R315-260 through R315-266, R315-268, R315-270, and R315-273;

(v) Generators shall maintain at their site the following documentation:

(A) Name and address of the laundry or dry cleaner that is receiving the solvent-contaminated wipes;

(B) Documentation that the 180-day accumulation time limit in Subsection R315-261-4(a)(26)(ii) is being met;

(C) Description of the process the generator is using to ensure the solvent-contaminated wipes contain no free liquids at the point of being laundered or dry cleaned on-site or at the point of being transported off-site for laundering or dry cleaning;

(vi) The solvent-contaminated wipes are sent to a laundry or dry cleaner whose discharge, if any, is regulated under sections 301 and 402 or section 307 of the Clean Water Act.

(27) Hazardous secondary material that is generated and then transferred to another person for the purpose of remanufacturing is not a solid waste, provided that:

(i) The hazardous secondary material consists of one or more of the following spent solvents: Toluene, xylenes, ethylbenzene, 1,2,4-trimethylbenzene, chlorobenzene, n-hexane, cyclohexane, methyl tert-butyl ether, acetonitrile, chloroform, chloromethane, dichloromethane, methyl isobutyl ketone, N,N-dimethylformamide, tetrahydrofuran, n-butyl alcohol, ethanol, ~~and~~ or methanol;

(ii) The hazardous secondary material originated from using one or more of the solvents listed in Subsection R315-261-4(a)(27)(i) in a commercial grade for reacting, extracting, purifying, or blending chemicals, or for rinsing out the process lines associated with these functions; in the pharmaceutical manufacturing, NAICS 325412; basic organic chemical manufacturing, NAICS 325199; plastics and resins manufacturing, NAICS 325211; and~~or~~ the paints and coatings manufacturing sectors, NAICS 325510.

(iii) The hazardous secondary material generator sends the hazardous secondary material spent solvents listed in Subsection R315-261-4(a)(27)(i) to a remanufacturer in the pharmaceutical manufacturing, NAICS 325412; basic organic chemical manufacturing, NAICS 325199; plastics and resins manufacturing, NAICS 325211; ~~and~~ or the paints and coatings manufacturing sectors, NAICS 325510.

(iv) After remanufacturing one or more of the solvents listed in Subsection R315-261-4(a)(27)(i), the use of the remanufactured solvent shall be limited to reacting, extracting, purifying, or blending chemicals, or for rinsing out the process lines associated with these functions, in the pharmaceutical manufacturing, NAICS 325412; basic organic chemical manufacturing, NAICS 325199; plastics and resins manufacturing, NAICS 325211; and the paints and coatings manufacturing sectors, NAICS 325510; or to using them as ingredients in a product. These allowed uses correspond to chemical functional uses enumerated under the Chemical Data Reporting Rule of the Toxic Substances Control Act, 40 CFR parts 704, 710-711, including Industrial Function Codes U015, solvents consumed in a reaction to produce other chemicals, and U030, solvents become part of the mixture;

(v) After remanufacturing one or more of the solvents listed in Subsection R315-261-4(a)(27)(i), the use of the remanufactured solvent does not involve cleaning or degreasing oil, grease, or similar material from textiles, glassware, metal surfaces, or other articles.

[~~C~~]These disallowed continuing uses correspond to chemical functional uses in Industrial Function Code U029 under the Chemical Data Reporting Rule of the Toxic Substances Control Act.~~];~~ and

(vi) Both the hazardous secondary material generator and the remanufacturer shall:

(A) Notify the Director and update the notification every two years per Section R315-260-42;

(B) Develop and maintain an up-to-date remanufacturing plan which identifies:

(I) The name, address and EPA ID number of the generator~~[s]~~ and the remanufacturer~~[s]~~;

(II) The types and estimated annual volumes of spent solvents to be remanufactured,

(III) The processes and industry sectors that generate the spent solvents,

(IV) The specific uses and industry sectors for the remanufactured solvents, and

(V) A certification from the remanufacturer stating "on behalf of (insert remanufacturer facility name), I certify that this facility is a remanufacturer under pharmaceutical manufacturing, NAICS 325412; basic organic chemical manufacturing, NAICS 325199; plastics and resins manufacturing, NAICS 325211; and/or the paints and coatings manufacturing sectors, NAICS 325510; and will accept the spent solvent(s) for the sole purpose of remanufacturing into commercial-grade solvent(s) that will be used for reacting, extracting, purifying, or blending chemicals, or for rinsing out the process lines associated with these functions, or for use as product ingredient(s). I also certify that the remanufacturing equipment, vents, and tanks are equipped with and are operating air emission controls in compliance with the appropriate Clean Air Act regulations under 40 CFR part 60, part 61 or part 63, or, absent such Clean Air Act standards for the particular operation or piece of equipment covered by the remanufacturing exclusion, are in compliance with the appropriate standards in Sections R315-261-1030 through 1035, 1050 through 1064 and 1080 through 1089";

(C) Maintain records of shipments and confirmations of receipts for a period of three years from the dates of the shipments;

(D) Prior to remanufacturing, store the hazardous spent solvents in tanks or containers that meet technical standards found in Sections R315-261-17- through 179 and 190 through 200, with the tanks and containers being labeled or otherwise having an immediately available record of the material being stored;

(E) During remanufacturing, and during storage of the hazardous secondary materials prior to remanufacturing, the remanufacturer certifies that the remanufacturing equipment, vents, and tanks are equipped with and are operating air emission controls in compliance with the appropriate Clean Air Act regulations under 40 CFR part 60, part 61 or part 63; or, absent such Clean Air Act standards for the particular operation or piece of equipment covered by the remanufacturing exclusion, are in compliance with the appropriate standards in Sections R315-261-1030 through 1035, 1050 through 1064 and 1080 through 1089; and

(F) Meet the requirements prohibiting speculative accumulation per Subsection R315-261-1(c)(8).

(b) Solid wastes which are not hazardous wastes. The following solid wastes are not hazardous wastes:

(1) Household waste, including household waste that has been collected, transported, stored, treated, disposed, recovered~~[e.g.]~~ such as refuse-derived fuel, or reused. "Household waste" means any material, including garbage, trash and sanitary wastes in septic tanks, derived from households, including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas. A resource

recovery facility managing municipal solid waste shall not be deemed to be treating, storing, disposing of, or otherwise managing hazardous wastes for the purposes of regulation under this subtitle, if such facility:

(i) Receives and burns only

(A) Household waste, from single and multiple dwellings, hotels, motels, and other residential sources, and

(B) Solid waste from commercial or industrial sources that does not contain hazardous waste; and

(ii) Such facility does not accept hazardous wastes and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in such facility.

(2) Solid wastes generated by any of the following and which are returned to the soils as fertilizers:

(i) The growing and harvesting of agricultural crops.

(ii) The raising of animals, including animal manures.

(3) Mining overburden returned to the mine site.

(4)(i) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels, except as provided by Section R315-266-112 for facilities that burn or process hazardous waste.

(ii) The following wastes generated primarily from processes that support the combustion of coal or other fossil fuels that are co-disposed with the wastes in Subsection R315-261-4(b)(4)(i), except as provided by Section R315-266-112 for facilities that burn or process hazardous waste:

(A) Coal pile run-off. For purposes of Subsection R315-261-4(b)(4), coal pile run-off means any precipitation that drains off coal piles.

(B) Boiler cleaning solutions. For purposes of Subsection R315-261-4(b)(4), boiler cleaning solutions means water solutions and chemical solutions used to clean the fire-side and water-side of the boiler.

(C) Boiler blowdown. For purposes of Subsection R315-261-4(b)(4), boiler blowdown means water purged from boilers used to generate steam.

(D) Process water treatment and demineralizer regeneration wastes. For purposes of Subsection R315-261-4(b)(4), process water treatment and demineralizer regeneration wastes means sludges, rinses, and spent resins generated from processes to remove dissolved gases, suspended solids, and dissolved chemical salts from combustion system process water.

(E) Cooling tower blowdown. For purposes of Subsection R315-261-4(b)(4), cooling tower blowdown means water purged from a closed cycle cooling system. Closed cycle cooling systems include cooling towers, cooling ponds, or spray canals.

(F) Air heater and precipitator washes. For purposes of Subsection R315-261-4(b)(4), air heater and precipitator washes means wastes from cleaning air preheaters and electrostatic precipitators.

(G) Effluents from floor and yard drains and sumps. For purposes of Subsection R315-261-4(b)(4), effluents from floor and yard drains and sumps means wastewaters, such as wash water, collected by or from floor drains, equipment drains, and sumps located inside the power plant building; and wastewaters, such as rain runoff, collected by yard drains and sumps located outside the power plant building.

(H) Wastewater treatment sludges. For purposes of Subsection R315-261-4(b)(4), wastewater treatment sludges refers to sludges generated from the treatment of wastewaters specified in Subsections R315-261-4(b)(4)(ii)(A) through (F).

(5) Drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas or geothermal energy.

(6)(i) Wastes which fail the test for the Toxicity Characteristic because chromium is present or are listed in Sections R315-261-30 through R316-261-35 due to the presence of chromium, which do not fail the test for the Toxicity Characteristic for any other constituent or are not listed due to the presence of any other constituent, and which do not fail the test for any other characteristic, if it is shown by a waste generator or by waste generators that:

(A) The chromium in the waste is exclusively, or nearly exclusively, trivalent chromium; and

(B) The waste is generated from an industrial process which uses trivalent chromium exclusively, [~~or~~ or nearly exclusively~~ly~~], and the process does not generate hexavalent chromium; and

(C) The waste is typically and frequently managed in non-oxidizing environments.

(ii) Specific wastes which meet the standard in Subsections R315-261-4(b)(6)(i)(A), (B), and (C), so long as they do not fail the test for the toxicity characteristic for any other constituent, and do not exhibit any other characteristic, are:

(A) Chrome, [~~blue~~], trimmings generated by the following subcategories of the leather tanning and finishing industry; hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

(B) Chrome, [~~blue~~], shavings generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

(C) Buffing dust generated by the following subcategories of the leather tanning and finishing industry; hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue.

(D) Sewer screenings generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

(E) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearling.

(F) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; and through-the-blue.

(G) Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries.

(H) Wastewater treatment sludges from the production of TiO<sub>2</sub> pigment using chromium-bearing ores by the chloride process.

(7) Solid waste from the extraction, beneficiation, and processing of ores and minerals, including coal, phosphate rock, and overburden from the mining of uranium ore, except as provided by Section R315-266-112 for facilities that burn or process hazardous waste.

(i) For purposes of Subsection R315-261-4(b)(7) beneficiation of ores and minerals is restricted to the following activities; crushing; grinding; washing; dissolution; crystallization; filtration; sorting; sizing; drying; sintering; pelletizing; briquetting; calcining to remove water, [~~and/or~~ carbon dioxide, or both; roasting, autoclaving, [~~and/or~~ chlorination, or both in preparation for leaching, [~~except~~ where the roasting, [~~and~~ or autoclaving, [~~and~~ or

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chlorination<sup>[3]</sup>~~[4]~~ or leaching, or any combination of these, sequence produces a final or intermediate product that does not undergo further beneficiation or processing<sup>[3]</sup>; gravity concentration; magnetic separation; electrostatic separation; flotation; ion exchange; solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat, tank, and in situ leaching.

(ii) For the purposes of Subsection R315-261-4(b)(7), solid waste from the processing of ores and minerals includes only the following wastes as generated:

- (A) Slag from primary copper processing;
- (B) Slag from primary lead processing;
- (C) Red and brown muds from bauxite refining;
- (D) Phosphogypsum from phosphoric acid production;
- (E) Slag from elemental phosphorus production;
- (F) Gasifier ash from coal gasification;
- (G) Process wastewater from coal gasification;
- (H) Calcium sulfate wastewater treatment plant sludge from primary copper processing;
- (I) Slag tailings from primary copper processing;
- (J) Fluorogypsum from hydrofluoric acid production;
- (K) Process wastewater from hydrofluoric acid production;
- (L) Air pollution control dust<sup>[4]</sup> or sludge from iron blast furnaces;
- (M) Iron blast furnace slag;
- (N) Treated residue from roasting<sup>[4]</sup> or leaching of chrome ore;
- (O) Process wastewater from primary magnesium processing by the anhydrous process;
- (P) Process wastewater from phosphoric acid production;
- (Q) Basic oxygen furnace and open hearth furnace air pollution control dust<sup>[4]</sup> or sludge from carbon steel production;
- (R) Basic oxygen furnace and open hearth furnace slag from carbon steel production;
- (S) Chloride process waste solids from titanium tetrachloride production;
- (T) Slag from primary zinc processing.

(iii) A residue derived from co-processing mineral processing secondary materials with normal beneficiation raw materials or with normal mineral processing raw materials remains excluded under Subsection R315-261-4(b) if the owner or operator:

(A) Processes at least 50 percent by weight normal beneficiation raw materials or normal mineral processing raw materials; and,

(B) Legitimately reclaims the secondary mineral processing materials.

(8) Cement kiln dust waste, except as provided by Section R315-266-112 for facilities that burn or process hazardous waste.

(9) Solid waste which consists of discarded arsenical-treated wood or wood products which fails the test for the Toxicity Characteristic for Hazardous Waste Codes D004 through D017 and which is not a hazardous waste for any other reason if the waste is generated by persons who utilize the arsenical-treated wood and wood products for these materials' intended end use.

(10) Petroleum-contaminated media and debris that fail the test for the Toxicity Characteristic of Section R315-261-24, Hazardous Waste Codes D018 through D043 only, and are subject to the corrective action ~~regulations~~ rules under Section R~~315-~~311-202-1 which adopts 40 CFR 280 by reference.

(11) Injected groundwater that is hazardous only because it exhibits the Toxicity Characteristic, Hazardous Waste Codes D018 through D043 only, in Section R315-261-24 that is reinjected through an underground injection well pursuant to free phase hydrocarbon

recovery operations undertaken at petroleum refineries, petroleum marketing terminals, petroleum bulk plants, petroleum pipelines, and petroleum transportation spill sites until January 25, 1993. This extension applies to recovery operations in existence, or for which contracts have been issued, on or before March 25, 1991. For groundwater returned through infiltration galleries from such operations at petroleum refineries, marketing terminals, and bulk plants, until October 2, 1991. New operations involving injection wells, beginning after March 25, 1991, will qualify for this compliance date extension, until January 25, 1993, only if:

(i) Operations are performed pursuant to a written state agreement that includes a provision to assess the groundwater and the need for further remediation once the free phase recovery is completed; and

(ii) A copy of the written agreement has been submitted to: Waste Identification Branch (5304), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460 and the Division of Waste Management and Radiation Control, PO Box 144880, Salt Lake City, UT 84114-4880.

(12) Used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided the refrigerant is reclaimed for further use.

(13) Non-terme plated used oil filters that are not mixed with wastes listed in Sections R315-261-30 through R315-261-35 if these oil filters have been gravity hot-drained using one of the following methods:

(i) Puncturing the filter anti-drain back valve or the filter dome end and hot-draining;

(ii) Hot-draining and crushing;

(iii) Dismantling and hot-draining; or

(iv) Any other equivalent hot-draining method that will remove used oil.

(14) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.

(15) Leachate or gas condensate collected from landfills where certain solid wastes have been disposed, provided that:

(i) The solid wastes disposed would meet one or more of the listing descriptions for Hazardous Waste Codes K169, K170, K171, K172, K174, K175, K176, K177, K178 and K181 if these wastes had been generated after the effective date of the listing;

(ii) The solid wastes described in Subsection R315-261-4(b)(15)(i) were disposed prior to the effective date of the listing;

(iii) The leachate or gas condensate do not exhibit any characteristic of hazardous waste nor are derived from any other listed hazardous waste;

(iv) Discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is subject to regulation under sections 307(b) or 402 of the Clean Water Act.

(v) As of February 13, 2001, leachate or gas condensate derived from K169-K172 is no longer exempt if it is stored or managed in a surface impoundment prior to discharge. As of November 21, 2003, leachate or gas condensate derived from K176, K177, and K178 is no longer exempt if it is stored or managed in a surface impoundment prior to discharge. After February 26, 2007, leachate or gas condensate derived from K181 will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: if the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation~~[, e.g.,]~~ such as

shutdown of wastewater treatment system, provided the impoundment has a double liner, and provided the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of Subsection R315-261-4(b)(15)(v) after the emergency ends.

(16) Reserved

(17) Reserved

(18) Solvent-contaminated wipes, except for wipes that are hazardous waste due to the presence of trichloroethylene, that are sent for disposal are not hazardous wastes from the point of generation provided that

(i) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes." The containers shall be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed [~~when~~if there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, or when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container shall be sealed with [~~all~~the lids properly and securely affixed to the container and [~~all~~any openings tightly bound or closed sufficiently to prevent leaks and emissions;

(ii) The solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for disposal;

(iii) At the point of being transported for disposal, the solvent-contaminated wipes shall contain no free liquids as defined in Section R315-260-10.

(iv) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes shall be managed according to the applicable [~~regulations~~rules found in Rules R315-260 through R315-266, R315-268, R315-270, and R315-273;

(v) Generators shall maintain at their site the following documentation:

(A) Name and address of the landfill or combustor that is receiving the solvent-contaminated wipes;

(B) Documentation that the 180 day accumulation time limit in Subsection R315-261-4(b)(18)(ii) is being met;

(C) Description of the process the generator is using to ensure solvent-contaminated wipes contain no free liquids at the point of being transported for disposal;

(vi) The solvent-contaminated wipes are sent for disposal

(A) To a solid waste landfill that:

(I) is regulated under R315-301 through R315-320

(II) is a Class I or V Landfill; and

(III) has a composite liner; or

(B) To a hazardous waste landfill regulated under Rules R315-260 through R315-266, R315-268, and R315-270; or

(C) To a municipal waste combustor or other combustion facility regulated under section 129 of the Clean Air Act or to a hazardous waste combustor, boiler, or industrial furnace regulated under Rule R315-264, Rule R315-265, or Sections R315-266-100 through R315-266-112.

(c) Hazardous wastes which are exempted from certain [~~regulations~~rules. A hazardous waste which is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated non-waste-treatment-manufacturing unit, is not subject to regulation under Rules R315-262 through R315-265, R315-268, R315-270, and R315-124 or to the notification requirements of section 3010 of RCRA until it exits the unit in which it was generated,

unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials.

(d)(1) Samples. Except as provided in Subsections R315-261-4(d)(2) and (4), a sample of solid waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of Rules R315-261 through R315-266, R315-268 or R315-270 or R315-124 or to the notification requirements of Section 3010 of RCRA, [~~when~~if:

(i) The sample is being transported to a laboratory for the purpose of testing; or

(ii) The sample is being transported back to the sample collector after testing; or

(iii) The sample is being stored by the sample collector before transport to a laboratory for testing; or

(iv) The sample is being stored in a laboratory before testing; or

(v) The sample is being stored in a laboratory after testing but before it is returned to the sample collector; or

(vi) The sample is being stored temporarily in the laboratory after testing for a specific purpose, [~~for~~for example, until conclusion of a court case or enforcement action where further testing of the sample may be necessary].

(2) In order to qualify for the exemption in Subsections R315-261-4(d)(1) (i) and (ii), a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector shall:

(i) Comply with U.S. Department of Transportation (DOT), U.S. Postal Service (USPS), or any other applicable shipping requirements; or

(ii) Comply with the following requirements if the sample collector determines that DOT, USPS, or other shipping requirements do not apply to the shipment of the sample:

(A) Assure that the following information accompanies the sample:

(I) The sample collector's name, mailing address, and telephone number;

(II) The laboratory's name, mailing address, and telephone number;

(III) The quantity of the sample;

(IV) The date of shipment; and

(V) A description of the sample.

(B) Package the sample so that it does not leak, spill, or vaporize from its packaging.

(3) This exemption does not apply if the laboratory determines that the waste is hazardous but the laboratory is no longer meeting any of the conditions stated in Subsection R315-261-4(d)(1).

(4) In order to qualify for the exemption in Subsections R315-261-4(d)(1)(i) and (ii), the mass of a sample that will be exported to a foreign laboratory or that will be imported to a U.S. laboratory from a foreign source [~~must~~shall additionally not exceed 25 kg.

(e)(1) Treatability Study Samples. Except as provided in Subsections R315-261-4(e)(2) and (4), persons who generate or collect samples for the purpose of conducting treatability studies as defined in Section R315-260-10, are not subject to any requirement of Rules R315-261 through 263 or to the notification requirements of Section 3010 of RCRA, nor are such samples included in the quantity determinations of Section R315-261-5 and Subsection R315-262-34(d) [~~when~~if:

(i) The sample is being collected and prepared for transportation by the generator or sample collector; or

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(ii) The sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or

(iii) The sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study.

(2) The exemption in Subsection R315-261-4(e)(1) is applicable to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies provided that:

(i) The generator or sample collector uses ~~[(c)]~~ in "treatability studies" ~~[(d)]~~, no more than 10,000 kg of media contaminated with non-acute hazardous waste, 1000 kg of non-acute hazardous waste other than contaminated media, 1 kg of acute hazardous waste, 2500 kg of media contaminated with acute hazardous waste for each process being evaluated for each generated waste stream; and

(ii) The mass of each sample shipment does not exceed 10,000 kg; the 10,000 kg quantity may be ~~[all]~~ media contaminated with non-acute hazardous waste, or may include 2500 kg of media contaminated with acute hazardous waste, 1000 kg of hazardous waste, and 1 kg of acute hazardous waste; and

(iii) The sample shall be packaged so that it will not leak, spill, or vaporize from its packaging during shipment and the requirements of Subsections R315-261-4(e)(2)(iii)(A) or (B) are met.

(A) The transportation of each sample shipment complies with U.S. Department of Transportation (DOT), U.S. Postal Service (USPS), or any other applicable shipping requirements; or

(B) If the DOT, USPS, or other shipping requirements do not apply to the shipment of the sample, the following information shall accompany the sample:

(I) The name, mailing address, and telephone number of the originator of the sample;

(II) The name, address, and telephone number of the facility that will perform the treatability study;

(III) The quantity of the sample;

(IV) The date of shipment; and

(V) A description of the sample, including its EPA Hazardous Waste Number.

(iv) The sample is shipped to a laboratory or testing facility which is exempt under Subsection R315-261-4(f) or has an appropriate RCRA permit or interim status.

(v) The generator or sample collector maintains the following records for a period ending three years after completion of the treatability study:

(A) Copies of the shipping documents;

(B) A copy of the contract with the facility conducting the treatability study;

(C) Documentation showing:

(I) The amount of waste shipped under this exemption;

(II) The name, address, and EPA identification number of the laboratory or testing facility that received the waste;

(III) The date the shipment was made; and

(IV) Whether or not unused samples and residues were returned to the generator.

(vi) The generator reports the information required under Subsection R315-261-4(e)(2)(v)(C) in its biennial report.

(3) The Director may grant requests on a case-by-case basis for up to an additional two years for treatability studies involving bioremediation. The Director may grant requests on a case-by-case basis for quantity limits in excess of those specified in Subsections R315-261-4(e)(2)(i) and (ii) and Subsection R315-261-4(f)(4), for up to an additional 5000 kg of media contaminated with non-acute hazardous waste, 500 kg of non-acute hazardous waste, 2500 kg of media

contaminated with acute hazardous waste and 1 kg of acute hazardous waste:

(i) In response to requests for authorization to ship, store and conduct treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology; the type of process, ~~[e.g.,]~~ batch versus continuous; size of the unit undergoing testing, particularly in relation to scale-up considerations; the time ~~[t]~~ or quantity of material required to reach steady state operating conditions; or test design considerations such as mass balance calculations.

(ii) In response to requests for authorization to ship, store and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies, ~~[when]~~ if: There has been an equipment or mechanical failure during the conduct of a treatability study; there is a need to verify the results of a previously conducted treatability study; there is a need to study and analyze alternative techniques within a previously evaluated treatment process; or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.

(iii) The additional quantities and timeframes allowed in Subsections R315-261-4(e)(3)(i) and (ii) are subject to ~~[all the provisions in]~~ Subsections R315-261-4(e)(1) and R315-261-4(e)(2)(iii) through R315-261-4(e)(2)(vi). The generator or sample collector shall apply to the Director and provide in writing the following information:

(A) The reason why the generator or sample collector requires additional time or quantity of sample for treatability study evaluation and the additional time or quantity needed;

(B) Documentation accounting for ~~[all]~~ any samples of hazardous waste from the waste stream which have been sent for or undergone treatability studies including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results on each treatability study;

(C) A description of the technical modifications or change in specifications which will be evaluated and the expected results;

(D) If such further study is being required due to equipment or mechanical failure, the applicant shall include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and

(E) Such other information that the Director considers necessary.

(4) In order to qualify for the exemption in Subsection R315-261-4(e)(1)(i), the mass of a sample that will be exported to a foreign laboratory or testing facility or that will be imported to a U.S. laboratory or testing facility from a foreign source ~~[must]~~ shall additionally not exceed 25 kg.

(f) Samples Undergoing Treatability Studies at Laboratories and Testing Facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies, to the extent such facilities are not otherwise subject to RCRA requirements, are not subject to any requirement of Rules R315-261 through R315-266, R315-268, and R315-270, or to the notification requirements of Section 3010 of RCRA provided that the conditions of Subsection R315-261-4(f)(1) through (11) are met. A mobile treatment unit (MTU) may qualify as a testing facility subject to Subsections R315-261-4(f)(1) through (11). Where a group of MTUs are located at ~~[the same]~~ a site, the limitations specified in Subsections R315-261-4(f)(1) through (11) apply to the entire group of MTUs collectively as if the group were one MTU.



(1) No less than 45 days before conducting treatability studies, the facility notifies the Director, in writing that it intends to conduct treatability studies under Subsection R315-261-4(f).

(2) The laboratory or testing facility conducting the treatability study has an EPA identification number.

(3) No more than a total of 10,000 kg of "as received" media contaminated with non-acute hazardous waste, 2500 kg of media contaminated with acute hazardous waste or 250 kg of other "as received" hazardous waste is subject to initiation of treatment in [all] treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector.

(4) The quantity of "as received" hazardous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 10,000 kg, the total of which can include 10,000 kg of media contaminated with non-acute hazardous waste, 2500 kg of media contaminated with acute hazardous waste, 1000 kg of non-acute hazardous wastes other than contaminated media, and 1 kg of acute hazardous waste. This quantity limitation does not include treatment materials, including nonhazardous solid waste, added to "as received" hazardous waste.

(5) No more than 90 days have elapsed since the treatability study for the sample was completed, or no more than one year, two years for treatability studies involving bioremediation, have elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility.

(6) The treatability study does not involve the placement of hazardous waste on the land or open burning of hazardous waste.

(7) The facility maintains records for three years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information shall be included for each treatability study conducted:

- (i) The name, address, and EPA identification number of the generator or sample collector of each waste sample;
- (ii) The date the shipment was received;
- (iii) The quantity of waste accepted;
- (iv) The quantity of "as received" waste in storage each day;
- (v) The date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;
- (vi) The date the treatability study was concluded;
- (vii) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and the EPA identification number.

(8) The facility keeps, on-site, a copy of the treatability study contract and [all] any shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.

(9) The facility prepares and submits a report to the Director, by March 15 of each year, that includes the following information for the previous calendar year:

- (i) The name, address, and EPA identification number of the facility conducting the treatability studies;
- (ii) The types, [{} by process{}], of treatability studies conducted;
- (iii) The names and addresses of persons for whom studies have been conducted, including their EPA identification numbers;
- (iv) The total quantity of waste in storage each day;

(v) The quantity and types of waste subjected to treatability studies;

(vi) When each treatability study was conducted;

(vii) The final disposition of residues and unused sample from each treatability study.

(10) The facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under Section R315-261-3 and, if so, are subject to Rules R315-261 through R315-268 and R315-270, unless the residues and unused samples are returned to the sample originator under the Subsection R315-261-4(e) exemption.

(11) The facility notifies the Director, by letter when the facility is no longer planning to conduct any treatability studies at the site.

(g) Dredged material that is not a hazardous waste. Dredged material that is subject to the requirements of a permit that has been issued under 404 of the Federal Water Pollution Control Act, [{} 33 U.S.C. 1344{}], or section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972, [{} 33 U.S.C. 1413{}], is not a hazardous waste. For Subsection R315-261-4(g), the following definitions apply:

(1) The term dredged material has the [same] meaning as defined in 40 CFR 232.2;

(2) The term permit means:

(i) A permit issued by the U.S. Army Corps of Engineers (Corps) or an approved State under section 404 of the Federal Water Pollution Control Act, [{} 33 U.S.C. 1344{}];

(ii) A permit issued by the Corps under section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972, [{} 33 U.S.C. 1413{}]; or

(iii) In the case of Corps civil works projects, the administrative equivalent of the permits referred to in Subsections R315-261-4(g)(2)(i) and (ii), as provided for in Corps regulations.

(h) Carbon dioxide stream injected for geologic sequestration. Carbon dioxide streams that are captured and transported for purposes of injection into an underground injection well subject to the requirements for Class VI Underground Injection Control wells, including the requirements in Rule R317-7, are not a hazardous waste, provided the following conditions are met:

(1) Transportation of the carbon dioxide stream shall be in compliance with U.S. Department of Transportation requirements, including the pipeline safety laws, 49 U.S.C. 60101 et seq. and regulations, 49 CFR Parts 190-199, of the U.S. Department of Transportation, and pipeline safety regulations adopted and administered by a state authority pursuant to a certification under 49 U.S.C. 60105, as applicable.

(2) Injection of the carbon dioxide stream shall be in compliance with the applicable requirements for Class VI Underground Injection Control wells, including the applicable requirements in Rule R317-7;

(3) No hazardous wastes shall be mixed with, or otherwise co-injected with, the carbon dioxide stream; and

(4)(i) Any generator of a carbon dioxide stream, who claims that a carbon dioxide stream is excluded under Subsection R315-261-4(h), shall have an authorized representative, as defined in Section R315-260-10, sign a certification statement worded as follows: I certify under penalty of law that the carbon dioxide stream that I am claiming to be excluded under Subsection R315-261.4(h) has not been mixed with hazardous wastes, and I have transported the carbon dioxide stream in compliance with, or have contracted with a pipeline operator or transporter to transport the carbon dioxide stream in compliance with, Department of Transportation requirements, including the pipeline safety laws, 49 U.S.C. 60101 et seq., and regulations, 49 CFR Parts 190-

199, of the U.S. Department of Transportation, and the pipeline safety regulations adopted and administered by a state authority pursuant to a certification under 49 U.S.C. 60105, as applicable, for injection into a well subject to the requirements for the Class VI Underground Injection Control Program of Rule R317-7.

(ii) Any Class VI Underground Injection Control well owner or operator, who claims that a carbon dioxide stream is excluded under Subsection R315-261-4(h), shall have an authorized representative, as defined in Section R315-260-10, sign a certification statement worded as follows: I certify under penalty of law that the carbon dioxide stream that I am claiming to be excluded under Subsection R315-261-4(h) has not been mixed with, or otherwise co-injected with, hazardous waste at the Underground Injection Control (UIC) Class VI permitted facility, and that injection of the carbon dioxide stream is in compliance with the applicable requirements for UIC Class VI wells, including the applicable requirements in Rule R317-7.

(iii) The signed certification statement shall be kept on-site for no less than three years, and shall be made available within 72 hours of a written request from the Director. The signed certification statement shall be renewed every year that the exclusion is claimed, by having an authorized representative, as defined in Section R315-260-10, annually prepare and sign a new copy of the certification statement within one year of the date of the previous statement. The signed certification statement shall also be readily accessible on the facility's publicly-available Web site, if such Web site exists, as a public notification with the title of "Carbon Dioxide Stream Certification" at the time the exclusion is claimed.

(i) Reserved

(j)(1) Airbag waste at the airbag waste handler or during transport to an airbag waste collection facility or designated facility is not subject to regulation under Rules R315-262 through 268, R315-270 or R315-124, and is not subject to the notification requirements of section 3010 of RCRA provided that:

(i) The airbag waste is accumulated in a quantity of no more than 250 airbag modules or airbag inflators, for no longer than 180 days;

(ii) The airbag waste is packaged in a container designed to address the risk posed by the airbag waste and labeled "Airbag Waste -- Do Not Reuse;"

(iii) The airbag waste is sent directly to either

(A) An airbag waste collection facility in the United States under the control of a vehicle manufacturer or their authorized representative, or under the control of an authorized party administering a remedy program in response to a recall under the National Highway Traffic Safety Administration, or

(B) A designated facility as defined in Section R315-260-10;

(iv) The transport of the airbag waste complies with ~~all~~ applicable U.S. Department of Transportation regulations in 49 CFR part 171 through 180 during transit;

(v) The airbag waste handler maintains at the handler facility for no less than three years records of ~~all~~ each off-site shipment[s] of airbag waste and ~~all~~ each confirmation[s] of receipt from the receiving facility. For each shipment, these records ~~must~~ shall, at a minimum, contain the name of the transporter and date of the shipment; name and address of receiving facility; and the type and quantity of airbag waste, ~~i.e.~~ that is, airbag modules or airbag inflators, in the shipment. Confirmations of receipt ~~must~~ shall include the name and address of the receiving facility; the type and quantity of the airbag waste, ~~i.e.~~ that is, airbag modules and airbag inflators, received; and the date which it was received. Shipping records and confirmations of receipt ~~must~~ shall be made available for inspection and may be satisfied by routine business records~~, e.g.,~~ such as electronic or paper financial records,

billing of lading, copies of DOT shipping papers, or electronic confirmations of receipt.

(2) Once the airbag waste arrives at an airbag waste collection facility or designated facility, it becomes subject to ~~all~~ applicable hazardous waste ~~regulations~~ rules, and the facility receiving airbag waste is considered the hazardous waste generator for the purposes of the hazardous waste ~~regulations~~ rules and ~~must~~ shall comply with the requirements of Rule R315-262.

(3) Reuse in vehicles of defective airbag modules or defective airbag inflators subject to a recall under the National Highway Traffic Safety Administration is considered sham recycling and prohibited under Subsection R315-261-2(g).

**R315-261-6. Requirements for Recyclable Materials.**

(a)(1) Hazardous wastes that are recycled are subject to the requirements for generators, transporters, and storage facilities of Subsections R315-261-6(b) and (c), except for the materials listed in Subsections R315-261-6(a)(2) and (a)(3). Hazardous wastes that are recycled shall be known as "recyclable materials."

(2) The following recyclable materials are not subject to the requirements of Section R315-261-6 but are regulated under Sections R315-266-20 through ~~R315-266-23~~, Section R315-266-70, Section R315-266-80, Sections R315-266-100 through ~~R315-266-112~~, ~~Sections R315-266-200 through 206, and Sections R315-266-210, 220, 225, 230, 235, 240, 245, 250, 255, 260, 310, 315, 320, 325, 330, 335, 340, 345, 350, 355, and 360~~ and ~~all applicable provisions in~~ Rules R315-268, R315-270, and R315-124.

(i) Recyclable materials used in a manner constituting disposal, Sections R315-266-20 through 23;

(ii) Hazardous wastes burned, as defined in Subsection R315-266-100(a), in boilers and industrial furnaces that are not regulated under Sections R315-264-340 through 345, 347 and 351; Sections R315-370, 373, 375, 377, and 381 through 383; and Section R315-266-100 through 112;

(iii) Recyclable materials from which precious metals are reclaimed, Section R315-266-70;

(iv) Spent lead-acid batteries that are being reclaimed, Section R315-266-80.

(3) The following recyclable materials are not subject to regulation under Rules R315-262 through ~~R315-268~~, ~~R315-270~~, and ~~R315-124~~, and are not subject to the notification requirements of section 3010 of RCRA:

(i) Industrial ethyl alcohol that is reclaimed except that exports and imports of such recyclable materials ~~must~~ shall comply with the requirements of Sections R315-262-80 through ~~R315-262-84~~.

(ii) Scrap metal that is not excluded under Subsection R315-261-4(a)(13);

(iii) Fuels produced from the refining of oil-bearing hazardous waste along with normal process streams at a petroleum refining facility if such wastes result from normal petroleum refining, production, and transportation practices, this exemption does not apply to fuels produced from oil recovered from oil-bearing hazardous waste, where such recovered oil is already excluded under Subsection R315-261-4(a)(12);

(iv)(A) Hazardous waste fuel produced from oil-bearing hazardous wastes from petroleum refining, production, or transportation practices, or produced from oil reclaimed from such hazardous wastes, where such hazardous wastes are reintroduced into a process that does not use distillation or does not produce products from crude oil so long as the resulting fuel meets the used oil specification under Subsection R315-15-1.2(c) and so long as no other hazardous wastes are used to produce the hazardous waste fuel;

(B) Hazardous waste fuel produced from oil-bearing hazardous waste from petroleum refining production, and transportation practices, where such hazardous wastes are reintroduced into a refining process after a point at which contaminants are removed, so long as the fuel meets the used oil fuel specification under Subsection R315-15-1.2(c); and

(C) Oil reclaimed from oil-bearing hazardous wastes from petroleum refining, production, and transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, so long as the reclaimed oil meets the used oil fuel specification under Subsection R315-15-1.2(c).

(4) Used oil that is recycled and is also a hazardous waste solely because it exhibits a hazardous characteristic is not subject to the requirements of Rules R315-260 through 268, but is regulated under Rule R315-15. Used oil that is recycled includes any used oil which is reused, following its original use, for any purpose, including the purpose for which the oil was originally used. Such term includes, but is not limited to, oil which is re-refined, reclaimed, burned for energy recovery, or reprocessed.

(5) Hazardous waste that is exported or imported for purpose of recovery is subject to the requirements of Sections R315-262-80 through 84.

(b) Generators and transporters of recyclable materials are subject to the applicable requirements of Rules R315-262 and 263 and the notification requirements under section 3010 of RCRA, except as provided in Subsection R315-261-6(a).

(c)(1) Owners and operators of facilities that store recyclable materials before they are recycled are regulated under ~~all applicable provisions of~~ Rules R315-264 and R315-265, and under Rules R315-266, R315-268, R315-270, and R315-124 and the notification requirements under section 3010 of RCRA, except as provided in Subsection R315-261-6(a). The recycling process itself is exempt from regulation except as provided in Subsection R315-261-6(d).

(2) Owners or operators of facilities that recycle recyclable materials without storing them before they are recycled are subject to the following requirements, except as provided in R315-261-6(a):

(i) Notification requirements under section 3010 of RCRA;

(ii) Sections R315-265-71 and 72 dealing with the use of the manifest and manifest discrepancies;

(iii) Subsection R315-261-6(d); and

(iv) Section R315-265-75, addressing biennial reporting requirements.

(d) Owners or operators of facilities subject to permitting requirements under Section 19-6-108 with hazardous waste management units that recycle hazardous wastes are subject to the requirements of Sections R315-264-1030 through 1036; and Sections R315-264-1050 through 1065; ~~[40 CFR Sections R315-265-1030 through R315-265-1035]~~ which are adopted and incorporated by reference; or 40 CFR 265.1050 through 1064, which are adopted and incorporated by reference.

#### **R315-261-7. Residues of Hazardous Waste in Empty Containers.**

(a)(1) Any hazardous waste remaining in either: an empty container; or an inner liner removed from an empty container, as defined in Subsection R315-261-7(b), is not subject to regulation under Rules R315-261 through R315-266, R315-268, R315-270 or R315-124 or to the notification requirements of section 3010 of RCRA.

(2) Any hazardous waste in either a container that is not empty or an inner liner removed from a container that is not empty, as defined in Subsection R315-261-7(b), is subject to regulation under Rules R315-261 through R315-266, R315-268, R315-270, and R315-124 and to the notification requirements of section 3010 of RCRA.

(b)(1) A container or an inner liner removed from a container that has held any hazardous waste, except a waste that is a compressed gas or that is identified as an acute hazardous waste listed in Section R315-261-31 or Subsection R315-261-33(e) is empty if:

(i) ~~At~~ The wastes have been removed that can be removed using the practices commonly employed to remove materials from that type of container ~~[e.g.,]~~ such as pouring, pumping, and aspirating, and

(ii) No more than 2.5 centimeters, one inch, of residue remain on the bottom of the container or inner liner, or

(iii)(A) No more than three percent by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to 119 gallons in size; or

(B) No more than 0.3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is greater than 119 gallons in size.

(2) A container that has held a hazardous waste that is a compressed gas is empty ~~when~~ if the pressure in the container approaches atmospheric.

(3) A container or an inner liner removed from a container that has held an acute hazardous waste listed in Section R315-261-31 or Subsection R315-261-33(e) is empty if:

(i) The container or inner liner has been triple rinsed using a solvent capable of removing the commercial chemical product or manufacturing chemical intermediate;

(ii) The container or inner liner has been cleaned by another method that has been shown in the scientific literature, or by tests conducted by the generator, to achieve equivalent removal; or

(iii) In the case of a container, the inner liner that prevented contact of the commercial chemical product or manufacturing chemical intermediate with the container, has been removed.

(c) Containers of hazardous waste pharmaceuticals are subject to Section R315-266-507 for determining if they are considered empty, in lieu of Section R315-261-7, except as provided by Subsections R315-266-507(c) and R315-266-507(d).

#### **R315-261-33. Lists of Hazardous Wastes - Discarded Commercial Chemical Products, Off-Specification Species, Container Residues, and Spill Residues Thereof.**

The following materials or items are hazardous wastes if ~~and when~~ they are discarded or intended to be discarded as described in Subsection R315-261-2(a)(2)(i), ~~when~~ if they are mixed with waste oil or used oil or other material and applied to the land for dust suppression or road treatment, ~~when~~ if they are otherwise applied to the land in lieu of their original intended use or ~~when~~ if they are contained in products that are applied to the land in lieu of their original intended use, or ~~when~~ if, in lieu of their original intended use, they are produced for use as, or a component of, a fuel, distributed for use as a fuel, or burned as a fuel.

(a) Any commercial chemical product, or manufacturing chemical intermediate having the generic name listed in Subsections R315-261-33(e) or (f).

(b) Any off-specification commercial chemical product or manufacturing chemical intermediate which, if it met specifications, would have the generic name listed in Subsection R315-261-33(e) or (f).

(c) Any residue remaining in a container or in an inner liner removed from a container that has held any commercial chemical product or manufacturing chemical intermediate having the generic name listed in Subsection R315-261-33(e) or R315-261-33(f), unless the container is empty as defined in Subsection R315-261-7(b) or Section R315-266-507. Unless the residue is being beneficially used or reused, or legitimately recycled or reclaimed; or being accumulated, stored, transported or treated prior to such use, re-use, recycling or

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reclamation, the Director considers the residue to be intended for discard, and thus, a hazardous waste. An example of a legitimate re-use of the residue would be where the residue remains in the container and the container is used to hold the [same] commercial chemical product or manufacturing chemical intermediate it previously held. An example of the discard of the residue would be where the drum is sent to a drum reconditioner who reconditions the drum but discards the residue.

(d) Any residue or contaminated soil, water or other debris resulting from the cleanup of a spill into or on any land or water of any commercial chemical product or manufacturing chemical intermediate having the generic name listed in Subsection R315-261-33(e) or (f), or any residue or contaminated soil, water or other debris resulting from the cleanup of a spill, into or on any land or water, of any off-specification chemical product and manufacturing chemical intermediate which, if it met specifications, would have the generic name listed in Subsection R315-261-33(e) or (f). The phrase "commercial chemical product or manufacturing chemical intermediate having the generic name listed in..." refers to a chemical substance which is manufactured or formulated for commercial or manufacturing use which consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and [each] formulation[s] in which the chemical is the sole active ingredient. It does not refer to a material, such as a manufacturing process waste, that contains any of the substances listed in Subsection R315-261-33(e) or (f). Where a manufacturing process waste is deemed to be a hazardous waste because it contains a substance listed in Subsection R315-261-33(e) or (f), such waste shall be listed in either Sections R315-261-31 or 32 or shall be identified as a hazardous waste by the characteristics set forth in Sections R315-261-20 through 24.

(e) The commercial chemical products, manufacturing chemical intermediates or off-specification commercial chemical products or manufacturing chemical intermediates referred to in Subsections R315-261-33(a) through (d), are identified as acute hazardous wastes (H). For the convenience of the regulated community the primary hazardous properties of these materials have been indicated by the letters T (Toxicity), and R (Reactivity). Absence of a letter indicates that the compound only is listed for acute toxicity. Wastes are first listed in alphabetical order by substance and then listed again in numerical order by Hazardous Waste Number. These wastes and their corresponding EPA Hazardous Waste Numbers are:

TABLE

Hazardous waste No.	Chemical abstracts No.	Substance
P023	107-20-0	Acetaldehyde, chloro-
P002	591-08-2	Acetamide, N-(aminothioxomethyl)-
P057	640-19-7	Acetamide, 2-fluoro-
P058	62-74-8	Acetic acid, fluoro-, sodium salt
P002	591-08-2	1-Acetyl-2-thiourea
P003	107-02-8	Acrolein
P070	116-06-3	Aldicarb
P203	1646-88-4	Aldicarb sulfone.
P004	309-00-2	Aldrin
P005	107-18-6	Allyl alcohol
P006	20859-73-8	Aluminum phosphide (R,T)
P007	2763-96-4	5-(Aminomethyl)-3-isoxazolol
P008	504-24-5	4-Aminopyridine
P009	131-74-8	Ammonium picrate (R)
P119	7803-55-6	Ammonium vanadate
P099	506-61-6	Argentate(1-), bis(cyano-C)-, potassium
P010	7778-39-4	Arsenic acid H3 AsO4
P012	1327-53-3	Arsenic oxide As2 O3
P011	1303-28-2	Arsenic oxide As2 O5
P011	1303-28-2	Arsenic pentoxide

P012	1327-53-3	Arsenic trioxide
P038	692-42-2	Arsine, diethyl-
P036	696-28-6	Arsonous dichloride, phenyl-
P054	151-56-4	Aziridine
P067	75-55-8	Aziridine, 2-methyl-
P013	542-62-1	Barium cyanide
P024	106-47-8	Benzenamine, 4-chloro-
P077	100-01-6	Benzenamine, 4-nitro-
P028	100-44-7	Benzene, (chloromethyl)-
P042	51-43-4	1,2-Benzenediol, 4-(1-hydroxy-2-(methylamino)ethyl)-, (R)-
P046	122-09-8	Benzeneethanamine, alpha,alpha-dimethyl-
P014	108-98-5	Benzenethiol
P127	1563-66-2	7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-,methylcarbamate.
P188	57-64-7	Benzoic acid, 2-hydroxy-, compd. with (3aS-cis)-1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethylpyrrolo(2,3-b)indol-5-ylmethylcarbamate ester (1:1).
P001	(1)81-81-2	2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenylbutyl)-, and salts, [when] if present at concentrations greater than 0.3%
P028	100-44-7	Benzyl chloride
P015	7440-41-7	Beryllium powder
P017	598-31-2	Bromoacetone
P018	357-57-3	Brucine
P045	39196-18-4	2-Butanone, 3,3-dimethyl-1-(methylthio)-, O-methylamino)carbonyl) oxime
P021	592-01-8	Calcium cyanide
P021	592-01-8	Calcium cyanide Ca(CN)2
P189	55285-14-8	Carbamic acid, ((dibutylamino)thio)methyl-, 2,3-dihydro-2,2-dimethyl- 7-benzofuranyl ester.
P191	644-64-4	Carbamic acid, dimethyl-, 1-((dimethyl-amino)carbonyl)-5-methyl-1H- pyrazol-3-yl ester.
P192	119-38-0	Carbamic acid, dimethyl-, 3-methyl-1- (1-methylethyl)-1H-pyrazol-5-yl ester.
P190	1129-41-5	Carbamic acid, methyl-, 3-methylphenyl ester.
P127	1563-66-2	Carbofuran.
P022	75-15-0	Carbon disulfide
P095	75-44-5	Carbonic dichloride
P189	55285-14-8	Carbosulfan.
P023	107-20-0	Chloroacetaldehyde
P024	106-47-8	p-Chloroaniline
P026	5344-82-1	1-(o-Chlorophenyl)thiourea
P027	542-76-7	3-Chloropropionitrile
P029	544-92-3	Copper cyanide
P029	544-92-3	Copper cyanide Cu(CN)
P202	64-00-6	m-Cumenyl methylcarbamate.
P030		Cyanides (soluble cyanide salts), not otherwise specified
P031	460-19-5	Cyanogen
P033	506-77-4	Cyanogen chloride
P033	506-77-4	Cyanogen chloride (CN)Cl
P034	131-89-5	2-Cyclohexyl-4,6-dinitrophenol
P016	542-88-1	Dichloromethyl ether
P036	696-28-6	Dichlorophenylarsine
P037	60-57-1	Dieldrin
P038	692-42-2	Diethylarsine
P041	311-45-5	Diethyl-p-nitrophenyl phosphate
P040	297-97-2	O,O-Diethyl O-pyrazinyl phosphorothioate
P043	55-91-4	Diisopropylfluorophosphate (DFP)
P004	309-00-2	1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexa- chloro-1,4,4a,5,8,8a,-hexahydro-, (1alpha, 4alpha, 4beta, 5alpha,8alpha,8beta)-
P060	465-73-6	1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexa- chloro-1,4,4a,5,8,8ahexahydro-, (1alpha,

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P037	60-57-1	4alpha, 4abeta, 5beta, 8beta,8abeta)-2,7:3,6-Dimethanonaphth(2,3-b)oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1aalpha, 2beta, 2aalpha, 3beta, 6beta, 6aalpha,7beta, 7aalpha)-2,7:3,6-Dimethanonaphth(2,3-b)oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1aalpha, 2beta, 2abeta, 3alpha, 6alpha, 6abeta, 7beta, 7aalpha)-, and metabolites	P199	2032-65-7	heptachloro- 3a,4,7,7a-tetrahydro-Methiocarb.
P051	(1)72-20-8	Dimethoate	P066	16752-77-5	Methomyl
P044	60-51-5	alpha, alpha-Dimethylphenethylamine	P068	60-34-4	Methyl hydrazine
P191	644-64-4	Dimetilan.	P064	624-83-9	Methyl isocyanate
P047	(1)534-52-1	4,6-Dinitro-o-cresol, and salts	P069	75-86-5	2-Methylactonitrile
P048	51-28-5	2,4-Dinitrophenol	P071	298-00-0	Methyl parathion
P020	88-85-7	Dinoseb	P190	1129-41-5	Metolcarb.
P085	152-16-9	Diphosphoramidate, octamethyl-	P128	315-8-4	Mexacarbate.
P111	107-49-3	Diphosphoric acid, tetraethyl ester	P072	86-88-4	alpha-Naphthylthiourea
P039	298-04-4	Disulfoton	P073	13463-39-3	Nickel carbonyl
P049	541-53-7	Dithiobiuret	P073	13463-39-3	Nickel carbonyl Ni(CO) <sub>4</sub> , (T-4)-
P185	26419-73-8	1,3-Dithiolane-2-carboxaldehyde, 2,4-dimethyl-, O- ((methylamino)-carbonyl)oxime.	P074	557-19-7	Nickel cyanide
P050	115-29-7	Endosulfan	P074	557-19-7	Nickel cyanide Ni(CN) <sub>2</sub>
P088	145-73-3	Endothall	P075	(1)54-11-5	Nicotine, and salts, <u>this listing does not include patches, gums and lozenges that are FDA approved over-the-counter nicotine replacement therapies</u>
P051	72-20-8	Endrin	P076	10102-43-9	Nitric oxide
P051	72-20-8	Endrin, and metabolites	P077	100-01-6	p-Nitroaniline
P042	51-43-4	Epinephrine	P078	10102-44-0	Nitrogen dioxide
P031	460-19-5	Ethanedinitrile	P076	10102-43-9	Nitrogen oxide NO
P194	23135-22-0	Ethanimidithioic acid, 2-(dimethylamino)-N-((methylamino) carbonyl)oxy)-2-oxo-, methyl ester.	P078	10102-44-0	Nitrogen oxide NO <sub>2</sub>
P066	16752-77-5	Ethanimidithioic acid, N-((methylamino)carbonyl)oxy)-, methyl ester	P081	55-63-0	Nitroglycerine (R)
P101	107-12-0	Ethyl cyanide	P082	62-75-9	N-Nitrosodimethylamine
P054	151-56-4	Ethyleneimine	P084	4549-40-0	N-Nitrosomethylvinylamine
P097	52-85-7	Famphur	P085	152-16-9	Octamethylpyrophosphoramidate
P056	7782-41-4	Fluorine	P087	20816-12-0	Osmium oxide OsO <sub>4</sub> , (T-4)-
P057	640-19-7	Fluoroacetamide	P087	20816-12-0	Osmium tetroxide
P058	62-74-8	Fluoroacetic acid, sodium salt	P088	145-73-3	7-Oxabicyclo(2.2.1)heptane-2,3-dicarboxylic acid
P198	23422-53-9	Formetanate hydrochloride.	P194	23135-22-0	Oxamyl.
P197	17702-57-7	Formparanate.	P089	56-38-2	Parathion
P065	628-86-4	Fulminic acid, mercury(2+) salt (R,T)	P034	131-89-5	Phenol, 2-cyclohexyl-4,6-dinitro-
P059	76-44-8	Heptachlor	P048	51-28-5	Phenol, 2,4-dinitro-
P062	757-58-4	Hexaethyl tetraphosphate	P047	(1)534-52-1	Phenol, 2-methyl-4,6-dinitro-, and salts
P116	79-19-6	Hydrazinecarbothioamide	P020	88-85-7	Phenol, 2-(1-methylpropyl)-4,6-dinitro-
P068	60-34-4	Hydrazine, methyl-	P009	131-74-8	Phenol, 2,4,6-trinitro-, ammonium salt (R)
P063	74-90-8	Hydrocyanic acid	P128	315-18-4	Phenol, 4-(dimethylamino)-3,5-dimethyl-, methylcarbamate (ester).
P063	74-90-8	Hydrogen cyanide	P199	2032-65-7	Phenol, (3,5-dimethyl-4-(methylthio)-, methylcarbamate
P096	7803-51-2	Hydrogen phosphide	P202	64-00-6	Phenol, 3-(1-methylethyl)-, methyl carbamate.
P060	465-73-6	Isodrin	P201	2631-37-0	Phenol, 3-methyl-5-(1-methylethyl)-, methyl carbamate.
P192	119-38-0	Isolan.	P092	62-38-4	Phenylmercury acetate
P202	64-00-6	3-Isopropylphenyl N-methylcarbamate.	P093	103-85-5	Phenylthiourea
P007	2763-96-4	3(2H)-Isoxazolone, 5-(aminomethyl)-	P094	298-02-2	Phorate
P196	15339-36-3	Manganese, bis(dimethylcarbamodithioato-S,S')-,	P095	75-44-5	Phosgene
P196	15339-36-3	Manganese dimethyldithiocarbamate.	P096	7803-51-2	Phosphine
P092	62-38-4	Mercury, (acetato-0)phenyl-	P041	311-45-5	Phosphoric acid, diethyl 4-nitrophenyl ester
P065	628-86-4	Mercury fulminate (R,T)	P039	298-04-4	Phosphorodithioic acid, 0,0-diethyl S-(2-(ethylthio)ethyl) ester
P082	62-75-9	Methanamine, N-methyl-N-nitroso-	P094	298-02-2	Phosphorodithioic acid, 0,0-diethyl S-((ethylthio)methyl) ester
P064	624-83-9	Methane, isocyanato-	P044	60-51-5	Phosphorodithioic acid, 0,0-dimethyl S-(2-(methylamino)-2-oxoethyl) ester
P016	542-88-1	Methane, oxybis(chloro-	P043	55-91-4	Phosphorofluoric acid, bis(1-methylethyl) ester
P112	509-14-8	Methane, tetranitro- (R)	P089	56-38-2	Phosphorothioic acid, 0,0-diethyl 0-(4-nitrophenyl) ester
P118	75-70-7	Methanethiol, trichloro-	P040	297-97-2	Phosphorothioic acid, 0,0-diethyl 0-pyrazinyl ester
P198	23422-53-9	Methanimidamide, N,N-dimethyl-N'-(3-((methylamino)-carbonyl)oxy)phenyl)-, monohydrochloride.	P097	52-85-7	Phosphorothioic acid, 0-(4-((dimethylamino)sulfonyl)phenyl) 0,0-dimethyl ester
P197	17702-57-7	Methanimidamide, N,N-dimethyl-N'-(2-methyl-4-((methylamino)carbonyl)oxy)phenyl)-	P071	298-00-0	Phosphorothioic acid, 0,0,-dimethyl 0-(4-nitrophenyl) ester
P050	115-29-7	6,9-Methano-2,4,3-benzodioxathiepin, 6,7,8,9,10,10-hexachloro-1,5,5a,6,9,9a-hexahydro-, 3-oxide	P204	57-47-6	Physostigmine.
P059	76-44-8	4,7-Methano-1H-indene, 1,4,5,6,7,8,8-	P188	57-64-7	Physostigmine salicylate.
			P110	78-00-2	Plumbane, tetraethyl-
			P098	151-50-8	Potassium cyanide

NOTICES OF PROPOSED RULES

P098	151-50-8	Potassium cyanide K(CN)	P001	(1)81-81-2	Warfarin, and salts, <del>when</del> if present at concentrations greater than 0.3%
P099	506-61-6	Potassium silver cyanide	P002	591-08-2	Acetamide, -(aminothioxomethyl)-
P201	2631-37-0	Promecarb	P002	591-08-2	1-Acetyl-2-thiourea
P070	116-06-3	Propanal, 2-methyl-2-(methylthio)-, O-(methylamino)carbonyloxime	P003	107-02-8	Acrolein
P203	1646-88-4	Propanal, 2-methyl-2-(methylsulfonyl)-, O-(methylamino)carbonyloxime.	P003	107-02-8	2-Propenal
P101	107-12-0	Propanenitrile	P004	309-00-2	Aldrin
P027	542-76-7	Propanenitrile, 3-chloro-	P004	309-00-2	1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexa-chloro-1,4,4a,5,8,8a,- hexahydro-, (1alpha, 4alpha, 4beta, 5alpha, 8alpha,8beta)-
P069	75-86-5	Propanenitrile, 2-hydroxy-2-methyl-	P005	107-18-6	Allyl alcohol
P081	55-63-0	1,2,3-Propanetriol, trinitrate (R)	P005	107-18-6	2-Propen-1-ol
P017	598-31-2	2-Propanone, 1-bromo-	P006	20859-73-8	Aluminum phosphide (R,T)
P102	107-19-7	Propargyl alcohol	P007	2763-96-4	5-(Aminomethyl)-3-isoxazolol
P003	107-02-8	2-Propenal	P007	2763-96-4	3(2H)-Isoxazolone, 5-(aminomethyl)-
P005	107-18-6	2-Propen-1-ol	P008	504-24-5	4-Aminopyridine
P067	75-55-8	1,2-Propylenimine	P008	504-24-5	4-Pyridinamine
P102	107-19-7	2-Propyn-1-ol	P009	131-74-8	Ammonium picrate (R)
P008	504-24-5	4-Pyridinamine	P009	131-74-8	Phenol, 2,4,6-trinitro-, ammonium salt (R)
P075	(1)54-11-5	Pyridine, 3-(1-methyl-2-pyrrolidinyl)-, (S)-, and salts, <u>this listing does not include patches, gums and lozenges that are FDA approved over-the-counter nicotine replacement therapies</u>	P010	7778-39-4	Arsenic acid H3 AsO4
P204	57-47-6	Pyrrolo(2,3-b)indol-5-ol, 1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethyl-, methylcarbamate (ester), (3aS-cis)-.	P011	1303-28-2	Arsenic oxide As2 O5
P114	12039-52-0	Selenious acid, dithallium(1+) salt	P011	1303-28-2	Arsenic pentoxide
P103	630-10-4	Selenourea	P012	1327-53-3	Arsenic oxide As2 O3
P104	506-64-9	Silver cyanide	P012	1327-53-3	Arsenic trioxide
P104	506-64-9	Silver cyanide Ag(CN)	P013	542-62-1	Barium cyanide
P105	26628-22-8	Sodium azide	P014	108-98-5	Benzenethiol
P106	143-33-9	Sodium cyanide	P014	108-98-5	Thiophenol
P106	143-33-9	Sodium cyanide Na(CN)	P015	7440-41-7	Beryllium powder
P108	(1)57-24-9	Strychnidin-10-one, and salts	P016	542-88-1	Dichloromethyl ether
P018	357-57-3	Strychnidin-10-one, 2,3-dimethoxy-	P016	542-88-1	Methane, oxybis(chloro-
P108	(1)57-24-9	Strychnine, and salts	P017	598-31-2	Bromoacetone
P115	7446-18-6	Sulfuric acid, dithallium(1+) salt	P017	598-31-2	2-Propanone, 1-bromo-
P109	3689-24-5	Tetraethyldithiopyrophosphate	P018	357-57-3	Brucine
P110	78-00-2	Tetraethyl lead	P018	357-57-3	Strychnidin-10-one, 2,3-dimethoxy-
P111	107-49-3	Tetraethyl pyrophosphate	P020	88-85-7	Dinoseb
P112	509-14-8	Tetranitromethane (R)	P020	88-85-7	Phenol, 2-(1-methylpropyl)-4,6-dinitro-
P062	757-58-4	Tetraphosphoric acid, hexaethyl ester	P021	592-01-8	Calcium cyanide
P113	1314-32-5	Thallic oxide	P021	592-01-8	Calcium cyanide Ca(CN)2
P113	1314-32-5	Thallium oxide Tl2 O3	P022	75-15-0	Carbon disulfide
P114	12039-52-0	Thallium(I) selenite	P023	107-20-0	Acetaldehyde, chloro-
P115	7446-18-6	Thallium(I) sulfate	P023	107-20-0	Chloroacetaldehyde
P109	3689-24-5	Thiodiphosphoric acid, tetraethyl ester	P024	106-47-8	Benzenamine, 4-chloro-
P045	39196-18-4	Thiofanox	P024	106-47-8	p-Chloroaniline
P049	541-53-7	Thioimidodicarbonic diamide ((H2N)C(S)2 NH	P026	5344-82-1	1-(o-Chlorophenyl)thiourea
P014	108-98-5	Thiophenol	P026	5344-82-1	Thiourea, (2-chlorophenyl)-
P116	79-19-6	Thiosemicarbazide	P027	542-76-7	3-Chloropropionitrile
P026	5344-82-1	Thiourea, (2-chlorophenyl)-	P027	542-76-7	Propanenitrile, 3-chloro-
P072	86-88-4	Thiourea, 1-naphthalenyl-	P028	100-44-7	Benzene, (chloromethyl)-
P093	103-85-5	Thiourea, phenyl-	P028	100-44-7	Benzyl chloride
P185	26419-73-8	Tirpate.	P029	544-92-3	Copper cyanide
P123	8001-35-2	Toxaphene	P029	544-92-3	Copper cyanide Cu(CN)
P118	75-70-7	Trichloromethanethiol	P030		Cyanides (soluble cyanide salts), not otherwise specified
P119	7803-55-6	Vanadic acid, ammonium salt	P031	460-19-5	Cyanogen
P120	1314-62-1	Vanadium oxide V2 O5	P031	460-19-5	Ethanedinitrile
P120	1314-62-1	Vanadium pentoxide	P033	506-77-4	Cyanogen chloride
P084	4549-40-0	Vinylamine, N-methyl-N-nitroso-	P033	506-77-4	Cyanogen chloride (CN)Cl
P001	(1)81-81-2	Warfarin, and salts, <del>when</del> if present at concentrations greater than 0.3%	P034	131-89-5	2-Cyclohexyl-4,6-dinitrophenol
P205	137-30-4	Zinc, bis(dimethylcarbamodithioato-S,S')-,	P034	131-89-5	Phenol, 2-cyclohexyl-4,6-dinitro-
P121	557-21-1	Zinc cyanide	P036	696-28-6	Arsonous dichloride, phenyl-
P121	557-21-1	Zinc cyanide Zn(CN)2	P036	696-28-6	Dichlorophenylarsine
P122	1314-84-7	Zinc phosphide Zn3 P2, <del>when</del> if present at concentrations greater than 10% (R,T)	P037	60-57-1	Dieldrin
P205	137-30-4	Ziram.	P037	60-57-1	2,7:3,6-Dimethanonaphth(2,3-b)oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1alpha, 2beta, 2alpha, 3beta, 6beta,6alpha,7beta, 7alpha)-
P001	(1)81-81-2	2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenylbutyl)-, and salts, <del>when</del> if present at concentrations greater than 0.3%	P038	692-42-2	Arsine, diethyl-
			P038	692-42-2	Diethylarsine
			P039	298-04-4	Disulfoton
			P039	298-04-4	Phosphorodithioic acid, 0,0-diethyl S-(2-(ethylthio)ethyl) ester
			P040	297-97-2	0,0-Diethyl 0-pyrazinyl phosphorothioate

NOTICES OF PROPOSED RULES

P040	297-97-2	Phosphorothioic acid, 0,0-diethyl 0-pyrazinyl ester	P071	298-00-0	Phosphorothioic acid, 0,0,-dimethyl 0-(4-nitrophenyl) ester
P041	311-45-5	Diethyl-p-nitrophenyl phosphate	P072	86-88-4	alpha-Naphthylthiourea
P041	311-45-5	Phosphoric acid, diethyl 4-nitrophenyl ester	P072	86-88-4	Thiourea, 1-naphthalenyl-
P042	51-43-4	1,2-Benzenediol, 4-(1-hydroxy-2-(methylamino)ethyl)-, (R)-	P073	13463-39-3	Nickel carbonyl
P042	51-43-4	Epinephrine	P073	13463-39-3	Nickel carbonyl Ni(CO) <sub>4</sub> , (T-4)-
P043	55-91-4	Diisopropylfluorophosphate (DFP)	P074	557-19-7	Nickel cyanide
P043	55-91-4	Phosphorofluoridic acid, bis(1-methylethyl) ester	P074	557-19-7	Nickel cyanide Ni(CN) <sub>2</sub>
P044	60-51-5	Dimethoate	P075	(1)54-11-5	Nicotine, and salts, <u>this listing does not include patches, gums and lozenges that are FDA approved over-the-counter nicotine replacement therapies</u>
P044	60-51-5	Phosphorodithioic acid, 0,0-dimethyl S-(2-(methyl amino)-2-oxoethyl) ester	P075	(1)54-11-5	Pyridine, 3-(1-methyl-2-pyrrolidinyl)-, S)-, and salts, <u>this listing does not include patches, gums and lozenges that are FDA approved over-the-counter nicotine replacement therapies</u>
P045	39196-18-4	2-Butanone, 3,3-dimethyl-1-(methylthio)-, 0-((methylamino)carbonyl) oxime	P076	10102-43-9	Nitric oxide
P045	39196-18-4	Thiofanox	P076	10102-43-9	Nitrogen oxide NO
P046	122-09-8	Benzeneethanamine, alpha,alpha-dimethyl-	P077	100-01-6	Benzenamine, 4-nitro-
P046	122-09-8	alpha,alpha-Dimethylphenethylamine	P077	100-01-6	p-Nitroaniline
P047	(1)534-52-1	4,6-Dinitro-o-cresol, and salts	P078	10102-44-0	Nitrogen dioxide
P047	(1)534-52-1	Phenol, 2-methyl-4,6-dinitro-, and salts	P078	10102-44-0	Nitrogen oxide NO <sub>2</sub>
P048	51-28-5	2,4-Dinitrophenol	P081	55-63-0	Nitroglycerine (R)
P048	51-28-5	Phenol, 2,4-dinitro-	P081	55-63-0	1,2,3-Propanetriol, trinitrate (R)
P049	541-53-7	Dithiobiuret	P082	62-75-9	Methanamine, -methyl-N-nitroso-
P049	541-53-7	Thioimidodicarbonic diamide ((H <sub>2</sub> N)C(S)) <sub>2</sub> NH	P082	62-75-9	N-Nitrosodimethylamine
P050	115-29-7	Endosulfan	P084	4549-40-0	N-Nitrosomethylvinylamine
P050	115-29-7	6,9-Methano-2,4,3-benzodioxathiepin, 6,7,8,9,10,10-hexachloro-1,5,5a,6,9,9a-hexahydro-, 3-oxide	P084	4549-40-0	Vinylamine, -methyl-N-nitroso-
P051	(1)72-20-8	2,7:3,6-Dimethanonaphth (2,3-b)oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1alpha, 2beta,2abeta, 3alpha, 6alpha, 6abeta,7beta, 7aalpha)-, and metabolites	P085	152-16-9	Diphosphoramidate, octamethyl-
P051	72-20-8	Endrin	P085	152-16-9	Octamethylpyrophosphoramidate
P051	72-20-8	Endrin, and metabolites	P087	20816-12-0	Osmium oxide OsO <sub>4</sub> , (T-4)-
P054	151-56-4	Aziridine	P087	20816-12-0	Osmium tetroxide
P054	151-56-4	Ethyleneimine	P088	145-73-3	Endothall
P056	7782-41-4	Fluorine	P088	145-73-3	7-Oxabicyclo(2.2.1)heptane-2,3-dicarboxylic acid
P057	640-19-7	Acetamide, 2-fluoro-	P089	56-38-2	Parathion
P057	640-19-7	Fluoroacetamide	P089	56-38-2	Phosphorothioic acid, 0,0-diethyl 0-(4-nitrophenyl) ester
P058	62-74-8	Acetic acid, fluoro-, sodium salt	P092	62-38-4	Mercury, (acetato-0)phenyl-
P058	62-74-8	Fluoroacetic acid, sodium salt	P092	62-38-4	Phenylmercury acetate
P059	76-44-8	Heptachlor	P093	103-85-5	Phenylthiourea
P059	76-44-8	4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexa-chloro-1,4,4a,5,8,8a-hexahydro-, (1alpha, 4alpha,4abeta,5beta, 8beta,8abeta)-	P093	103-85-5	Thiourea, phenyl-
P060	465-73-6	Isodrin	P094	298-02-2	Phorate
P062	757-58-4	Hexaethyl tetraphosphate	P094	298-02-2	Phosphorodithioic acid, 0,0-diethyl S-((ethylthio)methyl) ester
P062	757-58-4	Tetraphosphoric acid, hexaethyl ester	P095	75-44-5	Carbonic dichloride
P063	74-90-8	Hydrocyanic acid	P095	75-44-5	Phosgene
P063	74-90-8	Hydrogen cyanide	P096	7803-51-2	Hydrogen phosphide
P064	624-83-9	Methane, isocyanato-	P096	7803-51-2	Phosphine
P064	624-83-9	Methyl isocyanate	P097	52-85-7	Famphur
P065	628-86-4	Fulminic acid, mercury(2+) salt (R,T)	P097	52-85-7	Phosphorothioic acid, 0-(4-((dimethylamino)sulfonyl)phenyl) 0,0-dimethyl ester
P065	628-86-4	Mercury fulminate (R,T)	P098	151-50-8	Potassium cyanide
P066	16752-77-5	Ethanimidodithioic acid, N-(((methylamino)carbonyl)oxy)-, methyl ester	P098	151-50-8	Potassium cyanide K(CN)
P066	16752-77-5	Methomyl	P099	506-61-6	Argentate(1-), bis(cyano-C)-, potassium
P067	75-55-8	Aziridine, 2-methyl-	P099	506-61-6	Potassium silver cyanide
P067	75-55-8	1,2-Propylenimine	P101	107-12-0	Ethyl cyanide
P068	60-34-4	Hydrazine, methyl-	P101	107-12-0	Propanenitrile
P068	60-34-4	Methyl hydrazine	P102	107-19-7	Propargyl alcohol
P069	75-86-5	2-Methyl lactonitrile	P102	107-19-7	2-Propyn-1-ol
P069	75-86-5	Propanenitrile, 2-hydroxy-2-methyl-	P103	630-10-4	Selenourea
P070	116-06-3	Aldicarb	P104	506-64-9	Silver cyanide
P070	116-06-3	Propanal, 2-methyl-2-(methylthio)-, 0-((methylamino)carbonyl)oxime	P104	506-64-9	Silver cyanide Ag(CN)
P071	298-00-0	Methyl parathion	P105	26628-22-8	Sodium azide
			P106	143-33-9	Sodium cyanide
			P106	143-33-9	Sodium cyanide Na(CN)
			P108	(1)157-24-9	Strychnidin-10-one, and salts
			P108	(1)157-24-9	Strychnine, and salts
			P109	3689-24-5	Tetraethyldithiopyrophosphate
			P109	3689-24-5	Thiodiphosphoric acid, tetraethyl ester
			P110	78-00-2	Plumbane, tetraethyl-
			P110	78-00-2	Tetraethyl lead
			P111	107-49-3	Diphosphoric acid, tetraethyl ester
			P111	107-49-3	Tetraethyl pyrophosphate

NOTICES OF PROPOSED RULES

P112	509-14-8	Methane, tetranitro-(R)
P112	509-14-8	Tetranitromethane (R)
P113	1314-32-5	Thallic oxide
P113	1314-32-5	Thallium oxide Tl2 O3
P114	12039-52-0	Selenious acid, dithallium(1+) salt
P114	12039-52-0	Tetraethyldithiopyrophosphate
P115	7446-18-6	Thiodiphosphoric acid, tetraethyl ester
P115	7446-18-6	Plumbane, tetraethyl-
P116	79-19-6	Tetraethyl lead
P116	79-19-6	Thiosemicarbazide
P118	75-70-7	Methanethiol, trichloro-
P118	75-70-7	Trichloromethanethiol
P119	7803-55-6	Ammonium vanadate
P119	7803-55-6	Vanadic acid, ammonium salt
P120	1314-62-1	Vanadium oxide V2O5
P120	1314-62-1	Vanadium pentoxide
P121	557-21-1	Zinc cyanide
P121	557-21-1	Zinc cyanide Zn(CN)2
P122	1314-84-7	Zinc phosphide Zn3 P2, [when]if present at concentrations greater than 10% (R,T)
P123	8001-35-2	Toxaphene
P127	1563-66-2	7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-, methylcarbamate.
P127	1563-66-2	Carbofuran
P128	315-8-4	Mexacarbate
P128	315-18-4	Phenol, 4-(dimethylamino)-3,5-dimethyl-, methylcarbamate (ester)
P185	26419-73-8	1,3-Dithiolane-2-carboxaldehyde, 2,4-dimethyl-, 0-((methylamino)-carbonyl)oxime.
P185	26419-73-8	Tirpate
P188	57-64-7	Benzoic acid, 2-hydroxy-, compd. with (3aS-cis)-1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethylpyrrolo(2,3-b)indol-5-yl methylcarbamate ester (1:1)
P188	57-64-7	Physostigmine salicylate
P189	55285-14-8	Carbamic acid, ((dibutylamino)-thio)methyl-, 2,3-dihydro-2,2-dimethyl-7-benzofuranyl ester
P189	55285-14-8	Carbosulfan
P190	1129-41-5	Carbamic acid, methyl-, 3-methylphenyl ester
P190	1129-41-5	Metolcarb
P191	644-64-4	Carbamic acid, dimethyl-, 1-((dimethyl-amino)carbonyl)-5-methyl-1H-pyrazol-3-yl ester
P191	644-64-4	Dimetilan
P192	119-38-0	Carbamic acid, dimethyl-, 3-methyl-1-(1-methylethyl)-1H-pyrazol-5-yl ester
P192	119-38-0	Isolan
P194	23135-22-0	Ethanimidthioic acid, 2-(dimethylamino)-N-(((methylamino)carbonyl)oxy)-2-oxo-, methyl ester
P194	23135-22-0	OxamyI
P196	15339-36-3	Manganese, bis(dimethylcarbamodithioato-S,S')-,
P196	15339-36-3	Manganese dimethyldithiocarbamate
P197	17702-57-7	Formparanate
P197	17702-57-7	Methanimidamide, N,N-dimethyl-N'-(2-methyl-4-(((methylamino)carbonyl)oxy)phenyl)-
P198	23422-53-9	Formetanate hydrochloride
P198	23422-53-9	Methanimidamide, N,N-dimethyl-N'-(3-(((methylamino)-carbonyl)oxy)phenyl)-monohydrochloride
P199	2032-65-7	Methiocarb
P199	2032-65-7	Phenol, (3,5-dimethyl-4-(methylthio)-, methylcarbamate
P201	2631-37-0	Phenol, 3-methyl-5-(1-methylethyl)-, methyl carbamate
P201	2631-37-0	Promecarb
P202	64-00-6	m-Cumenyl methylcarbamate
P202	64-00-6	3-Isopropylphenyl N-methylcarbamate
P202	64-00-6	Phenol, 3-(1-methylethyl)-, methyl carbamate

P203	1646-88-4	Aldicarb sulfone
P203	1646-88-4	Propanal, 2-methyl-2-(methylsulfonyl)-, 0-((methylamino)carbonyl)oxime
P204	57-47-6	Physostigmine
P204	57-47-6	Pyrrolo(2,3-b)indol-5-ol, 1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethyl-, methylcarbamate (ester), (3aS-cis)-
P205	137-30-4	Zinc, bis(dimethylcarbamodithioato-S,S')-,
P205	137-30-4	Ziram
P999		Nerve, Military, and Chemical Agents' [ <del>1-1</del> ]that is, CX, GA, GB, GD, H, HD, HL, HN-1, HN-2, HN-3, HT, L, T, and VX. [}]

Note (1) CAS Number given for parent compound only.

(f) The commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products referred to in Subsections R315-261-33(a) through (d), are identified as toxic wastes (T), unless otherwise designated. For the convenience of the regulated community, the primary hazardous properties of these materials have been indicated by the letters T (Toxicity), R (Reactivity), I (Ignitability) and C (Corrosivity). Absence of a letter indicates that the compound is only listed for toxicity. Wastes are first listed in alphabetical order by substance and then listed again in numerical order by Hazardous Waste Number. These wastes and their corresponding EPA Hazardous Waste Numbers are:

TABLE

Hazardous waste No.	Chemical abstracts No.	Substance
U394	30558-43-1	A2213.
U001	75-07-0	Acetaldehyde (I)
U034	75-87-6	Acetaldehyde, trichloro-
U187	62-44-2	Acetamide, N-(4-ethoxyphenyl)-
U005	53-96-3	Acetamide, N-9H-fluoren-2-yl-
U240	(1)94-75-7	Acetic acid, (2,4-dichlorophenoxy)-, salts and esters
U112	141-78-6	Acetic acid ethyl ester (I)
U144	301-04-2	Acetic acid, lead(2+) salt
U214	563-68-8	Acetic acid, thallium(1+) salt
see F027	93-76-5	Acetic acid, (2,4,5-trichlorophenoxy)-
U002	67-64-1	Acetone (I)
U003	75-05-8	Acetonitrile (I,T)
U004	98-86-2	Acetophenone
U005	53-96-3	2-Acetylaminofluorene
U006	75-36-5	Acetyl chloride (C,R,T)
U007	79-06-1	Acrylamide
U008	79-10-7	Acrylic acid (I)
U009	107-13-1	Acrylonitrile
U011	61-82-5	Amitrole
U012	62-53-3	Aniline (I,T)
U136	75-60-5	Arsinic acid, dimethyl-
U014	492-80-8	Auramine
U015	115-02-6	Azaserine
U010	50-07-7	Azirino(2',3':3,4)pyrrolo(1,2-a)indole-4,7-dione, 6-amino-8-(((aminocarbonyl)oxy)methyl)-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl-, (1aS-(1aalpha, 8beta, 8aalpha,8balpha))-
U280	101-27-9	Barban.
U278	22781-23-3	Bendiocarb.
U364	22961-82-6	Bendiocarb phenol.
U271	17804-35-2	BenomyI.
U157	56-49-5	Benz(j)aceanthrylene, 1,2-dihydro-3-methyl-
U016	225-51-4	Benz(c)acridine
U017	98-87-3	Benzal chloride
U192	23950-58-5	Benzamide, 3,5-dichloro-N-(1,1-



		dimethyl-2-propynyl)-	U197	106-51-4	p-Benzoquinone
U018	56-55-3	Benz(a)anthracene	U023	98-07-7	Benzotrithloride (C,R,T)
U094	57-97-6	Benz(a)anthracene, 7,12-dimethyl-	U085	1464-53-5	2,2'-Bioxirane
U012	62-53-3	Benzenamine (I,T)	U021	92-87-5	(1,1'-Biphenyl)-4,4'-diamine
U014	492-80-8	Benzenamine, 4,4'-	U073	91-94-1	(1,1'-Biphenyl)-4,4'-diamine, 3,3'-
		carbonimidoylbis(N,N-dimethyl-			dichloro-
U049	3165-93-3	Benzenamine, 4-chloro-2-methyl-,	U091	119-90-4	(1,1'-Biphenyl)-4,4'-diamine, 3,3'-
		hydrochloride			dimethoxy-
U093	60-11-7	Benzenamine, N,N-dimethyl-4-	U095	119-93-7	(1,1'-Biphenyl)-4,4'-diamine, 3,3'-
		(phenylazo)-			dimethyl-
U328	95-53-4	Benzenamine, 2-methyl-	U225	75-25-2	Bromoform
U353	106-49-0	Benzenamine, 4-methyl-	U030	101-55-3	4-Bromophenyl phenyl ether
U158	101-14-4	Benzenamine, 4,4'-methylenebis(2-	U128	87-68-3	1,3-Butadiene, 1,1,2,3,4,4-hexachloro-
		chloro-	U172	924-16-3	1-Butanamine, N-butyl-N-nitroso-
U222	636-21-5	Benzenamine, 2-methyl-, hydrochloride	U031	71-36-3	1-Butanol (I)
U181	99-55-8	Benzenamine, 2-methyl-5-nitro-	U159	78-93-3	2-Butanone (I,T)
U019	71-43-2	Benzene (I,T)	U160	1338-23-4	2-Butanone, peroxide (R,T)
U038	510-15-6	Benzenecetic acid, 4-chloro-alpha-(4-	U053	4170-30-3	2-Butenal
		chlorophenyl)-alpha-hydroxy-, ethyl	U074	764-41-0	2-Butene, 1,4-dichloro- (I,T)
		ester	U143	303-34-4	2-Butenoic acid, 2-methyl-, 7-((2,3-
U030	101-55-3	Benzene, 1-bromo-4-phenoxy-			dihydroxy- 2-(1-methoxyethyl)-3-
U035	305-03-3	Benzenebutanoic acid, 4-(bis(2-	U031	71-36-3	methyl-1-oxobutoxy)methyl)- 2,3,5,7a-
		chloroethyl)amino)-	U136	75-60-5	tetrahydro-1H-pyrrolizin-1-yl ester,
U037	108-90-7	Benzene, chloro-	U032	13765-19-0	(1S- (1alpha(Z),7(2S*,3R*),7aalpha))-
U221	25376-45-8	Benzenediamine, ar-methyl-	U372	10605-21-7	n-Butyl alcohol (I)
U028	117-81-7	1,2-Benzenedicarboxylic acid, bis(2-	U271	17804-35-2	Cacodylic acid
		ethylhexyl) ester			Calcium chromate
U069	84-74-2	1,2-Benzenedicarboxylic acid, dibutyl	U280	101-27-9	Carbamic acid, 1H-benzimidazol-2-yl,
		ester			methyl ester.
U088	84-66-2	1,2-Benzenedicarboxylic acid, diethyl	U238	51-79-6	Carbamic acid, (1-
		ester	U178	615-53-2	((butylamino)carbonyl)-
U102	131-11-3	1,2-Benzenedicarboxylic acid, dimethyl			1H-benzimidazol-2-yl)-, methyl ester.
		ester	U373	122-42-9	Carbamic acid, (3-chlorophenyl)-, 4-
U107	117-84-0	1,2-Benzenedicarboxylic acid, dioctyl			chloro-2-butynyl ester.
		ester	U409	23564-05-8	Carbamic acid, ethyl ester
U070	95-50-1	Benzene, 1,2-dichloro-	U097	79-44-7	Carbamic acid, methyl nitroso-, ethyl
U071	541-73-1	Benzene, 1,3-dichloro-	U389	2303-17-5	ester
U072	106-46-7	Benzene, 1,4-dichloro-	U387	52888-80-9	Carbamic acid, phenyl-, 1-methylethyl
U060	72-54-8	Benzene, 1,1'-(2,2-dichloroethylidene)			ester.
		bis(4-chloro-	U099	23564-05-8	Carbamic acid, (1,2-phenylenebis
U017	98-87-3	Benzene, (dichloromethyl)-			(iminocarbonothioyl))bis-, dimethyl
U223	26471-62-5	Benzene, 1,3-diisocyanatomethyl- (R,T)	U097	79-44-7	ester.
U239	1330-20-7	Benzene, dimethyl- (I)	U097	79-44-7	Carbamic chloride, dimethyl-
U201	108-46-3	1,3-Benzenediol	U389	2303-17-5	Carbamothioic acid, bis(1-
U127	118-74-1	Benzene, hexachloro-			methylethyl)-, S-
U056	110-82-7	Benzene, hexahydro- (I)	U387	52888-80-9	(2,3,3-trichloro-2-propenyl) ester.
U220	108-88-3	Benzene, methyl-	U114	(1)111-54-6	Carbamothioic acid, dipropyl-, S-
U105	121-14-2	Benzene, 1-methyl-2,4-dinitro-			(phenylmethyl) ester.
U106	606-20-2	Benzene, 2-methyl-1,3-dinitro-	U062	2303-16-4	Carbamodithioic acid, 1,2-
U055	98-82-8	Benzene, (1-methylethyl)- (I)			ethanediybis-,
U169	98-95-3	Benzene, nitro-			salts and esters
U183	608-93-5	Benzene, pentachloro-	U062	2303-16-4	Carbamothioic acid, bis(1-
U185	82-68-8	Benzene, pentachloronitro-			methylethyl)-, S- (2,3-dichloro-2-
U020	98-09-9	Benzenesulfonic acid chloride (C,R)	U279	63-25-2	propenyl) ester
U020	98-09-9	Benzenesulfonyl chloride (C,R)	U372	10605-21-7	Carbaryl.
U207	95-94-3	Benzene, 1,2,4,5-tetrachloro-	U367	1563-38-8	Carbendazim.
U061	50-29-3	Benzene, 1,1'-(2,2,2-	U215	6533-73-9	Carbofuran phenol.
		trichloroethylidene) bis(4-chloro-	U033	353-50-4	Carbonic acid, dithallium(1+) salt
U247	72-43-5	Benzene, 1,1'-(2,2,2-	U156	79-22-1	Carbonic difluoride
		trichloroethylidene)			Carbonochloridic acid, methyl ester
		bis(4- methoxy-			(I,T)
U023	98-07-7	Benzene, (trichloromethyl)-	U033	353-50-4	Carbon oxyfluoride (R,T)
U234	99-35-4	Benzene, 1,3,5-trinitro-	U211	56-23-5	Carbon tetrachloride
U021	92-87-5	Benzidine	U034	75-87-6	Chloral
U278	22781-23-3	1,3-Benzodioxol-4-ol, 2,2-dimethyl-,	U035	305-03-3	Chlorambucil
		methyl carbamate.	U036	57-74-9	Chlordane, alpha and gamma isomers
U364	22961-82-6	1,3-Benzodioxol-4-ol, 2,2-dimethyl-,	U026	494-03-1	Chlornaphazin
U203	94-59-7	1,3-Benzodioxole, 5-(2-propenyl)-	U037	108-90-7	Chlorobenzene
U141	120-58-1	1,3-Benzodioxole, 5-(1-propenyl)-	U038	510-15-6	Chlorobenzilate
U367	1563-38-8	7-Benzofuranol, 2,3-dihydro-2,2-	U039	59-50-7	p-Chloro-m-cresol
		dimethyl-	U042	110-75-8	2-Chloroethyl vinyl ether
U090	94-58-6	1,3-Benzodioxole, 5-propyl-	U044	67-66-3	Chloroform
U064	189-55-9	Benzo(rst)pentaphene	U046	107-30-2	Chloromethyl methyl ether
U248	(1)81-81-2	2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-	U047	91-58-7	beta-Chloronaphthalene
		oxo-1-phenyl-butyl)-, and salts, <del>when</del> if	U048	95-57-8	o-Chlorophenol
		present at concentrations of 0.3% or	U049	3165-93-3	4-Chloro-o-toluidine, hydrochloride
		less	U032	13765-19-0	Chromic acid H2 CrO4, calcium salt
U022	50-32-8	Benzo(a)pyrene	U050	218-01-9	Chrysene

NOTICES OF PROPOSED RULES

U051		Creosote	U117	60-29-7	Ethane, 1,1'-oxybis-(I)
U052	1319-77-3	Cresol (Cresylic acid)	U025	111-44-4	Ethane, 1,1'-oxybis(2-chloro-
U053	4170-30-3	Crotonaldehyde	U184	76-01-7	Ethane, pentachloro-
U055	98-82-8	Cumene (I)	U208	630-20-6	Ethane, 1,1,1,2-tetrachloro-
U246	506-68-3	Cyanogen bromide (CN)Br	U209	79-34-5	Ethane, 1,1,2,2-tetrachloro-
U197	106-51-4	2,5-Cyclohexadiene-1,4-dione	U218	62-55-5	Ethanethioamide
U056	110-82-7	Cyclohexane (I)	U226	71-55-6	Ethane, 1,1,1-trichloro-
U129	58-89-9	Cyclohexane, 1,2,3,4,5,6-hexachloro-, (1alpha,2alpha,3beta,4alpha,5alpha,6beta)-	U227	79-00-5	Ethane, 1,1,2-trichloro-
U057	108-94-1	Cyclohexanone (I)	U410	59669-26-0	Ethanimidothioic acid, N,N'-(thiobis((methylimino)carbonyloxy))bis-, dimethyl ester
U130	77-47-4	1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-	U394	30558-43-1	Ethanimidothioic acid, 2-(dimethylamino)-N-hydroxy-2-oxo-, methyl ester.
U058	50-18-0	Cyclophosphamide	U359	110-80-5	Ethanol, 2-ethoxy-
U240	(1)94-75-7	2,4-D, salts and esters	U173	1116-54-7	Ethanol, 2,2'-(nitrosoimino)bis-
U059	20830-81-3	Daunomycin	U395	5952-26-1	Ethanol, 2,2'-oxybis-, dicarbamate.
U060	72-54-8	DDD	U004	98-86-2	Ethanone, 1-phenyl-
U061	50-29-3	DDT	U043	75-01-4	Ethene, chloro-
U062	2303-16-4	Diallate	U042	110-75-8	Ethene, (2-chloroethoxy)-
U063	53-70-3	Dibenz(a,h)anthracene	U078	75-35-4	Ethene, 1,1-dichloro-
U064	189-55-9	Dibenzo(a,i)pyrene	U079	156-60-5	Ethene, 1,2-dichloro-, (E)-
U066	96-12-8	1,2-Dibromo-3-chloropropane	U210	127-18-4	Ethene, tetrachloro-
U069	84-74-2	Dibutyl phthalate	U228	79-01-6	Ethene, trichloro-
U070	95-50-1	o-Dichlorobenzene	U112	141-78-6	Ethyl acetate (I)
U071	541-73-1	m-Dichlorobenzene	U113	140-88-5	Ethyl acrylate (I)
U072	106-46-7	p-Dichlorobenzene	U238	51-79-6	Ethyl carbamate (urethane)
U073	91-94-1	3,3'-Dichlorobenzidine	U117	60-29-7	Ethyl ether (I)
U074	764-41-0	1,4-Dichloro-2-butene (I,T)	U114	(1)111-54-6	Ethylenebisdithiocarbamic acid, salts and esters
U075	75-71-8	Dichlorodifluoromethane	U067	106-93-4	Ethylene dibromide
U078	75-35-4	1,1-Dichloroethylene	U077	107-06-2	Ethylene dichloride
U079	156-60-5	1,2-Dichloroethylene	U359	110-80-5	Ethylene glycol monoethyl ether
U025	111-44-4	Dichloroethyl ether	U115	75-21-8	Ethylene oxide (I,T)
U027	108-60-1	Dichloroisopropyl ether	U116	96-45-7	Ethylenethiourea
U024	111-91-1	Dichloromethoxy ethane	U076	75-34-3	Ethylidene dichloride
U081	120-83-2	2,4-Dichlorophenol	U118	97-63-2	Ethyl methacrylate
U082	87-65-0	2,6-Dichlorophenol	U119	62-50-0	Ethyl methanesulfonate
U084	542-75-6	1,3-Dichloropropene	U120	206-44-0	Fluoranthene
U085	1464-53-5	1,2:3,4-Diepoxybutane (I,T)	U122	50-00-0	Formaldehyde
U108	123-91-1	1,4-Diethyleneoxide	U123	64-18-6	Formic acid (C,T)
U028	117-81-7	Diethylhexyl phthalate	U124	110-00-9	Furan (I)
U395	5952-26-1	Diethylene glycol, dicarbamate.	U125	98-01-1	2-Furancarboxaldehyde (I)
U086	1615-80-1	N,N'-Diethylhydrazine	U147	108-31-6	2,5-Furandione
U087	3288-58-2	O,O-Diethyl S-methyl dithiophosphate	U213	109-99-9	Furan, tetrahydro-(I)
U088	84-66-2	Diethyl phthalate	U125	98-01-1	Furfural (I)
U089	56-53-1	Diethylstilbestrol	U124	110-00-9	Furfuran (I)
U090	94-58-6	Dihydrosafrole	U206	18883-66-4	Glucopyranose, 2-deoxy-2-(3-methyl-3-nitrosoureido)-, D-
U091	119-90-4	3,3'-Dimethoxybenzidine	U206	18883-66-4	D-Glucose, 2-deoxy-2-(((methylnitrosoamino)-carbonyl)amino)-
U092	124-40-3	Dimethylamine (I)	U126	765-34-4	Glycidylaldehyde
U093	60-11-7	p-Dimethylaminoazobenzene	U163	70-25-7	Guanidine, N-methyl-N'-nitro-N-nitroso-
U094	57-97-6	7,12-Dimethylbenz(a)anthracene	U127	118-74-1	Hexachlorobenzene
U095	119-93-7	3,3'-Dimethylbenzidine	U128	87-68-3	Hexachlorobutadiene
U096	80-15-9	alpha,alpha-Dimethylbenzylhydroperoxide (R)	U130	77-47-4	Hexachlorocyclopentadiene
U097	79-44-7	Dimethylcarbamoyl chloride	U131	67-72-1	Hexachloroethane
U098	57-14-7	1,1-Dimethylhydrazine	U132	70-30-4	Hexachlorophene
U099	540-73-8	1,2-Dimethylhydrazine	U243	1888-71-7	Hexachloropropene
U101	105-67-9	2,4-Dimethylphenol	U133	302-01-2	Hydrazine (R,T)
U102	131-11-3	Dimethyl phthalate	U086	1615-80-1	Hydrazine, 1,2-diethyl-
U103	77-78-1	Dimethyl sulfate	U098	57-14-7	Hydrazine, 1,1-dimethyl-
U105	121-14-2	2,4-Dinitrotoluene	U099	540-73-8	Hydrazine, 1,2-dimethyl-
U106	606-20-2	2,6-Dinitrotoluene	U109	122-66-7	Hydrazine, 1,2-diphenyl-
U107	117-84-0	Di-n-octyl phthalate	U134	7664-39-3	Hydrofluoric acid (C,T)
U108	123-91-1	1,4-Dioxane	U134	7664-39-3	Hydrogen fluoride (C,T)
U109	122-66-7	1,2-Diphenylhydrazine	U135	7783-06-4	Hydrogen sulfide
U110	142-84-7	Dipropylamine (I)	U135	7783-06-4	Hydrogen sulfide H2 S
U111	621-64-7	Di-n-propylnitrosamine	U096	80-15-9	Hydroperoxide, 1-methyl-1-phenylethyl-(R)
U041	106-89-8	Epichlorohydrin	U116	96-45-7	2-Imidazolidinethione
U001	75-07-0	Ethanal (I)	U137	193-39-5	Indeno(1,2,3-cd)pyrene
U404	121-44-8	Ethanamine, N,N-diethyl-	U190	85-44-9	1,3-Isobenzofurandione
U174	55-18-5	Ethanamine, N-ethyl-N-nitroso-	U140	78-83-1	Isobutyl alcohol (I,T)
U155	91-80-5	1,2-Ethanediamine, N,N-dimethyl-N'-2-pyridinyl-N'-(2-thienylmethyl)-	U141	120-58-1	Isosafrole
U067	106-93-4	Ethane, 1,2-dibromo-	U142	143-50-0	Kepone
U076	75-34-3	Ethane, 1,1-dichloro-			
U077	107-06-2	Ethane, 1,2-dichloro-			
U131	67-72-1	Ethane, hexachloro-			
U024	111-91-1	Ethane, 1,1'-(methylenebis(oxy))bis(2-chloro-			

U143	303-34-4	Lasiocarpine	U171	79-46-9	2-Nitropropane (I,T)
U144	301-04-2	Lead acetate	U172	924-16-3	N-Nitrosodi-n-butylamine
U146	1335-32-6	Lead, bis(acetato-0)tetrahydroxytri-	U173	1116-54-7	N-Nitrosodiethanolamine
U145	7446-27-7	Lead phosphate	U174	55-18-5	N-Nitrosodiethylamine
U146	1335-32-6	Lead subacetate	U176	759-73-9	N-Nitroso-N-ethylurea
U129	58-89-9	Lindane	U177	684-93-5	N-Nitroso-N-methylurea
U163	70-25-7	MNNG	U178	615-53-2	N-Nitroso-N-methylurethane
U147	108-31-6	Maleic anhydride	U179	100-75-4	N-Nitrosopiperidine
U148	123-33-1	Maleic hydrazide	U180	930-55-2	N-Nitrosopyrrolidine
U149	109-77-3	Malononitrile	U181	99-55-8	5-Nitro-o-toluidine
U150	148-82-3	Melphalan	U193	1120-71-4	1,2-Oxathiolane, 2,2-dioxide
U151	7439-97-6	Mercury	U058	50-18-0	2H-1,3,2-Oxazaphosphorin-2-amine, N,N-bis(2-chloroethyl)tetrahydro-, 2-oxide
U152	126-98-7	Methacrylonitrile (I, T)	U115	75-21-8	Oxirane (I,T)
U092	124-40-3	Methanamine, N-methyl- (I)	U126	765-34-4	Oxiranecarboxaldehyde
U029	74-83-9	Methane, bromo-	U041	106-89-8	Oxirane, (chloromethyl)-
U045	74-87-3	Methane, chloro- (I, T)	U182	123-63-7	Paraldehyde
U046	107-30-2	Methane, chloromethoxy-	U183	608-93-5	Pentachlorobenzene
U068	74-95-3	Methane, dibromo-	U184	76-01-7	Pentachloroethane
U080	75-09-2	Methane, dichloro-	U185	82-68-8	Pentachloronitrobenzene (PCNB)
U075	75-71-8	Methane, dichlorodifluoro-	See F027	87-86-5	Pentachlorophenol
U138	74-88-4	Methane, iodo-	U161	108-10-1	Pentanol, 4-methyl-
U119	62-50-0	Methanesulfonic acid, ethyl ester	U186	504-60-9	1,3-Pentadiene (I)
U211	56-23-5	Methane, tetrachloro-	U187	62-44-2	Phenacetin
U153	74-93-1	Methanethiol (I, T)	U188	108-95-2	Phenol
U225	75-25-2	Methane, tribromo-	U048	95-57-8	Phenol, 2-chloro-
U044	67-66-3	Methane, trichloro-	U039	59-50-7	Phenol, 4-chloro-3-methyl-
U121	75-69-4	Methane, trichlorofluoro-	U081	120-83-2	Phenol, 2,4-dichloro-
U036	57-74-9	4,7-Methano-1H-indene, 1,2,4,5,6,7,8,8- octachloro-2,3,3a,4,7,7a-hexahydro-	U082	87-65-0	Phenol, 2,6-dichloro-
U154	67-56-1	Methanol (I)	U089	56-53-1	Phenol, 4,4'-(1,2-diethyl-1,2-ethenediyl)bis-, (E)-
U155	91-80-5	Methapyrilene	U101	105-67-9	Phenol, 2,4-dimethyl-
U142	143-50-0	1,3,4-Metheno-2H-cyclobuta(cd)pentalen-2-one, 1,1a,3,3a,4,5,5a,5b,6-decachlorooctahydro-	U052	1319-77-3	Phenol, methyl-
U247	72-43-5	Methoxychlor	U132	70-30-4	Phenol, 2,2'-methylenebis(3,4,6-trichloro-
U154	67-56-1	Methyl alcohol (I)	U411	114-26-1	Phenol, 2-(1-methylethoxy)-, methylcarbamate.
U029	74-83-9	Methyl bromide	U170	100-02-7	Phenol, 4-nitro-
U186	504-60-9	1-Methylbutadiene (I)	See F027	87-86-5	Phenol, pentachloro-
U045	74-87-3	Methyl chloride (I,T)	See F027	58-90-2	Phenol, 2,3,4,6-tetrachloro-
U156	79-22-1	Methyl chlorocarbonate (I,T)	See F027	95-95-4	Phenol, 2,4,5-trichloro-
U226	71-55-6	Methyl chloroform	See F027	88-06-2	Phenol, 2,4,6-trichloro-
U157	56-49-5	3-Methylcholanthrene	U150	148-82-3	L-Phenylalanine, 4-(bis(2-chloroethyl)amino)-
U158	101-14-4	4,4'-Methylenebis(2-chloroaniline)	U145	7446-27-7	Phosphoric acid, lead(2+) salt (2:3)
U068	74-95-3	Methylene bromide	U087	3288-58-2	Phosphorodithioic acid, 0,0-diethyl S-methyl ester
U080	75-09-2	Methylene chloride	U189	1314-80-3	Phosphorus sulfide (R)
U159	78-93-3	Methyl ethyl ketone (MEK) (I,T)	U190	85-44-9	Phthalic anhydride
U160	1338-23-4	Methyl ethyl ketone peroxide (R,T)	U191	109-06-8	2-Picoline
U138	74-88-4	Methyl iodide	U179	100-75-4	Piperidine, 1-nitroso-
U161	108-10-1	Methyl isobutyl ketone (I)	U192	23950-58-5	Pronamide
U162	80-62-6	Methyl methacrylate (I,T)	U194	107-10-8	1-Propanamine (I,T)
U161	108-10-1	4-Methyl-2-pentanone (I)	U111	621-64-7	1-Propanamine, N-nitroso-N-propyl-
U164	56-04-2	Methylthiouracil	U110	142-84-7	1-Propanamine, N-propyl- (I)
U010	50-07-7	Mitomycin C	U066	96-12-8	Propane, 1,2-dibromo-3-chloro-
U059	20830-81-3	5,12-Naphthacenedione, 8-acetyl-10-((3-amino-2,3,6-trideoxy)-alpha-L-lyxo-hexopyranosyl)oxy)-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-, (8S-cis)-	U083	78-87-5	Propane, 1,2-dichloro-
U167	134-32-7	1-Naphthalenamine	U149	109-77-3	Propanedinitrile
U168	91-59-8	2-Naphthalenamine	U171	79-46-9	Propane, 2-nitro- (I,T)
U026	494-03-1	Naphthalenamine, N,N'-bis(2-chloroethyl)-	U027	108-60-1	Propane, 2,2'-oxybis(2-chloro-
U165	91-20-3	Naphthalene	U193	1120-71-4	1,3-Propane sultone
U047	91-58-7	Naphthalene, 2-chloro-	See F027	93-72-1	Propanoic acid, 2-(2,4,5-trichlorophenoxy)-
U166	130-15-4	1,4-Naphthalenedione	U235	126-72-7	1-Propanol, 2,3-dibromo-, phosphate (3:1)
U236	72-57-1	2,7-Naphthalenedisulfonic acid, 3,3'-((3,3'-dimethyl(1,1'-biphenyl)-4,4'-diyl)bis(azo)bis(5-amino-4-hydroxy)-, tetrasodium salt	U140	78-83-1	1-Propanol, 2-methyl- (I,T)
U279	63-25-2	1-Naphthalenol, methylcarbamate.	U002	67-64-1	2-Propanone (I)
U166	130-15-4	1,4-Naphthoquinone	U007	79-06-1	2-Propenamidine
U167	134-32-7	alpha-Naphthylamine	U084	542-75-6	1-Propene, 1,3-dichloro-
U168	91-59-8	beta-Naphthylamine	U243	1888-71-7	1-Propene, 1,1,2,3,3,3-hexachloro-
U217	10102-45-1	Nitric acid, thallium(1+) salt	U009	107-13-1	2-Propenenitrile
U169	98-95-3	Nitrobenzene (I,T)	U152	126-98-7	2-Propenenitrile, 2-methyl- (I,T)
U170	100-02-7	p-Nitrophenol	U008	79-10-7	2-Propenoic acid (I)
			U113	140-88-5	2-Propenoic acid, ethyl ester (I)
			U118	97-63-2	2-Propenoic acid, 2-methyl-, ethyl ester
			U162	80-62-6	2-Propenoic acid, 2-methyl-, methyl ester (I,T)

NOTICES OF PROPOSED RULES

U373	122-42-9	Propham.	U249	1314-84-7	Zinc phosphide Zn3 P2, [when]if present at concentrations of 10% or less
U411	114-26-1	Propoxur.	U001	75-07-0	Acetaldehyde (I)
U387	52888-80-9	Prosulfocarb.	U001	75-07-0	Ethanal (I)
U194	107-10-8	n-Propylamine (I,T)	U002	67-64-1	Acetone (I)
U083	78-87-5	Propylene dichloride	U002	67-64-1	2-Propanone (I)
U148	123-33-1	3,6-Pyridazinedione, 1,2-dihydro-	U003	75-05-8	Acetonitrile (I,T)
U196	110-86-1	Pyridine	U004	98-86-2	Acetophenone
U191	109-06-8	Pyridine, 2-methyl-	U004	98-86-2	Ethanone, 1-phenyl-
U237	66-75-1	2,4-(1H,3H)-Pyrimidinedione, 5-(bis(2-chloroethyl)amino)-	U005	53-96-3	Acetamide, -9H-fluoren-2-yl-
U164	56-04-2	4(1H)-Pyrimidinone, 2,3-dihydro-6-methyl-2-thio-	U005	53-96-3	2-Acetylaminofluorene
U180	930-55-2	Pyrrolidine, 1-nitroso-	U006	75-36-5	Acetyl chloride (C,R,T)
U200	50-55-5	Reserpine	U007	79-06-1	Acrylamide
U201	108-46-3	Resorcinol	U007	79-06-1	2-Propenamidine
U203	94-59-7	Safrole	U008	79-10-7	Acrylic acid (I)
U204	7783-00-8	Selenious acid	U008	79-10-7	2-Propenoic acid (I)
U204	7783-00-8	Selenium dioxide	U009	107-13-1	Acrylonitrile
U205	7488-56-4	Selenium sulfide	U009	107-13-1	2-Propenenitrile
U205	7488-56-4	Selenium sulfide SeS2 (R,T)	U010	50-07-7	Azirino(2',3':3,4)pyrrolo(1,2-a)indole-4,7-dione, 6-amino-8-(((aminocarbonyl)oxy)methyl)-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl-, (1aS-(1aalpha,8beta,8aalpha,8balpha))-
U015	115-02-6	L-Serine, diazoacetate (ester)	U010	50-07-7	Mitomycin C
See F027	93-72-1	Silvex (2,4,5-TP)	U011	61-82-5	Amitrole
U206	18883-66-4	Streptozotocin	U011	61-82-5	1H-1,2,4-Triazol-3-amine
U103	77-78-1	Sulfuric acid, dimethyl ester	U012	62-53-3	Aniline (I,T)
U189	1314-80-3	Sulfur phosphide (R)	U012	62-53-3	Benzenamine (I,T)
See F027	93-76-5	2,4,5-T	U014	492-80-8	Auramine
U207	95-94-3	1,2,4,5-Tetrachlorobenzene	U014	492-80-8	Benzenamine, 4,4'-carbonimidoylbis(N,N-dimethyl)-
U208	630-20-6	1,1,1,2-Tetrachloroethane	U015	115-02-6	Azaserine
U209	79-34-5	1,1,2,2-Tetrachloroethane	U015	115-02-6	L-Serine, diazoacetate (ester)
U210	127-18-4	Tetrachloroethylene	U016	225-51-4	Benz(c)acridine
See F027	58-90-2	2,3,4,6-Tetrachlorophenol	U017	98-87-3	Benzal chloride
U213	109-99-9	Tetrahydrofuran (I)	U017	98-87-3	Benzene, (dichloromethyl)-
U214	563-68-8	Thallium(I) acetate	U018	56-55-3	Benz(a)anthracene
U215	6533-73-9	Thallium(I) carbonate	U019	71-43-2	Benzene (I,T)
U216	7791-12-0	Thallium(I) chloride	U020	98-09-9	Benzenesulfonic acid chloride (C,R)
U216	7791-12-0	thallium chloride TlCl	U020	98-09-9	Benzenesulfonyl chloride (C,R)
U217	10102-45-1	Thallium(I) nitrate	U021	92-87-5	Benzenidine
U218	62-55-5	Thioacetamide	U021	92-87-5	(1,1'-Biphenyl)-4,4'-diamine
U410	59669-26-0	Thiodicarb.	U022	50-32-8	Benzo(a)pyrene
U153	74-93-1	Thiomethanol (I,T)	U023	98-07-7	Benzene, (trichloromethyl)-
U244	137-26-8	Thioperoxydicarbonyl diamide ((H2N)C(S))2 S2, tetramethyl-	U023	98-07-7	Benzotrichloride (C,R,T)
U409	23564-05-8	Thiophanate-methyl.	U024	111-91-1	Dichloromethoxy ethane
U219	62-56-6	Thiourea	U024	111-91-1	Ethane, 1,1'-(methylenebis(oxy))bis(2-chloro-
U244	137-26-8	Thiram	U025	111-44-4	Dichloroethyl ether
U220	108-88-3	Toluene	U025	111-44-4	Ethane, 1,1'-oxybis(2-chloro-
U221	25376-45-8	Toluenediamine	U026	494-03-1	Chlornaphazin
U223	26471-62-5	Toluene diisocyanate (R,T)	U026	494-03-1	Naphthalenamine, N,N'-bis(2-chloroethyl)-
U328	95-53-4	o-Toluidine	U027	108-60-1	Dichloroisopropyl ether
U353	106-49-0	p-Toluidine	U027	108-60-1	Propane, 2,2'-oxybis(2-chloro-
U222	636-21-5	o-Toluidine hydrochloride	U028	117-81-7	1,2-Benzenedicarboxylic acid, bis(2-ethylhexyl) ester
U389	2303-17-5	Triallate.	U028	117-81-7	Diethylhexyl phthalate
U011	61-82-5	1H-1,2,4-Triazol-3-amine	U029	74-83-9	Methane, bromo-
U226	71-55-6	1,1,1-Trichloroethane	U029	74-83-9	Methyl bromide
U227	79-00-5	1,1,2-Trichloroethane	U030	101-55-3	Benzene, 1-bromo-4-phenoxy-
U228	79-01-6	Trichloroethylene	U030	101-55-3	4-Bromophenyl phenyl ether
U121	75-69-4	Trichloromonofluoromethane	U031	71-36-3	1-Butanol (I)
See F027	95-95-4	2,4,5-Trichlorophenol	U031	71-36-3	n-Butyl alcohol (I)
See F027	88-06-2	2,4,6-Trichlorophenol	U032	13765-19-0	Calcium chromate
U404	121-44-8	Triethylamine.	U032	13765-19-0	Chromic acid H2 CrO4, calcium salt
U234	99-35-4	1,3,5-Trinitrobenzene (R,T)	U033	353-50-4	Carbonic difluoride
U182	123-63-7	1,3,5-Trioxane, 2,4,6-trimethyl-	U033	353-50-4	Carbon oxyfluoride (R,T)
U235	126-72-7	Tris(2,3-dibromopropyl) phosphate	U034	75-87-6	Acetaldehyde, trichloro-
U236	72-57-1	Trypan blue	U034	75-87-6	Chloral
U237	66-75-1	Uracil shallard	U035	305-03-3	Benzenebutanoic acid, 4-(bis(2-chloroethyl)amino)-
U176	759-73-9	Urea, N-ethyl-N-nitroso-	U035	305-03-3	Chlorambucil
U177	684-93-5	Urea, N-methyl-N-nitroso-	U036	57-74-9	Chlordane, alpha and gamma isomers
U043	75-01-4	Vinyl chloride	U036	57-74-9	4,7-Methano-1H-indene, 1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a-hexahydro-
U248	(1)81-81-2	Warfarin, and salts, [when]if present at concentrations of 0.3% or less			
U239	1330-20-7	Xylene (I)			
U200	50-55-5	Yohimban-16-carboxylic acid, 11,17-dimethoxy-18-((3,4,5-trimethoxybenzoyl)oxy)-, methyl ester, (3beta,16beta, 17alpha,18beta, 20alpha)-			

NOTICES OF PROPOSED RULES

U037	108-90-7	Benzene, chloro-	U073	91-94-1	3,3'-Dichlorobenzidine
U037	108-90-7	Chlorobenzene	U074	764-41-0	2-Butene, 1,4-dichloro-(I,T)
U038	510-15-6	Benzeneacetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy-, ethyl ester	U074	764-41-0	1,4-Dichloro-2-butene (I,T)
U038	510-15-6	Chlorobenzilate	U075	75-71-8	Dichlorodifluoromethane
U039	59-50-7	p-Chloro-m-cresol	U075	75-71-8	Methane, dichlorodifluoro-
U039	59-50-7	Phenol, 4-chloro-3-methyl-	U076	75-34-3	Ethane, 1,1-dichloro-
U041	106-89-8	Epichlorohydrin	U076	75-34-3	Ethylidene dichloride
U041	106-89-8	Oxirane, (chloromethyl)-	U077	107-06-2	Ethane, 1,2-dichloro-
U042	110-75-8	2-Chloroethyl vinyl ether	U077	107-06-2	Ethylene dichloride
U042	110-75-8	Ethene, (2-chloroethoxy)-	U078	75-35-4	1,1-Dichloroethylene
U043	75-01-4	Ethene, chloro-	U078	75-35-4	Ethene, 1,1-dichloro-
U043	75-01-4	Vinyl chloride	U079	156-60-5	1,2-Dichloroethylene
U044	67-66-3	Chloroform	U079	156-60-5	Ethene, 1,2-dichloro-, (E)-
U044	67-66-3	Methane, trichloro-	U080	75-09-2	Methane, dichloro-
U045	74-87-3	Methane, chloro- (I,T)	U080	75-09-2	Methylene chloride
U045	74-87-3	Methyl chloride (I,T)	U081	120-83-2	2,4-Dichlorophenol
U046	107-30-2	Chloromethyl methyl ether	U081	120-83-2	Phenol, 2,4-dichloro-
U046	107-30-2	Methane, chloromethoxy-	U082	87-65-0	2,6-Dichlorophenol
U047	91-58-7	beta-Chloronaphthalene	U082	87-65-0	Phenol, 2,6-dichloro-
U047	91-58-7	Naphthalene, 2-chloro-	U083	78-87-5	Propane, 1,2-dichloro-
U048	95-57-8	o-Chlorophenol	U083	78-87-5	Propylene dichloride
U048	95-57-8	Phenol, 2-chloro-	U084	542-75-6	1,3-Dichloropropene
U049	3165-93-3	Benzenamine, 4-chloro-2-methyl-, hydrochloride	U084	542-75-6	1-Propene, 1,3-dichloro-
U049	3165-93-3	4-Chloro-o-toluidine, hydrochloride	U085	1464-53-5	2,2'-Bioxirane
U050	218-01-9	Chrysene	U085	1464-53-5	1,2:3,4-Diepoxybutane (I,T)
U051		Creosote	U086	1615-80-1	N,N'-Diethylhydrazine
U052	1319-77-3	Cresol (Cresylic acid)	U086	1615-80-1	Hydrazine, 1,2-diethyl-
U052	1319-77-3	Phenol, methyl-	U087	3288-58-2	0,0-Diethyl S-methyl dithiophosphate
U053	4170-30-3	2-Butenal	U087	3288-58-2	Phosphorodithioic acid, 0,0-diethyl S-methyl ester
U053	4170-30-3	Crotonaldehyde	U088	84-66-2	1,2-Benzenedicarboxylic acid, diethyl ester
U055	98-82-8	Benzene, (1-methylethyl)-(I)	U088	84-66-2	Diethyl phthalate
U055	98-82-8	Cumene (I)	U089	56-53-1	Diethylstilbesterol
U056	110-82-7	Benzene, hexahydro-(I)	U089	56-53-1	Phenol, 4,4'-(1,2-diethyl-1,2-ethenediyl)bis-, (E)-
U056	110-82-7	Cyclohexane (I)	U090	94-58-6	1,3-Benzodioxole, 5-propyl-
U057	108-94-1	Cyclohexanone (I)	U090	94-58-6	Dihydrosafrole
U058	50-18-0	Cyclophosphamide	U091	119-90-4	(1,1'-Biphenyl)-4,4'-diamine, 3,3'-dimethoxy-
U058	50-18-0	2H-1,3,2-Oxazaphosphorin-2-amine, N,N-bis(2-chloroethyl)tetrahydro-, 2-oxide	U091	119-90-4	3,3'-Dimethoxybenzidine
U059	20830-81-3	Daunomycin	U092	124-40-3	Dimethylamine (I)
U059	20830-81-3	5,12-Naphthacenedione, 8-acetyl-10-(3-amino-2,3,6-trideoxy)-alpha-L-lyxohexopyranosyl)oxy)-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-, (8S-cis)-	U092	124-40-3	Methanamine, -methyl-(I)
U060	72-54-8	Benzene, 1,1'-(2,2-dichloroethylidene)bis(4-chloro-	U093	60-11-7	Benzenamine, N,N-dimethyl-4-(phenylazo)-
U060	72-54-8	DDD	U093	60-11-7	p-Dimethylaminoazobenzene
U061	50-29-3	Benzene, 1,1'-(2,2,2-trichloroethylidene)bis(4-chloro-	U094	57-97-6	Benz(a)anthracene, 7,12-dimethyl-
U061	50-29-3	DDT	U094	57-97-6	7,12-Dimethylbenz(a)anthracene
U062	2303-16-4	Carbamothioic acid, bis(1-methylethyl)-, S- (2,3-dichloro-2-propenyl) ester	U095	119-93-7	(1,1'-Biphenyl)-4,4'-diamine, 3,3'-dimethyl-
U062	2303-16-4	Diallate	U095	119-93-7	3,3'-Dimethylbenzidine
U063	53-70-3	Dibenz(a,h)anthracene	U096	80-15-9	alpha,alpha-Dimethylbenzylhydroperoxide (R)
U064	189-55-9	Benzo(rst)pentaphene	U096	80-15-9	Hydroperoxide, 1-methyl-1-phenylethyl-(R)
U064	189-55-9	Dibenzo(a,i)pyrene	U097	79-44-7	Carbamic chloride, dimethyl-
U066	96-12-8	1,2-Dibromo-3-chloropropane	U097	79-44-7	Dimethylcarbamoyl chloride
U066	96-12-8	Propane, 1,2-dibromo-3-chloro-	U098	57-14-7	1,1-Dimethylhydrazine
U067	106-93-4	Ethane, 1,2-dibromo-	U098	57-14-7	Hydrazine, 1,1-dimethyl-
U067	106-93-4	Ethylene dibromide	U099	540-73-8	1,2-Dimethylhydrazine
U068	74-95-3	Methane, dibromo-	U099	540-73-8	Hydrazine, 1,2-dimethyl-
U068	74-95-3	Methylene bromide	U101	105-67-9	2,4-Dimethylpheno
U069	84-74-2	1,2-Benzenedicarboxylic acid, dibutyl ester	U101	105-67-9	Phenol, 2,4-dimethyl-
U069	84-74-2	Dibutyl phthalate	U102	131-11-3	1,2-Benzenedicarboxylic acid, dimethyl ester
U070	95-50-1	Benzene, 1,2-dichloro-	U102	131-11-3	Dimethyl phthalate
U070	95-50-1	o-Dichlorobenzene	U103	77-78-1	Dimethyl sulfate
U071	541-73-1	Benzene, 1,3-dichloro-	U103	77-78-1	Sulfuric acid, dimethyl ester
U071	541-73-1	m-Dichlorobenzene	U105	121-14-2	Benzene, 1-methyl-2,4-dinitro-
U072	106-46-7	Benzene, 1,4-dichloro-	U105	121-14-2	2,4-Dinitrotoluene
U072	106-46-7	p-Dichlorobenzene	U106	606-20-2	Benzene, 2-methyl-1,3-dinitro-
U073	91-94-1	(1,1'-Biphenyl)-4,4'-diamine, 3,3'-dichloro-	U106	606-20-2	2,6-Dinitrotoluene
			U107	117-84-0	1,2-Benzenedicarboxylic acid, dioctyl ester
			U107	117-84-0	Di-n-octyl phthalate
			U108	123-91-1	1,4-Diethyleneoxide
			U108	123-91-1	1,4-Dioxane
			U109	122-66-7	1,2-Diphenylhydrazine

NOTICES OF PROPOSED RULES

U109	122-66-7	Hydrazine, 1,2-diphenyl-	U144	301-04-2	Lead acetate
U110	142-84-7	Dipropylamine (I)	U145	7446-27-7	Lead phosphate
U110	142-84-7	1-Propanamine, N-propyl-(I)	U145	7446-27-7	Phosphoric acid, lead(2+) salt (2:3)
U111	621-64-7	Di-n-propylnitrosamine	U146	1335-32-6	Lead, bis(acetato-0)tetrahydroxytri-
U111	621-64-7	1-Propanamine, N-nitroso-N-propyl-	U146	1335-32-6	Lead subacetate
U112	141-78-6	Acetic acid ethyl ester (I)	U147	108-31-6	2,5-Furandione
U112	141-78-6	Ethyl acetate (I)	U147	108-31-6	Maleic anhydride
U113	140-88-5	Ethyl acrylate (I)	U148	123-33-1	Maleic hydrazide
U113	140-88-5	2-Propenoic acid, ethyl ester (I)	U148	123-33-1	3,6-Pyridazinedione, 1,2-dihydro-
U114	(1)111-54-6	Carbamodithioic acid, 1,2-ethanedylbis-, salts and esters	U149	109-77-3	Malononitrile
U114	(1)111-54-6	Ethylenebisdithiocarbamic acid, salts and esters	U149	109-77-3	Propanedinitrile
U115	75-21-8	Ethylene oxide (I,T)	U150	148-82-3	Melphalan
U115	75-21-8	Oxirane (I,T)	U150	148-82-3	L-Phenylalanine, 4-(bis(2-chloroethyl)amino)-
U116	96-45-7	Ethylenethiourea	U151	7439-97-6	Mercury
U116	96-45-7	2-Imidazolidinethione	U152	126-98-7	Methacrylonitrile (I,T)
U117	60-29-7	Ethane, 1,1'-oxybis-(I)	U152	126-98-7	2-Propenenitrile, 2-methyl- (I,T)
U117	60-29-7	Ethyl ether (I)	U153	74-93-1	Methanethiol (I,T)
U118	97-63-2	Ethyl methacrylate	U153	74-93-1	Thiomethanol (I,T)
U118	97-63-2	2-Propenoic acid, 2-methyl-, ethyl ester	U154	67-56-1	Methanol (I)
U119	62-50-0	Ethyl methanesulfonate	U154	67-56-1	Methyl alcohol (I)
U119	62-50-0	Methanesulfonic acid, ethyl ester	U155	91-80-5	1,2-Ethanediamine, N,N-dimethyl-N'-2-pyridinyl-N'-(2-thienylmethyl)-
U120	206-44-0	Fluoranthene	U155	91-80-5	Methapyrene
U121	75-69-4	Methane, trichlorofluoro-	U156	79-22-1	Carbonochloridic acid, methyl ester (I,T)
U121	75-69-4	Trichloromonofluoromethane	U156	79-22-1	Methyl chlorocarbonate (I,T)
U122	50-00-0	Formaldehyde	U157	56-49-5	Benz(j)aceanthrylene, 1,2-dihydro-3-methyl-
U123	64-18-6	Formic acid (C,T)	U157	56-49-5	3-Methylcholanthrene
U124	110-00-9	Furan (I)	U158	101-14-4	Benzenamine, 4,4'-methylenebis(2-chloro-
U124	110-00-9	Furfuran (I)	U158	101-14-4	4,4'-Methylenebis(2-chloroaniline)
U125	98-01-1	2-Furancarboxaldehyde (I)	U159	78-93-3	2-Butanone (I,T)
U125	98-01-1	Furfural (I)	U159	78-93-3	Methyl ethyl ketone (MEK) (I,T)
U126	765-34-4	Glycidylaldehyde	U160	1338-23-4	2-Butanone, peroxide (R,T)
U126	765-34-4	Oxiranecarboxyaldehyde	U160	1338-23-4	Methyl ethyl ketone peroxide (R,T)
U127	118-74-1	Benzene, hexachloro-	U161	108-10-1	Methyl isobutyl ketone (I)
U127	118-74-1	Hexachlorobenzene	U161	108-10-1	4-Methyl-2-pentanone (I)
U128	87-68-3	1,3-Butadiene, 1,1,2,3,4,4-hexachloro-	U161	108-10-1	Pentanol, 4-methyl-
U128	87-68-3	Hexachlorobutadiene	U162	80-62-6	Methyl methacrylate (I,T)
U129	58-89-9	Cyclohexane, 1,2,3,4,5,6-hexachloro-, (1alpha,2alpha,3beta,4alpha,5alpha,6beta)-	U162	80-62-6	2-Propenoic acid, 2-methyl-, methyl ester (I,T)
U129	58-89-9	Lindane	U163	70-25-7	Guanidine, -methyl-N'-nitro-N-nitroso-
U130	77-47-4	1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-	U163	70-25-7	MNNG
U130	77-47-4	Hexachlorocyclopentadiene	U164	56-04-2	Methylthiouracil
U131	67-72-1	Ethane, hexachloro-	U164	56-04-2	4(1H)-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-
U131	67-72-1	Hexachloroethane	U165	91-20-3	Naphthalene
U132	70-30-4	Hexachlorophene	U166	130-15-4	1,4-Naphthalenedione
U132	70-30-4	Phenol, 2,2'-methylenebis(3,4,6-trichloro-	U166	130-15-4	1,4-Naphthoquinone
U133	302-01-2	Hydrazine (R,T)	U167	134-32-7	1-Naphthalenamine
U134	7664-39-3	Hydrofluoric acid (C,T)	U167	134-32-7	alpha-Naphthylamine
U134	7664-39-3	Hydrogen fluoride (C,T)	U168	91-59-8	2-Naphthalenamine
U135	7783-06-4	Hydrogen sulfide	U168	91-59-8	beta-Naphthylamine
U135	7783-06-4	Hydrogen sulfide H2S	U169	98-95-3	Benzene, nitro-
U136	75-60-5	Arsinic acid, dimethyl-	U169	98-95-3	Nitrobenzene (I,T)
U136	75-60-5	Cacodylic acid	U170	100-02-7	p-Nitrophenol
U137	193-39-5	Indeno(1,2,3-cd)pyrene	U170	100-02-7	Phenol, 4-nitro-
U138	74-88-4	Methane, iodo-	U171	79-46-9	2-Nitropropane (I,T)
U138	74-88-4	Methyl iodide	U171	79-46-9	Propane, 2-nitro- (I,T)
U140	78-83-1	Isobutyl alcohol (I,T)	U172	924-16-3	1-Butanamine, N-butyl-N-nitroso-
U140	78-83-1	1-Propanol, 2-methyl- (I,T)	U172	924-16-3	N-Nitrosodi-n-butylamine
U141	120-58-1	1,3-Benzodioxole, 5-(1-propenyl)-	U173	1116-54-7	Ethanol, 2,2'-(nitrosoimino)bis-
U141	120-58-1	Isosafrole	U173	1116-54-7	N-Nitrosodiethanolamine
U142	143-50-0	Kepone	U174	55-18-5	Ethanamine, -ethyl-N-nitroso-
U142	143-50-0	1,3,4-Metheno-2H-cyclobuta(cd)pentalen-2-one, 1,1a,3,3a,4,5,5a,5b,6-decachlorooctahydro-	U174	55-18-5	N-Nitrosodiethylamine
U143	303-34-4	2-Butenoic acid, 2-methyl-, 7-((2,3-dihydroxy-2-(1-methoxyethyl)-3-methyl-1-oxobutoxy)methyl)-2,3,5,7a-tetrahydro-1H-pyrrolizin-1-yl ester, (1S- (1alpha(Z),7(2S*,3R*), 7aalpha))-	U176	759-73-9	N-Nitroso-N-ethylurea
U143	303-34-4	Lasiocarpine	U176	759-73-9	Urea, N-ethyl-N-nitroso-
U144	301-04-2	Acetic acid, lead(2+) salt	U177	684-93-5	N-Nitroso-N-methylurea
			U177	684-93-5	Urea, N-methyl-N-nitroso-
			U178	615-53-2	Carbamic acid, methylnitroso-, ethyl ester
			U178	615-53-2	N-Nitroso-N-methylurethane
			U179	100-75-4	N-Nitrosopiperidine
			U179	100-75-4	Piperidine, 1-nitroso-
			U180	930-55-2	N-Nitrosopyrrolidine
			U180	930-55-2	Pyrrolidine, 1-nitroso-

NOTICES OF PROPOSED RULES

U181	99-55-8	Benzenamine, 2-methyl-5-nitro-	U222	636-21-5	Benzenamine, 2-methyl-, hydrochloride
U181	99-55-8	5-Nitro-o-toluidine	U222	636-21-5	o-Toluidine hydrochloride
U182	123-63-7	1,3,5-Trioxane, 2,4,6-trimethyl-	U223	26471-62-5	Benzene, 1,3-diisocyanatomethyl- (R,T)
U182	123-63-7	Paraldehyde	U223	26471-62-5	Toluene diisocyanate (R,T)
U183	608-93-5	Benzene, pentachloro-	U225	75-25-2	Bromoform
U183	608-93-5	Pentachlorobenzene	U225	75-25-2	Methane, tribromo-
U184	76-01-7	Ethane, pentachloro-	U226	71-55-6	Ethane, 1,1,1-trichloro-
U184	76-01-7	Pentachloroethane	U226	71-55-6	Methyl chloroform
U185	82-68-8	Benzene, pentachloronitro-	U226	71-55-6	1,1,1-Trichloroethane
U185	82-68-8	Pentachloronitrobenzene (PCNB)	U227	79-00-5	Ethane, 1,1,2-trichloro-
U186	504-60-9	1-Methylbutadiene (I)	U227	79-00-5	1,1,2-Trichloroethane
U186	504-60-9	1,3-Pentadiene (I)	U228	79-01-6	Ethene, trichloro-
U187	62-44-2	Acetamide, -(4-ethoxyphenyl)-	U228	79-01-6	Trichloroethylene
U187	62-44-2	Phenacetin	U234	99-35-4	Benzene, 1,3,5-trinitro-
U188	108-95-2	Phenol	U234	99-35-4	1,3,5-Trinitrobenzene (R,T)
U189	1314-80-3	Phosphorus sulfide (R)	U235	126-72-7	1-Propanol, 2,3-dibromo-, phosphate (3:1)
U189	1314-80-3	Sulfur phosphide (R)	U235	126-72-7	Tris(2,3-dibromopropyl) phosphate
U190	85-44-9	1,3-Isobenzofurandione	U236	72-57-1	2,7-Naphthalenedisulfonic acid, 3,3'-((3,3'-dimethyl(1,1'-biphenyl)-4,4'-diyl)bis(azo)bis(5-amino-4-hydroxy)-, tetrasodium salt
U190	85-44-9	Phthalic anhydride	U236	72-57-1	Trypan blue
U191	109-06-8	2-Picoline	U237	66-75-1	2,4-(1H,3H)-Pyrimidinedione, 5-(bis(2-chloroethyl)amino)-
U191	109-06-8	Pyridine, 2-methyl-	U237	66-75-1	Uracil shallard
U192	23950-58-5	Benzamide, 3,5-dichloro-N-(1,1-dimethyl-2-propynyl)-	U238	51-79-6	Carbamic acid, ethyl ester
U192	23950-58-5	Pronamide	U238	51-79-6	Ethyl carbamate (urethane)
U193	1120-71-4	1,2-Oxathiolane, 2,2-dioxide	U239	1330-20-7	Benzene, dimethyl- (I,T)
U193	1120-71-4	1,3-Propane sulfone	U239	1330-20-7	Xylene (I)
U194	107-10-8	1-Propanamine (I,T)	U240	(1)94-75-7	Acetic acid, (2,4-dichlorophenoxy)-, salts and esters
U194	107-10-8	n-Propylamine (I,T)	U240	(1)94-75-7	2,4-D, salts and esters
U196	110-86-1	Pyridine	U243	1888-71-7	Hexachloropropene
U197	106-51-4	p-Benzoquinone	U243	1888-71-7	1-Propene, 1,1,2,3,3,3-hexachloro-
U197	106-51-4	2,5-Cyclohexadiene-1,4-dione	U244	137-26-8	Thioperoxydicarbonic diamide ((H2N)C(S)2 S2, tetramethyl-
U200	50-55-5	Reserpine	U244	137-26-8	Thiram
U200	50-55-5	Yohimban-16-carboxylic acid, 11,17-dimethoxy-18-((3,4,5-trimethoxybenzoyl)oxy)-, methyl ester, (3beta,16beta,17alpha,18beta,20alpha)-	U246	506-68-3	Cyanogen bromide (CN)Br
U201	108-46-3	1,3-Benzenediol	U247	72-43-5	Benzene, 1,1'-(2,2,2-trichloroethylidene)bis(4-methoxy-methoxychlor
U201	108-46-3	Resorcinol	U247	72-43-5	Methoxychlor
U203	94-59-7	1,3-Benzodioxole, 5-(2-propenyl)-	U248	(1)81-81-2	2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenyl-butyl)-, and salts, [when]if present at concentrations of 0.3% or less
U203	94-59-7	Safrole	U248	(1)81-81-2	Warfarin, and salts, [when]if present at concentrations of 0.3% or less
U204	7783-00-8	Selenious acid	U249	1314-84-7	Zinc phosphide Zn3 P2, [when]if present at concentrations of 10% or less
U204	7783-00-8	Selenium dioxide	U271	17804-35-2	Benomyl
U205	7488-56-4	Selenium sulfide	U271	17804-35-2	Carbamic acid, (1-(butylamino)carbonyl)-1H-benzimidazol-2-yl)-, methyl ester
U205	7488-56-4	Selenium sulfide SeS2 (R,T)	U278	22781-23-3	Bendiocarb
U206	18883-66-4	Glucopyranose, 2-deoxy-2-(3-methyl-3-nitrosoureido)-, D-	U278	22781-23-3	1,3-Benzodioxol-4-ol, 2,2-dimethyl-, methyl carbamate
U206	18883-66-4	D-Glucose, 2-deoxy-2-(((methylnitrosoamino)-carbonyl)amino)-	U279	63-25-2	Carbaryl
U206	18883-66-4	Streptozotocin	U279	63-25-2	1-Naphthalenol, methylcarbamate
U207	95-94-3	Benzene, 1,2,4,5-tetrachloro-	U280	101-27-9	Barban
U207	95-94-3	1,2,4,5-Tetrachlorobenzene	U280	101-27-9	Carbamic acid, (3-chlorophenyl)-, 4-chloro-2-butynyl ester
U208	630-20-6	Ethane, 1,1,1,2-tetrachloro-	U328	95-53-4	Benzenamine, 2-methyl-
U208	630-20-6	1,1,1,2-Tetrachloroethane	U328	95-53-4	o-Toluidine
U209	79-34-5	Ethane, 1,1,2,2-tetrachloro-	U353	106-49-0	Benzenamine, 4-methyl-
U209	79-34-5	1,1,2,2-Tetrachloroethane	U353	106-49-0	p-Toluidine
U210	127-18-4	Ethene, tetrachloro-	U359	110-80-5	Ethanol, 2-ethoxy-
U210	127-18-4	Tetrachloroethylene	U359	110-80-5	Ethylene glycol monoethyl ether
U211	56-23-5	Carbon tetrachloride	U364	22961-82-6	Bendiocarb phenol
U211	56-23-5	Methane, tetrachloro-	U364	22961-82-6	1,3-Benzodioxol-4-ol, 2,2-dimethyl-,
U213	109-99-9	Furan, tetrahydro-(I)	U367	1563-38-8	7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-
U213	109-99-9	Tetrahydrofuran (I)	U367	1563-38-8	Carbofuran phenol
U214	563-68-8	Acetic acid, thallium(1+) salt	U372	10605-21-7	Carbamic acid, 1H-benzimidazol-2-yl, methyl ester
U214	563-68-8	Thallium(I) acetate	U372	10605-21-7	Carbendazim
U215	6533-73-9	Carbonic acid, dithallium(1+) salt	U373	122-42-9	Carbamic acid, phenyl-, 1-methylethyl ester
U215	6533-73-9	Thallium(I) carbonate			
U216	7791-12-0	Thallium(I) chloride			
U216	7791-12-0	Thallium chloride TICl			
U217	10102-45-1	Nitric acid, thallium(1+) salt			
U217	10102-45-1	Thallium(I) nitrate			
U218	62-55-5	Ethanethioamide			
U218	62-55-5	Thioacetamide			
U219	62-56-6	Thiourea			
U220	108-88-3	Benzene, methyl-			
U220	108-88-3	Toluene			
U221	25376-45-8	Benzenediamine, ar-methyl-			
U221	25376-45-8	Toluenediamine			

NOTICES OF PROPOSED RULES

U373	122-42-9	Propham
U387	52888-80-9	Carbamothioic acid, dipropyl-, S-(phenylmethyl) ester
U387	52888-80-9	Prosulfocarb
U389	2303-17-5	Carbamothioic acid, bis(1-methylethyl)-, S-(2,3,3-trichloro-2-propenyl) ester
U389	2303-17-5	Triallate
U394	30558-43-1	A2213
U394	30558-43-1	Ethanimidothioic acid, 2-(dimethylamino)-N-hydroxy-2-oxo-, methyl ester
U395	5952-26-1	Diethylene glycol, dicarbamate
U395	5952-26-1	Ethanol, 2,2'-oxybis-, dicarbamate
U404	121-44-8	Ethanamine, N,N-diethyl-
U404	121-44-8	Triethylamine
U409	23564-05-8	Carbamic acid, (1,2-phenylenebis(iminocarbonothioyl))bis-, dimethyl ester
U409	23564-05-8	Thiophanate-methyl
U410	59669-26-0	Ethanimidothioic acid, N,N'-(thiobis((methylimino)carbonyloxy))bis-, dimethyl ester
U410	59669-26-0	Thiodicarb
U411	114-26-1	Phenol, 2-(1-methylethoxy)-, methylcarbamate
U411	114-26-1	Propoxur
See F027	93-76-5	Acetic acid, (2,4,5-trichlorophenoxy)-
See F027	7-86-5	Pentachlorophenol
See F027	87-86-5	Phenol, pentachloro-
See F027	58-90-2	Phenol, 2,3,4,6-tetrachloro-
See F027	95-95-4	Phenol, 2,4,5-trichloro-
See F027	88-06-2	Phenol, 2,4,6-trichloro-
See F027	93-72-1	Propanoic acid, 2-(2,4,5-trichlorophenoxy)-
See F027	93-72-1	Silvex (2,4,5-TP)
See F027	93-76-5	2,4,5-T
See F027	58-90-2	2,3,4,6-Tetrachlorophenol
See F027	95-95-4	2,4,5-Trichlorophenol
See F027	88-06-2	2,4,6-Trichlorophenol

**KEY: hazardous waste**

**Date of Enactment or Last Substantive Amendment:** ~~October 15, 2019~~ **2020**

**Authorizing, and Implemented or Interpreted Law:** 19-6-105; 19-6-106

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R315-262	Filing No. 52924

**Agency Information**

<b>1. Department:</b>	Environmental Quality
<b>Agency:</b>	Waste Management and Radiation Control, Waste Management
<b>Building:</b>	MASOB
<b>Street address:</b>	195 N 1950 W
<b>City, state:</b>	Salt Lake City, UT
<b>Mailing address:</b>	PO Box 144880
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4880
<b>Contact person(s):</b>	

Name:	Phone:	Email:
Thomas Ball	801-536-0251	tball@utah.gov
Rusty Lundberg	801-536-4257	rlundberg@utah.gov

Please address questions regarding information on this notice to the agency.

**General Information**

<b>2. Rule or section catchline:</b>
R315-262. Hazardous Waste Generator Requirements

**3. Purpose of the new rule or reason for the change:**

Under the current rules for management of hazardous waste, a small portion of pharmaceuticals are regulated as hazardous wastes when disposed. Hospitals, clinics, nursing homes, and other facilities that generate hazardous waste pharmaceuticals have experienced difficulty complying with the framework of the hazardous waste rules. To respond to these concerns and facilitate compliance among healthcare facilities, the Environmental Protection Agency (EPA) has finalized a tailored, sector-specific regulatory framework for managing hazardous waste pharmaceuticals at healthcare facilities and reverse distributors (facilities that receive and accumulate prescription pharmaceuticals for the purpose of facilitating manufacturer credit). On February 22, 2019, the EPA published the final rule in the Federal Register (84 FR 5816). The final rule entitled, Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine, applies to healthcare facilities that generate, accumulate, or otherwise handle hazardous waste pharmaceuticals and reverse distributors engaged in the management of prescription hazardous waste pharmaceuticals.

As stated above the rule provides a new set of sector-specific standards for healthcare facilities (for both humans and animals) and reverse distributors for management of their hazardous waste pharmaceuticals in lieu of the existing hazardous waste generator regulations. The final rule promulgates Sections R315-266-500 through R315-266-510. Healthcare facilities and reverse distributors must manage their hazardous waste pharmaceuticals under this new set of rules in lieu of operating under Rule R315-262 as they have been. These operating standards include a prohibition on disposing of hazardous waste pharmaceuticals in the sewer, called sewerage. The new rules also include a conditional exemption for hazardous waste pharmaceuticals that are also identified as controlled substances by the Drug Enforcement Administration (DEA). Further, the rules redefine when containers that held hazardous waste pharmaceuticals are considered empty. Healthcare facilities that are very small quantity generators (VSQGs) must comply with the sewer prohibition for their hazardous waste pharmaceuticals under the new rules and have the



option of complying with Sections R315-266-500 through R315-266-510 in lieu of operating under the conditional exemption found in Section R315-262-14. Additionally, the final rule amends the P075 acute hazardous waste listing for nicotine and salts to indicate that U.S. Food and Drug Administration (FDA)-approved over-the-counter (OTC) nicotine replacement therapies (NRTs) are not included in the listing.

These rule changes became effective at the Federal level on August 21, 2019. (EDITOR'S NOTE: The proposed amendment to Rule R315-266 is under Filing No. 52927 in this issue, August 1, 2020, of the Bulletin.)

**4. Summary of the new rule or change:**

Subsection R315-262-10(n) is added. This rule states that reverse distributors are subject to Sections R315-266-500 through R315-266-510 for the management of hazardous waste pharmaceuticals in lieu of Rule R315-262.

Subsection R315-262-10(o) is added. This rule requires healthcare facilities determine whether they are subject to Sections R315-266-500 through R315-266-510 and if they are, the rule states that healthcare facilities are subject to Sections R315-266-500 through R315-266-510 for the management of hazardous waste pharmaceuticals in lieu of Rule R315-262. The rule also exempts healthcare facilities that are very small quantity generators from most of Sections R315-266-500 through R315-266-510.

Subsection R315-262-13(c)(9) is added. This rule excludes hazardous waste pharmaceuticals that are managed in accordance with Sections R315-266-500 through R315-266-510 or that are also a Drug Enforcement Administration controlled substance from being counted by a generator as part of the amount of hazardous waste generated each month.

Subsection R315-262-14(a)(5)(ix) is amended and is no longer reserved. This amendment allows healthcare facilities that are VSQGs to ship potentially creditable hazardous waste pharmaceuticals to a reverse distributor.

Subsection R315-262-14(a)(5)(x) is amended and is no longer reserved. This amendment allows healthcare facilities that are VSQGs to ship hazardous waste pharmaceuticals to another healthcare facility that meets the conditions in new Subsections R315-266-502(l) and R315-266-503(b).

In addition to the amendments listed above, nonsubstantive changes were made to correct typographical errors and to the format and the wording throughout the amended rule to correct format and wording that was not consistent with the current Rulewriting Manual for Utah Rulewriters.

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**

The operates one hospital. This hospital is not currently listed as a generator of hazardous waste which could mean that the hospital does not generate any hazardous waste or is a VSQG of hazardous waste. However, this hospital could be subject to the new rules because it falls under the definition of healthcare facility as contained in the rules.

Adoption of these new rules could result in no change to the state budget if the hospital does not generate any hazardous waste.

If the hospital were to generate hazardous waste, then the estimated cost due to the adoption of this rule is approximately \$85 per year. The estimated savings due to the adoption of this rule is approximately \$245 per year and would result in an overall cost savings of approximately \$160 per year.

Data to assist in making this determination was obtained from the EPA document entitled "Regulatory Impact Analysis for EPA's Final Regulations for the Management of Hazardous Waste Pharmaceuticals" dated October 2018.

**B) Local governments:**

It is not anticipated that adoption of these rule changes will have any effect on local governments because no local governments in the operate healthcare facilities or reverse distributors.

**C) Small businesses ("small business" means a business employing 1-49 persons):**

There are approximately 7,437 facilities in the that are healthcare facilities and reverse distributors as defined by this rule. Approximately 6,956 of these facilities are small businesses that would potentially be affected by this rule. Not all healthcare facilities and reverse distributors are generators of hazardous waste so it is not possible to determine exactly how many of these businesses will be affected by this rule adoption. Based on information obtained from EPA, it is estimated that approximately 904 of these facilities are generators of hazardous waste. The estimated cost to small businesses due to the adoption of this rule is approximately \$85 per year. The estimated savings to small businesses due to the adoption of this rule is approximately \$245 per year resulting in an overall cost savings of approximately \$160 per year.

Data to assist in making this determination was obtained from the EPA document entitled "Regulatory Impact Analysis for EPA's Final Regulations for the Management of Hazardous Waste Pharmaceuticals" dated October 2018.

**D) Non-small businesses ("non-small business" means a business employing 50 or more persons):**

As stated previously, there are approximately 7,437 facilities in the that are healthcare facilities and reverse distributors as defined by this rule. Approximately 476 of these facilities are non-small businesses that would potentially be affected by this rule. Not all healthcare facilities and reverse distributors are generators of hazardous waste so it is not possible to determine exactly how many of these businesses will be affected by this rule adoption. Based on information obtained from EPA, it is estimated that approximately 62 of these facilities are generators of hazardous waste. The estimated cost to non-small businesses due to the adoption of this rule is approximately \$85 per year. The estimated savings to non-small businesses due to the adoption of this rule is approximately \$245 per year resulting in an overall cost savings of approximately \$160 per year.

Data to assist in making this determination was obtained from the EPA document entitled "Regulatory Impact Analysis for EPA's Final Regulations for the Management of Hazardous Waste Pharmaceuticals" dated October 2018.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The Division believes that all facilities that could be impacted fiscally by this rule are captured in the four previous categories. It is anticipated if there are any persons other than small businesses, non-small businesses, state, or local governments that are healthcare facilities or reverse distributors, that these persons would see a cost savings with the adoption of this rule similar to the savings discussed previously.

**F) Compliance costs for affected persons:**

It is not anticipated that there will be any additional compliance costs for affected persons due to the adoption of this rule other than those mentioned above.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$85	\$85	\$85
Local Governments	\$0	\$0	\$0
Small Businesses	\$76,840	\$76,840	\$76,840
Non-Small Businesses	\$5,270	\$5,270	\$5,270

Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$82,195</b>	<b>\$82,195</b>	<b>\$82,195</b>
<b>Fiscal Benefits</b>			
State Government	\$245	\$245	\$245
Local Governments	\$0	\$0	\$0
Small Businesses	\$221,480	\$221,480	\$221,480
Non-Small Businesses	\$15,190	\$15,190	\$15,190
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$236,915</b>	<b>\$236,915</b>	<b>\$236,915</b>
<b>Net Fiscal Benefits</b>	<b>\$154,720</b>	<b>\$154,720</b>	<b>\$154,720</b>

**H) Department head approval of regulatory impact analysis:**

The Executive Director of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

It is not anticipated that these rule changes will have a negative fiscal impact on any healthcare facility or reverse distributor involved in the management of hazardous waste pharmaceuticals. This rule simplifies requirements and provides regulatory flexibilities and thereby improves regulatory clarity for healthcare facilities and provides more regulatory certainty for reverse distributors. The simplification and clarity provided by these rule changes will reduce the regulatory burden on these facilities, increase compliance, and result in better protection of human health and the environment.

**B) Name and title of department head commenting on the fiscal impacts:**

L. Scott Baird, Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Section 19-6-104	Section 19-6-105	Section 19-6-106
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1. (The public may also**

request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	08/31/2020
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<b>10. This rule change MAY become effective on:</b>	09/14/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Ty L. Howard, Director	<b>Date:</b>	07/09/2020
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**R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.**

**R315-262. Hazardous Waste Generator Requirements.**

**R315-262-10. General – Purpose, Scope, and Applicability.**

(a) The ~~regulations~~rules in Rule R315-262 establish standards for generators of hazardous waste as defined by Section R315-260-10.

(1) A person who generates a hazardous waste as defined by Rule R315-261 is subject to ~~all~~the applicable independent requirements in ~~the sections listed below~~Subsections R315-262-10(a)(1)(i) through R315-262-10(a)(1)(iii).

(i) Independent requirements of a very small quantity generator[-];

(A) Subsections R315-262-11(a) through R315-262-11(d) Hazardous waste determination and recordkeeping; and

(B) Section R315-262-13 Generator category determination.

(ii) Independent requirements of a small quantity generator[-];

(A) Section R315-262-11 Hazardous waste determination and recordkeeping;

(B) Section R315-262-13 Generator category determination;

(C) Section R315-262-18 EPA identification numbers and re-notification for small quantity generators and large quantity generators;

(D) Sections R315-262-20 through R315-262-27--Manifest requirements applicable to small and large quantity generators;

(E) Sections R315-262-30 through R315-262-34--Pre-transport requirements applicable to small and large quantity generators;

(F) Section R315-262-40 Recordkeeping;

(G) Section R315-262-44 Recordkeeping for small quantity generators; and

(H) Sections R315-262-80 through R315-262-84--Transboundary movements of hazardous waste for recovery or disposal.

(iii) Independent requirements of a large quantity generator[-];

(A) Section R315-262-11 Hazardous waste determination and recordkeeping;

(B) Section R315-262-13 Generator category determination;

(C) Section R315-262-18 EPA identification numbers and re-notification for small quantity generators and large quantity generators;

(D) Sections R315-262-20 through R315-262-27--Manifest requirements applicable to small and large quantity generators;

(E) Sections R315-262-30 through R315-262-34--Pre-transport requirements applicable to small and large quantity generators;

(F) Sections R315-262-40 through R315-262-44--Recordkeeping and reporting applicable to small and large quantity generators, except Section R315-262-44; and

(G) Sections R315-262-80 through R315-262-84--Transboundary movements of hazardous waste for recovery or disposal.

(2) A generator that accumulates hazardous waste on site is a person that stores hazardous waste; such generator is subject to the applicable requirements of Rule R315-124, R315-264 through R315-266, R315-270 and section 3010 of RCRA, unless it is one of the following:

(i) [A]a very small quantity generator that meets the conditions for exemption in Section R315-262-14;

(ii) [A]a small quantity generator that meets the conditions for exemption in Sections R315-262-15 and R315-262-16; or

(iii) [A]a large quantity generator that meets the conditions for exemption in Sections R315-262-15 and R315-262-17.

(3) A generator shall not transport, offer its hazardous waste for transport, or otherwise cause its hazardous waste to be sent to a facility that is not a designated facility, as defined in Section R315-260-10, or not otherwise authorized to receive the generator's hazardous waste.

(b) Determining generator category. A generator shall use Section R315-262-13 to determine which provisions of Rule R315-262 are applicable to the generator based on the quantity of hazardous waste generated per calendar month.

(c) Reserved.

(d) Any person who exports or imports hazardous wastes shall comply with Section R315-262-18 and Sections R315-262-80 through R315-262-84.

(e) Any person who imports hazardous waste into the United States shall comply with the standards applicable to generators established in Rule R315-262.

(f) A farmer who generates waste pesticides which are hazardous waste and who complies with ~~all of~~the requirements of Section R315-262-70 is not required to comply with other standards in Rule R315-262 or Rules R315-[-]270, R315-264, R315-265, or R315-268 with respect to such pesticides.

(1) A generator's violation of an independent requirement is subject to penalty and injunctive relief under Sections 19-6-112 and 19-6-113.

(2) A generator's noncompliance with a condition for exemption in Rule R315-262 is not subject to penalty or injunctive relief under Sections 19-6-112 and 19-6-113 as a violation of a Rule R315-262 condition for exemption. Noncompliance by any generator with an applicable condition for exemption from storage permit and operations requirements means that the facility is a storage facility operating without an exemption from the permit, interim status, and operations requirements in Rules R315-124, R315-264 through R315-266, and R315-270, and the notification requirements of section 3010 of RCRA. Without an exemption, any violations of such storage requirements are

subject to penalty and injunctive relief under Sections 19-6-112 and 19-6-113.

(h) An owner or operator who initiates a shipment of hazardous waste from a treatment, storage, or disposal facility shall comply with the generator standards established in Rule R315-262.

Note 1: ~~The provisions of~~ Section R315-262-34 ~~are~~ applicable to the on-site accumulation of hazardous waste by generators. Therefore, ~~the provisions of~~ Section R315-262-34 only apply to owners or operators who are shipping hazardous waste which they generated at that facility.

Note 2: A generator who treats, stores, or disposes of hazardous waste on-site shall comply with the applicable standards and permit requirements set forth in Rules R315-264, R315-265, R315-266, R315-268, and R315-270.

- (i) Reserved.
- (j) Reserved.
- (k) Reserved.

(l) The laboratories owned by an eligible academic entity that chooses to be subject to the requirements of Sections R315-262-200 through R315-262-216 are not subject to, for purposes of Subsection R315-262-10(l), the terms "laboratory" and "eligible academic entity" shall have the meaning as defined in Section R315-262-200:

(1) ~~The~~ independent requirements of Section R315-262-11 or the ~~regulations~~ rules in Section R315-262-15 for large quantity generators and small quantity generators, except as provided in Sections R315-262-200 through R315-262-216; and

(2) ~~The~~ conditions of Section R315-262-14, for very small quantity generators, except as provided in Sections R315-262-200 through R315-262-216.

(m) Generators of lamps, as defined in Section R315-273-9, using a drum-top crusher, as defined in Section R315-273-9, shall meet the requirements of Subsection R315-273-13(d)(3), except for the registration requirement; and Subsections R315-273-13(d)(4) and R315-273-13(d)(5).

(n) Reverse distributors, as defined in Section R315-266-500, are subject to Sections R315-266-500 through R315-266-510 for the management of hazardous waste pharmaceuticals in lieu of Rule R315-262.

(o) Each healthcare facility, as defined in Section R315-266-500, shall determine whether it is subject to Sections R315-266-500 through R315-266-510 for the management of hazardous waste pharmaceuticals, based on the total hazardous waste it generates per calendar month, including both hazardous waste pharmaceuticals and non-pharmaceutical hazardous waste. A healthcare facility that generates more than 100 kg, 220 pounds, of hazardous waste per calendar month, or more than 1 kg, 2.2 pounds, of acute hazardous waste per calendar month, or more than 100 kg, 220 pounds, per calendar month of any residue or contaminated soil, water, or other debris, resulting from the clean-up of a spill, into or on any land or water, of any acute hazardous wastes listed in Section R315-261-31 or Subsection R315-261-33(e), is subject to Sections R315-266-500 through R315-266-510 for the management of hazardous waste pharmaceuticals in lieu of Rule R315-262. A healthcare facility that is a very small quantity generator when counting its hazardous waste, including both its hazardous waste pharmaceuticals and its non-pharmaceutical hazardous waste, remains subject to Section R315-262-14 and is not subject to Sections R315-266-500 through R315-266-510, except for Sections R315-266-505 and R315-266-507 and the optional provisions of Section R315-266-504.

Note: A generator who treats, stores, or disposes of hazardous waste on-site shall comply with the applicable standards and permit

requirements set forth in Rules R315-264, R315-265, R315-266, R315-268, and R315-270.

**R315-262-13. General – Generator Category Determination.**

A generator shall determine its generator category. A generator's category is based on the amount of hazardous waste generated each month and may change from month to month. This section sets forth procedures to determine whether a generator is a very small quantity generator, a small quantity generator, or a large quantity generator for a particular month, as defined in Section R315-260-10.

(a) Generators of either acute hazardous waste or non-acute hazardous waste. A generator who either generates acute hazardous waste or non-acute hazardous waste in a calendar month shall determine its generator category for that month by doing the following:

- (1) ~~C~~counting the total amount of hazardous waste generated in the calendar month;
- (2) ~~S~~subtracting from the total any amounts of waste exempt from counting as described in Subsections R315-262-13(c) and R315-262-13(d); and
- (3) ~~D~~determining the resulting generator category for the hazardous waste generated using Table 1 below.

(b) Generators of both acute and non-acute hazardous wastes. A generator who generates both acute hazardous waste and non-acute hazardous waste in ~~the same~~ a calendar month shall determine its generator category for that month by doing the following:

- (1) ~~C~~counting separately the total amount of acute hazardous waste and the total amount of non-acute hazardous waste generated in the calendar month;
- (2) ~~S~~subtracting from each total any amounts of waste exempt from counting as described in Subsections R315-262-13(c) and (d);
- (3) ~~D~~determining separately the resulting generator categories for the quantities of acute and non-acute hazardous waste generated using Table 1 below; and
- (4) ~~C~~comparing the resulting generator categories from Subsection R315-262-13(b)(3) and applying the more stringent generator category to the accumulation and management of both non-acute hazardous waste and acute hazardous waste generated for that month.

TABLE 1 to Section R315-262-13

Generator Categories Based on Quantity of Waste Generated in a Calendar Month			
Quantity of acute hazardous waste generated in a calendar month	Quantity of non-acute hazardous waste generated in a calendar month	Quantity of residues from a cleanup of acute hazardous waste generated in a calendar month	Generator category
>1kg	Any amount	Any amount	Large quantity generator
Any amount	> or = 1,000kg	Any amount	Large quantity generator
Any amount	Any Amount	>100kg	Large quantity generator
< or = 1 kg	>100 kg and < 1,000 kg	< or = 100 kg	Small quantity Generator
< or = 1 kg	< or = 100 kg	< or = 100 kg	Very small quantity generator

(c) When making the monthly quantity-based determinations required by Rule R315-262, the generator shall include ~~[a] hazardous waste that it generates, except hazardous waste that:~~

(1) ~~[H] is exempt from regulation under Subsections R315-261-4(c) through R315-261-4(f), R315-261-6(a)(3), R315-261-7(a)(1), or Section R315-261-8;~~

(2) ~~[H] is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities as defined in Section R315-260-10;~~

(3) ~~[H] is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under Subsection R315-261-6(c)(2);~~

(4) ~~[H] is used oil managed under the requirements of Subsection R315-261-6(a)(4) and Section R315-15;~~

(5) ~~[H] is spent lead-acid batteries managed under the requirements of Section R315-266-80;~~

(6) ~~[H] is universal waste managed under Section R315-261-9 and Rule R315-273;~~

(7) ~~[H] is a hazardous waste that is an unused commercial chemical product, listed in Sections R315-261-30 through R315-261-35 or exhibiting one or more characteristics in Sections R315-261-20 through R315-261-24, that is generated solely as a result of a laboratory clean-out conducted at an eligible academic entity pursuant to Section R315-262-213. For purposes of ~~[this provision]~~ Subsection R315-262-13(c)(7), the term eligible academic entity shall have the meaning as defined in Section R315-262-200;~~[-]~~~~

(8) ~~[H] is managed as part of an episodic event in compliance with the conditions of Sections R315-262-230 through R315-262-233[-]; or~~

~~(9) is a hazardous waste pharmaceutical, as defined in Section R315-266-500, that is subject to or managed in accordance with Sections R315-266-500 through R315-266-510 or is a hazardous waste pharmaceutical that is also a Drug Enforcement Administration controlled substance and is conditionally exempt under Section R315-266-506.~~

(d) In determining the quantity of hazardous waste generated in a calendar month, a generator need not include:

(1) ~~[H] hazardous waste ~~[when]~~ if it is removed from on-site accumulation, so long as the hazardous waste was previously counted once;~~

(2) ~~[H] hazardous waste generated by on-site treatment, ~~[including reclamation]~~, of the generator's hazardous waste, so long as the hazardous waste that is treated was previously counted once; and~~

(3) ~~[H] hazardous waste spent materials that are generated, reclaimed, and subsequently reused on site, so long as such spent materials have been previously counted once.~~

(e) Based on the generator category as determined under Section R315-262-13, the generator shall meet the applicable independent requirements listed in Section R315-262-10. A generator's category also determines which of the provisions of Sections R315-262-14, R315-262-15, R315-262-16 or R315-262-17 shall be met to obtain an exemption from the storage facility permit, interim status, and operating requirements when accumulating hazardous waste.

(f) Mixing hazardous wastes with solid wastes,

(1) Very small quantity generator wastes.

(i) Hazardous wastes generated by a very small quantity generator may be mixed with solid wastes. Very small quantity generators may mix ~~[a portion or all of]~~ its hazardous waste with solid waste and remain subject to Section R315-262-14 even though the resultant mixture exceeds the quantity limits identified in the definition of very small quantity generator at Section R315-260-10, unless the

mixture exhibits one or more of the characteristics of hazardous waste identified in Sections R315-261-20 through R315-261-24.

(ii) If the resulting mixture exhibits a characteristic of hazardous waste, this resultant mixture is a newly-generated hazardous waste. The very small quantity generator shall count both the resultant mixture amount plus the other hazardous waste generated in the calendar month to determine whether the total quantity exceeds the very small quantity generator calendar month quantity limits identified in the definition of generator categories found in Section R315-260-10. If so, to remain exempt from the permitting, interim status, and operating standards, the very small quantity generator shall meet the conditions for exemption applicable to either a small quantity generator or a large quantity generator. The very small quantity generator shall also comply with the applicable independent requirements for either a small quantity generator or a large quantity generator.

(iii) If a very small quantity generator's wastes are mixed with used oil, the mixture is subject to Rule R315-15. Any material produced from such a mixture by processing, blending, or other treatment is also regulated under Rule R315-15.

(2) Small quantity generator and large quantity generator wastes.

(i) Hazardous wastes generated by a small quantity generator or large quantity generator may be mixed with solid waste. These mixtures are subject to the following: the mixture rule in Subsections R315-261-3(a)(2)(iv), R315-261-3(b)(2) and R315-261-3(b)(3), and R315-261-3(g)(2)(i); the prohibition of dilution rule at Subsection R315-268-3(a); the land disposal restriction requirements of Section R315-268-40 if a characteristic hazardous waste is mixed with a solid waste so that it no longer exhibits the hazardous characteristic; and the hazardous waste determination requirement at Section R315-262-11.

(ii) If the resulting mixture is found to be a hazardous waste, this resultant mixture is a newly-generated hazardous waste. A small quantity generator shall count both the resultant mixture amount plus the other hazardous waste generated in the calendar month to determine whether the total quantity exceeds the small quantity generator calendar monthly quantity limits identified in the definition of generator categories found in Section R315-260-10. If so, to remain exempt from the permitting, interim status, and operating standards, the small quantity generator shall meet the conditions for exemption applicable to a large quantity generator. The small quantity generator shall also comply with the applicable independent requirements for a large quantity generator.

#### **R315-262-14. General – Conditions For Exemption for a Very Small Quantity Generator.**

(a) Provided that the very small quantity generator meets ~~[a]~~ the conditions for exemption listed in Section R315-262-14, hazardous waste generated by the very small quantity generator is not subject to the requirements of Rules R315-124, R315-262, ~~[except Sections R315-262-10 through R315-262-14]~~, through R315-268~~[-]~~ and R315-270, and the notification requirements of section 3010 of RCRA and the very small quantity generator may accumulate hazardous waste on site without complying with such requirements. The conditions for exemption are as follows:

(1) In a calendar month the very small quantity generator generates less than or equal to the amounts specified in the definition of "very small quantity generator" in Section R315-260-10;

(2) The very small quantity generator complies with Subsections R315-262-11(a) through R315-262-11(d);

(3) If the very small quantity generator accumulates at any time greater than 1 kilogram, ~~[2.2 lbs]~~, of acute hazardous waste or 100 kilograms, ~~[220 lbs]~~, of any residue or contaminated soil, water,

NOTICES OF PROPOSED RULES

or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste listed in Section R315-261-31 or Subsection R315-261-33(c), [aH]the quantities of that acute hazardous waste are subject to the following additional conditions for exemption:

(i) [S]such waste is held on site for no more than 90 days beginning on the date when the accumulated wastes exceed the amounts provided in Subsection R315-262-14(a)(3); and

(ii) [F]the conditions for exemption in Subsections R315-262-17(a) through R315-262-17(g).

(4) If the very small quantity generator accumulates at any time 1,000 kilograms, [€]2,200 lbs[€], or greater of non-acute hazardous waste, [aH]the quantities of that hazardous waste are subject to the following additional conditions for exemption:

(i) [S]such waste is held on site for no more than 180 days, or 270 days, if applicable, beginning on the date when the accumulated waste exceed the amounts provided in Subsection R315-262-14(a)(4);

(ii) [F]the quantity of waste accumulated on site never exceeds 6,000 kilograms, [€]13,200 lbs[€]; and

(iii) [F]the conditions for exemption in Subsections R315-262-16(b)(2) through R315-262-16(f).

(5) A very small quantity generator that accumulates hazardous waste in amounts less than or equal to the limits in Subsections R315-262-14(a)(3) and R315-262-14(a)(4) shall either treat or dispose of its hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, either of which, if located in the U.S., is:

(i) [P]permitted under Rule R315-270;

(ii) [H]in interim status under Rules R315-265 and R315-270;

(iii) [A]authorized to manage hazardous waste by a state with a hazardous waste management program approved under 40 CFR 271;

(iv) [P]permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill is subject to Rules R315-301 through R315-320;

(v) [P]permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit, is subject to the requirements in Rules R315-301 through R315-320 or 40 CFR 257.5 through 257.30;

(vi) [A]a facility which:

(A) [B]beneficially uses or reuses, or legitimately recycles or reclaims its waste; or

(B) [F]treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation;

(vii) [F]for universal waste managed under Rule R315-273, a universal waste handler or destination facility subject to the requirements of Rule R315-273;

(viii) [A]a large quantity generator under the control of the same person as the very small quantity generator, provided the following conditions are met:

(A) The very small quantity generator and the large quantity generator are under the control of the same person as defined in Section R315-260-10. "Control," for the purposes of Subsection R315-262-14(a)(5)(viii), means the power to direct the policies of the generator, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate generator facilities on behalf of a different person as defined in Section R315-260-10 shall not be deemed to "control" such generators.

(B) The very small quantity generator marks its container[€s] of hazardous waste with:

(1) The words "Hazardous Waste"; and

(2) An indication of the hazards of the contents, examples include, but are not limited to:

(I) the applicable hazardous waste characteristic[€s], [i.e.,] ignitable, corrosive, reactive, toxic;

(II) hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E, labeling, or subpart F, placarding;

(III) a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or

(IV) a chemical hazard label consistent with the National Fire Protection Association code 704.

(ix) [Reserved]A reverse distributor, as defined in Section R315-266-500, if the hazardous waste pharmaceutical is a potentially creditable hazardous waste pharmaceutical generated by a healthcare facility, as defined in Section R315-266-500.

(x) [Reserved]A healthcare facility, as defined in Section R315-266-500, that meets the conditions in Subsections R315-266-502(l) and R315-266-503(b), as applicable, to accept non-creditable hazardous waste pharmaceuticals from an off-site healthcare facility that is a very small quantity generator.

(xi) For airbag waste, an airbag waste collection facility or a designated facility subject to the requirements of Subsection R315-261-4(j).

(b) The placement of bulk or non-containerized liquid hazardous waste or hazardous waste containing free liquids, [€]whether or not sorbents have been added[€], in any landfill is prohibited.

(c) A very small quantity generator experiencing an episodic event may generate and accumulate hazardous waste in accordance with Sections R315-262-230 through R315-262-233 in lieu of Sections R315-262-15, R315-262-16, and R315-262-17.

**KEY: hazardous waste, generators**

**Date of Enactment or Last Substantive Amendment:** ~~April 13, 2020~~

**Authorizing, and Implemented or Interpreted Law:** 19-6-105; 19-6-106

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Amendment

<b>Utah Admin. Code Ref (R no.):</b>	<b>R315-264-1</b>	<b>Filing No.</b>	<b>52925</b>
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**Agency Information**

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Waste Management and Radiation Control, Waste Management	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state:</b>	Salt Lake City, UT	
<b>Mailing address:</b>	PO Box 144880	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4880	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Thomas Ball	801-536-0251	tball@utah.gov

Rusty Lundberg	801-536-4257	rlundberg@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R315-264-1. General – Purpose, Scope and Applicability

<b>3. Purpose of the new rule or reason for the change:</b>
Under the current rules for management of hazardous waste, a small portion of pharmaceuticals are regulated as hazardous wastes when disposed. Hospitals, clinics, nursing homes, and other facilities that generate hazardous waste pharmaceuticals have experienced difficulty complying with the framework of the hazardous waste rules. To respond to these concerns and facilitate compliance among healthcare facilities, the Environmental Protection Agency (EPA) has finalized a tailored, sector-specific regulatory framework for managing hazardous waste pharmaceuticals at healthcare facilities and reverse distributors (facilities that receive and accumulate prescription pharmaceuticals for the purpose of facilitating manufacturer credit). On February 22, 2019, the EPA published the final rule in the Federal Register (84 FR 5816). The final rule entitled, Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine, applies to healthcare facilities that generate, accumulate, or otherwise handle hazardous waste pharmaceuticals and reverse distributors engaged in the management of prescription hazardous waste pharmaceuticals.

As stated above the rule provides a new set of sector-specific standards for healthcare facilities (for both humans and animals) and reverse distributors for management of their hazardous waste pharmaceuticals in lieu of the existing hazardous waste generator regulations. The final rule promulgates Sections R315-266-500 through R315-266-510. Healthcare facilities and reverse distributors must manage their hazardous waste pharmaceuticals under this new set of rules in lieu of operating under Rule R315-262 as they have been. These operating standards include a prohibition on disposing of hazardous waste pharmaceuticals in the sewer, called sewerage. The new rules also include a conditional exemption for hazardous waste pharmaceuticals that are also identified as controlled substances by the Drug Enforcement Administration (DEA). Further, the rules redefine when containers that held hazardous waste pharmaceuticals are considered empty. Healthcare facilities that are very small quantity generators (VSQGs) must comply with the sewer prohibition for their hazardous waste pharmaceuticals under the new rules and have the option of complying with Sections R315-266-500 through R315-266-510 in lieu of operating under the conditional exemption found in Section R315-262-14. Additionally, the final rule amends the P075 acute hazardous waste listing for nicotine and salts to indicate that U.S. Food and Drug

Administration (FDA)-approved over-the counter (OTC) nicotine replacement therapies (NRTs) are not included in the listing.
These rule changes became effective at the Federal level on August 21, 2019. (EDITOR'S NOTE: The proposed amendment to Rule R315-262 is under Filing No. 52924 and the proposed amendment to Rule R315-266 is under Filing No. 52927 in this issue, August 1, 2020, of the Bulletin.)

<b>4. Summary of the new rule or change:</b>
Subsection R315-264-1(g)(13) is added. This rule states that the requirements of Rule R315-264 do not apply to reverse distributors accumulating potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals. The rule states that these reverse distributors are subject to Sections R315-266-500 through R315-266-510.
In addition to the amendments listed above, nonsubstantive changes were made to correct typographical errors and to the format and the wording throughout the amended rule to correct format and wording that was not consistent with the current Rulewriting Manual for Utah Rulewriters.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The operates one hospital. This hospital is not currently listed as a generator of hazardous waste which could mean that the hospital does not generate any hazardous waste or is a VSQG of hazardous waste. However, this hospital could be subject to the new rules because it falls under the definition of healthcare facility as contained in the rules.
Adoption of these new rules could result in no change to the state budget if the hospital does not generate any hazardous waste.
If the hospital were to generate hazardous waste, then the estimated cost due to the adoption of this rule is approximately \$85 per year. The estimated savings due to the adoption of this rule is approximately \$245 per year and would result in an overall cost savings of approximately \$160 per year.
Data to assist in making this determination was obtained from the EPA document entitled "Regulatory Impact Analysis for EPA's Final Regulations for the Management of Hazardous Waste Pharmaceuticals" dated October 2018.
<b>B) Local governments:</b>
It is not anticipated that adoption of these rule changes will have any effect on local governments because no local

governments in the operate healthcare facilities or reverse distributors.

**C) Small businesses** ("small business" means a business employing 1-49 persons):

There are approximately 7,437 facilities in the that are healthcare facilities and reverse distributors as defined by this rule. Approximately 6,956 of these facilities are small businesses that would potentially be affected by this rule. Not all healthcare facilities and reverse distributors are generators of hazardous waste so it is not possible to determine exactly how many of these businesses will be affected by this rule adoption. Based on information obtained from EPA, it is estimated that approximately 904 of these facilities are generators of hazardous waste. The estimated cost to small businesses due to the adoption of this rule is approximately \$85 per year. The estimated savings to small businesses due to the adoption of this rule is approximately \$245 per year resulting in an overall cost savings of approximately \$160 per year.

Data to assist in making this determination was obtained from the EPA document entitled "Regulatory Impact Analysis for EPA's Final Regulations for the Management of Hazardous Waste Pharmaceuticals" dated October 2018.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):

As stated previously, there are approximately 7,437 facilities in the that are healthcare facilities and reverse distributors as defined by this rule. Approximately 476 of these facilities are non-small businesses that would potentially be affected by this rule. Not all healthcare facilities and reverse distributors are generators of hazardous waste so it is not possible to determine exactly how many of these businesses will be affected by this rule adoption. Based on information obtained from EPA, it is estimated that approximately 62 of these facilities are generators of hazardous waste. The estimated cost to non-small businesses due to the adoption of this rule is approximately \$85 per year. The estimated savings to non-small businesses due to the adoption of this rule is approximately \$245 per year resulting in an overall cost savings of approximately \$160 per year.

Data to assist in making this determination was obtained from the EPA document entitled "Regulatory Impact Analysis for EPA's Final Regulations for the Management of Hazardous Waste Pharmaceuticals" dated October 2018.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The Division believes that all facilities that could be impacted fiscally by this rule are captured in the four previous categories. It is anticipated if there are any persons other than small businesses, non-small businesses, state, or local governments that are healthcare facilities or reverse distributors, that these persons would see a cost savings with the adoption of this rule similar to the savings discussed previously.

**F) Compliance costs for affected persons:**

It is not anticipated that there will be any additional compliance costs for affected persons due to the adoption of this rule other than those mentioned above.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$85	\$85	\$85
Local Governments	\$0	\$0	\$0
Small Businesses	\$76,840	\$76,840	\$76,840
Non-Small Businesses	\$5,270	\$5,270	\$5,270
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$82,195</b>	<b>\$82,195</b>	<b>\$82,195</b>
<b>Fiscal Benefits</b>			
State Government	\$245	\$245	\$245
Local Governments	\$0	\$0	\$0
Small Businesses	\$221,480	\$221,480	\$221,480
Non-Small Businesses	\$15,190	\$15,190	\$15,190
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$236,915</b>	<b>\$236,915</b>	<b>\$236,915</b>
<b>Net Fiscal Benefits</b>	<b>\$154,720</b>	<b>\$154,720</b>	<b>\$154,720</b>

**H) Department head approval of regulatory impact analysis:**

The Executive Director of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.



**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

It is not anticipated that these rule changes will have a negative fiscal impact on any healthcare facility or reverse distributor involved in the management of hazardous waste pharmaceuticals. This rule simplifies requirements and provides regulatory flexibilities and thereby improves regulatory clarity for healthcare facilities and provides more regulatory certainty for reverse distributors. The simplification and clarity provided by these rule changes will reduce the regulatory burden on these facilities, increase compliance, and result in better protection of human health and the environment.

**B) Name and title of department head commenting on the fiscal impacts:**

L. Scott Baird, Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Section 19-6-104	Section 19-6-105	Section 19-6-106
------------------	------------------	------------------

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	08/31/2020
--	------------

<b>10. This rule change MAY become effective on:</b>	09/07/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Ty L. Howard, Director	<b>Date:</b>	07/09/2020
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**R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.**

**R315-264. Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.**

**R315-264-1. General -- Purpose, Scope and Applicability.**

(a) The purpose of Rule R315-264 is to establish minimum [State of Utah] standards [which] that define the acceptable management of hazardous waste.

(b) The standards in Rule R315-264 apply to each owner[s] and operator[s] of [all] facilities [which] that treat, store, or dispose of hazardous waste, except as specifically provided otherwise in Rules R315-264 or R315-261.

(c) Reserved

(d) The requirements of Rule R315-264 apply to a person disposing of hazardous waste by means of underground injection subject to a permit issued under an Underground Injection Control (UIC) program approved or promulgated under the Safe Drinking Water Act only to the extent they are required by 40 CFR 144.14. Rule R315-264 applies to the above-ground treatment or storage of hazardous waste before it is injected underground.

(e) The requirements of Rule R315-264 apply to [the] each owner or operator of a POTW [which] that treats, stores, or disposes of hazardous waste only to the extent they are included in a RCRA permit by rule granted to such a person under Rule R315-270.

(f) Reserved

(g) The requirements of Rule R315-264 do not apply to the following:

(1) The owner or operator of a facility permitted under Rules R315-301 through R315-320 to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under Rule R315-264 by Section R315-262-14[5].

(2) The owner or operator of a facility managing recyclable materials described in Subsections R315-261-6(a)(2), R315-261-6(a)(3), and R315-261-6(a)(4), except to the extent they are referred to in Rule R315-15 or Sections R315-266-20 through R315-266-23, R315-266-70, R315-266-80, or R315-266-100 through R315-266-112.

(3) A generator accumulating waste on site in compliance with Section R315-262-14, R315-262-15, R315-262-16, or R315-262-17[5].

(4) A farmer disposing of waste pesticides from his own use in compliance with Section R315-262-70[5].

(5) The owner or operator of a totally enclosed treatment facility, as defined in Section R315-260-10.

(6) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in Section R315-260-10, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes, other than the D001 High TOC Subcategory defined in Section R315-268-40, or reactive (D003) waste, to remove the characteristic before land disposal, the owner[ ] or operator shall comply with the requirements set out in Subsection R315-264-17(b).

(7) Reserved.

(8)(i) Except as provided in Subsection R315-264-1(g)(8)(ii), a person engaged in treatment or containment activities during immediate response to any of the following situations:

(A) [A] a discharge of a hazardous waste;

(B) [A] an imminent and substantial threat of a discharge of hazardous waste; or

(C) [A] a discharge of a material [which] that, [when] if discharged, becomes a hazardous waste.

(ii) An owner or operator of a facility otherwise regulated by Rule R315-264 shall comply with [all] the applicable requirements of

NOTICES OF PROPOSED RULES

Sections R315-264-30 through R315-264-35, R315-264-37 and R315-264-50 through R315-264-56.

(iii) Any person who is covered by Subsection R315-264-1(g)(8)(i) and who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to ~~the~~ applicable requirements of Rule R315-264 and 40 CFR 122 and 123 and Rule R315-124 for those activities.

(iv) In the case of an explosives or munitions emergency response, if a Federal, State, Tribal or local official acting within the scope of his or her official responsibilities, or an explosives or munitions emergency response specialist, determines that immediate removal of the material or waste is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters who do not have EPA identification numbers and without the preparation of a manifest. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit shall retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

(9) A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of Section R315-262-30 at a transfer facility for a period of ten days or less.

(10) The addition of absorbent material to waste in a container, as defined in Section R315-260-10, or the addition of waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container; and Subsections R315-264-17(b), R315-264-171, and R315-264-172 are complied with.

(11) Universal waste handlers and universal waste transporters, as defined in Section R315-260-10, handling the wastes listed below. These handlers are subject to regulation under Rule R315-273, ~~when~~ if handling the ~~below listed~~ following universal wastes~~[-]~~:

- (i) ~~B~~ batteries as described in Section R315-273-2;
- (ii) ~~P~~ pesticides as described in Section R315-273-3;
- (iii) ~~M~~ mercury-containing equipment as described in Section R315-273-4;
- (iv) ~~L~~ lamps as described in Section R315-273-5;
- (v) ~~A~~ antifreeze as described in Subsection R315-272-6(a);

and

(vi) ~~A~~ aerosol cans as described in Subsection R315-273-6(b).

(12) Reserved.

(13) Reverse distributors accumulating potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals, as defined in Section R315-266-500. Reverse distributors are subject to regulation under Sections R315-266-500 through R315-266-510 in lieu of Rule R315-264 for the accumulation of potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals.

(h) The requirements of Rule R315-264 apply to each owner[s] or operator[s] of ~~all~~ facilities ~~which~~ that treat, store, or dispose of hazardous wastes referred to in Rule R315-268.

(i) Reserved.

(j) The requirements of Sections R315-264-10 through R315-264-19, R315-264-30 through R315-264-37, R315-264-50 through R315-264-56, and R315-264-101 do not apply to remediation waste management sites. However, some remediation waste management sites may be a part of a facility that is subject to a traditional hazardous waste permit because the facility is also treating, storing or disposing of hazardous wastes that are not remediation wastes. In these cases, Sections R315-264-10 through R315-264-19, R315-264-30 through R315-264-37, R315-264-50 through R315-264-56, and R315-264-101

do apply to the facility subject to the traditional hazardous waste permit. Instead of the requirements of Sections R315-264-10 through R315-264-19, R315-264-30 through R315-264-37, and R315-264-50 through R315-264-56, owners or operators of remediation waste management sites shall do the following:

(1) Obtain an EPA identification number by applying to the ~~Administrator~~ Director using EPA Form 8700-12~~[-]~~.

(2) Obtain a detailed chemical and physical analysis of a representative sample of the hazardous remediation wastes to be managed at the site. At a minimum, the analysis shall contain ~~all of~~ the information which shall be known to treat, store or dispose of the waste according to Rules R315-264 and R315-268, and shall be kept accurate and up to date~~[-]~~.

(3) Prevent people who are unaware of the danger from entering, and minimize the possibility for unauthorized people or livestock to enter onto the active portion of the remediation waste management site, unless the owner or operator can demonstrate to the Director that:

(i) ~~P~~ physical contact with the waste, structures, or equipment within the active portion of the remediation waste management site shall not injure people or livestock who may enter the active portion of the remediation waste management site; and

(ii) ~~D~~ disturbance of the waste or equipment by people or livestock who enter onto the active portion of the remediation waste management site, shall not cause a violation of the requirements of Rule R315-264~~[-]~~.

(4) Inspect the remediation waste management site for malfunctions, deterioration, operator errors, and discharges that may be causing, or may lead to, a release of hazardous waste constituents to the environment, or a threat to human health. The owner or operator shall conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment, and shall remedy the problem before it leads to a human health or environmental hazard. Where a hazard is imminent or has already occurred, the owner~~[-]~~ or operator shall take remedial action immediately~~[-]~~.

(5) Provide personnel with classroom or on-the-job training on how to perform their duties in a way that ensures the remediation waste management site complies with the requirements of Rule R315-264, and on how to respond effectively to emergencies~~[-]~~.

(6) Take precautions to prevent accidental ignition or reaction of ignitable or reactive waste, and prevent threats to human health and the environment from ignitable, reactive and incompatible waste~~[-]~~.

(7) For remediation waste management sites subject to regulation under Sections R315-264-170 through R315-264-179, R315-264-190 through R315-264-200, R315-264-220 through R315-264-232, R315-264-250 through R315-264-259, R315-264-270 ~~[-]~~ through R315-264-283, R315-264-300 through R315-264-317, R315-264-340 through R315-264-351, and R315-264-600 through R315-264-603, the owner~~[-]~~ or operator shall design, construct, operate, and maintain a unit within a 100-year floodplain to prevent washout of any hazardous waste by a 100-year flood, unless the owner~~[-]~~ or operator can meet the demonstration of Subsection R315-264-18(b)~~[-]~~.

(8) Not place any non-containerized or bulk liquid hazardous waste in any salt dome formation, salt bed formation, underground mine or cave~~[-]~~.

(9) Develop and maintain a construction quality assurance program for ~~all~~ each surface impoundment~~[-]~~, waste pile~~[-]~~ and landfill unit~~[-]~~ that are required to comply with Subsections R315-264-221(c) and R315-264-221(d), R315-264-251(c) and R315-264-251(d), and R315-264-301(c) and R315-264-301(d) at the remediation waste

management site, according to the requirements of Section R315-264-19[5].

(10) Develop and maintain procedures to prevent accidents and a contingency and emergency plan to control accidents that occur. These procedures shall address proper design, construction, maintenance, and operation of remediation waste management units at the site. The goal of the plan shall be to minimize the possibility of, and the hazards from a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water that could threaten human health or the environment. The plan shall explain specifically how to treat, store and dispose of the hazardous remediation waste in question, and shall be implemented immediately whenever a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment[5].

(11) Designate at least one employee, either on the facility premises or on call, [(t)hat is, available to respond to an emergency by reaching the facility quickly[5)], to coordinate [all]emergency response measures. This emergency coordinator shall be thoroughly familiar with [all aspects of]the facility's contingency plan, [all]operations and activities at the facility, the location and characteristics of waste handled, the location of [all]the records within the facility, and the facility layout. In addition, this person shall have the authority to commit the resources needed to carry out the contingency plan[5].

(12) Develop, maintain and implement a plan to meet the requirements in Subsections R315-264-1(j)(2) through R315-264-1(j)(6) and R315-264-1(j)(9) through R315-264-1(j)(10)[5]and[5].

(13) Maintain records documenting compliance with Subsections R315-264-1(j)(1) through R315-264-1(j)(12).

**KEY:** hazardous waste, TSD facilities

**Date of Enactment or Last Substantive Amendment:** ~~April 13, 2020~~

**Authorizing, and Implemented or Interpreted Law:** 19-6-105; 19-6-106

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R315-265-1	Filing No. 52926

**Agency Information**

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Waste Management and Radiation Control, Waste Management	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state:</b>	Salt Lake City, UT	
<b>Mailing address:</b>	PO Box 144880	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4880	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Thomas Ball	801-536-0251	tball@utah.gov

Rusty Lundberg	801-536-4257	rlundberg@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R315-265-1. Incorporation, General – Purpose, Scope, and Applicability

**3. Purpose of the new rule or reason for the change:**

Under the current rules for management of hazardous waste, a small portion of pharmaceuticals are regulated as hazardous wastes when disposed. Hospitals, clinics, nursing homes, and other facilities that generate hazardous waste pharmaceuticals have experienced difficulty complying with the framework of the hazardous waste rules. To respond to these concerns and facilitate compliance among healthcare facilities, the Environmental Protection Agency (EPA) has finalized a tailored, sector-specific regulatory framework for managing hazardous waste pharmaceuticals at healthcare facilities and reverse distributors (facilities that receive and accumulate prescription pharmaceuticals for the purpose of facilitating manufacturer credit). On February 22, 2019, the EPA published the final rule in the Federal Register (84 FR 5816). The final rule entitled, Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine, applies to healthcare facilities that generate, accumulate, or otherwise handle hazardous waste pharmaceuticals and reverse distributors engaged in the management of prescription hazardous waste pharmaceuticals.

As stated above the rule provides a new set of sector-specific standards for healthcare facilities (for both humans and animals) and reverse distributors for management of their hazardous waste pharmaceuticals in lieu of the existing hazardous waste generator regulations. The final rule promulgates Sections R315-266-500 through R315-266-510. Healthcare facilities and reverse distributors must manage their hazardous waste pharmaceuticals under this new set of rules in lieu of operating under Rule R315-262 as they have been. These operating standards include a prohibition on disposing of hazardous waste pharmaceuticals in the sewer, called sewerage. The new rules also include a conditional exemption for hazardous waste pharmaceuticals that are also identified as controlled substances by the Drug Enforcement Administration (DEA). Further, the rules redefine when containers that held hazardous waste pharmaceuticals are considered empty. Healthcare facilities that are very small quantity generators (VSQGs) must comply with the sewer prohibition for their hazardous waste pharmaceuticals under the new rules and have the option of complying with Sections R315-266-500 through R315-266-510 in lieu of operating under the conditional exemption found in Section R315-262-14. Additionally, the final rule amends the P075 acute hazardous waste listing

for nicotine and salts to indicate that U.S. Food and Drug Administration (FDA)-approved over-the counter (OTC) nicotine replacement therapies (NRTs) are not included in the listing.

These rule changes became effective at the Federal level on August 21, 2019. (EDITOR'S NOTE: The proposed amendment to Rule R315-262 is under Filing No. 52924 and the proposed amendment to Rule R315-266 is under Filing No. 52927 in this issue, August 1, 2020, of the Bulletin.)

**4. Summary of the new rule or change:**

Subsection R315-265-1(c)(16) is added. This rule states that the requirements of Rule R315-265 do not apply to reverse distributors accumulating potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals. The rule states that these reverse distributors are subject to Sections R315-266-500 through R315-266-510.

In addition to the amendments listed above, nonsubstantive changes were made to correct typographical errors and to the format and the wording throughout the amended rule to correct format and wording that was not consistent with the current Rulewriting Manual for Utah Rulewriters.

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**

The operates one hospital. This hospital is not currently listed as a generator of hazardous waste which could mean that the hospital does not generate any hazardous waste or is a VSQG of hazardous waste. However, this hospital could be subject to the new rules because it falls under the definition of healthcare facility as contained in the rules.

Adoption of these new rules could result in no change to the state budget if the hospital does not generate any hazardous waste.

If the hospital were to generate hazardous waste, then the estimated cost due to the adoption of this rule is approximately \$85 per year. The estimated savings due to the adoption of this rule is approximately \$245 per year and would result in an overall cost savings of approximately \$160 per year.

Data to assist in making this determination was obtained from the EPA document entitled "Regulatory Impact Analysis for EPA's Final Regulations for the Management of Hazardous Waste Pharmaceuticals" dated October 2018.

**B) Local governments:**

It is not anticipated that adoption of these rule changes will have any effect on local governments because no local governments in the operate healthcare facilities or reverse distributors.

**C) Small businesses ("small business" means a business employing 1-49 persons):**

There are approximately 7,437 facilities in the that are healthcare facilities and reverse distributors as defined by this rule. Approximately 6,956 of these facilities are small businesses that would potentially be affected by this rule. Not all healthcare facilities and reverse distributors are generators of hazardous waste so it is not possible to determine exactly how many of these businesses will be affected by this rule adoption. Based on information obtained from EPA, it is estimated that approximately 904 of these facilities are generators of hazardous waste. The estimated cost to small businesses due to the adoption of this rule is approximately \$85 per year. The estimated savings to small businesses due to the adoption of this rule is approximately \$245 per year resulting in an overall cost savings of approximately \$160 per year.

Data to assist in making this determination was obtained from the EPA document entitled "Regulatory Impact Analysis for EPA's Final Regulations for the Management of Hazardous Waste Pharmaceuticals" dated October 2018.

**D) Non-small businesses ("non-small business" means a business employing 50 or more persons):**

As stated previously, there are approximately 7,437 facilities in the that are healthcare facilities and reverse distributors as defined by this rule. Approximately 476 of these facilities are non-small businesses that would potentially be affected by this rule. Not all healthcare facilities and reverse distributors are generators of hazardous waste so it is not possible to determine exactly how many of these businesses will be affected by this rule adoption. Based on information obtained from EPA, it is estimated that approximately 62 of these facilities are generators of hazardous waste. The estimated cost to non-small businesses due to the adoption of this rule is approximately \$85 per year. The estimated savings to non-small businesses due to the adoption of this rule is approximately \$245 per year resulting in an overall cost savings of approximately \$160 per year.

Data to assist in making this determination was obtained from the EPA document entitled "Regulatory Impact Analysis for EPA's Final Regulations for the Management of Hazardous Waste Pharmaceuticals" dated October 2018.

**E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation,**

association, governmental entity, or public or private organization of any character other than an **agency**):

The Division believes that all facilities that could be impacted fiscally by this rule are captured in the four previous categories. It is anticipated if there are any persons other than small businesses, non-small businesses, state, or local governments that are healthcare facilities or reverse distributors, that these persons would see a cost savings with the adoption of this rule similar to the savings discussed previously.

**F) Compliance costs for affected persons:**

It is not anticipated that there will be any additional compliance costs for affected persons due to the adoption of this rule other than those mentioned above.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$85	\$85	\$85
Local Governments	\$0	\$0	\$0
Small Businesses	\$76,840	\$76,840	\$76,840
Non-Small Businesses	\$5,270	\$5,270	\$5,270
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$82,195</b>	<b>\$82,195</b>	<b>\$82,195</b>
<b>Fiscal Benefits</b>			
State Government	\$245	\$245	\$245
Local Governments	\$0	\$0	\$0
Small Businesses	\$221,480	\$221,480	\$221,480
Non-Small Businesses	\$15,190	\$15,190	\$15,190
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$236,915</b>	<b>\$236,915</b>	<b>\$236,915</b>
<b>Net Fiscal Benefits</b>	<b>\$154,720</b>	<b>\$154,720</b>	<b>\$154,720</b>

**H) Department head approval of regulatory impact analysis:**

The Executive Director of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

It is not anticipated that these rule changes will have a negative fiscal impact on any healthcare facility or reverse distributor involved in the management of hazardous waste pharmaceuticals. This rule simplifies requirements and provides regulatory flexibilities and thereby improves regulatory clarity for healthcare facilities and provides more regulatory certainty for reverse distributors. The simplification and clarity provided by these rule changes will reduce the regulatory burden on these facilities, increase compliance, and result in better protection of human health and the environment.

**B) Name and title of department head commenting on the fiscal impacts:**

L. Scott Baird, Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Section 19-6-104	Section 19-6-105	Section 19-6-106
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2020

**10. This rule change MAY become effective on:** 09/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Ty L. Howard, Director	<b>Date:</b>	07/09/2020
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**R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.**

**R315-265. Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.**

**R315-265-1. Incorporation, General – Purpose, Scope, and Applicability.**

40 CFR 265.270 through 265.282, 265.300 through 265.316, 265.340 through 265.352, 265.370 through 265.383, 265.400 through 265.406, 265.430, 265.440 through 265.445, 265.1050 through 265.1064, 265.1100 through 265.1102, 265.1200 through 265.1202, 265.1300 through 265.1316 and Appendices I and III through VI of 40 CFR 265, 2015 edition, as amended by 81 FR 85827, are adopted and incorporated by reference except that "Director" is substituted for [all] references to "Regional Administrator", and for [all]-references to "EPA" or "Environmental Protection Agency" except for references to "EPA identification number" and where EPA is used in reference to actions under Subsection R315-268-42(b) and in Subsection R315-265-71(a)(3).

(a) The purpose of Rule R315-265 is to establish minimum standards that define the acceptable management of hazardous waste during the period of interim status and until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled.

(b) Except as provided in Subsection R315-265-1080(b), the standards of Rule R315-265, and of Sections R315-264-552, R315-264-553, and R315-264-554, apply to owners and operators of facilities that treat, store or dispose of hazardous waste who have fully complied with the requirements for interim status under section 3005(e) of RCRA and Section R315-270-10 until either a permit is issued under Rule R315-270 or until applicable Rule R315-265 closure and post-closure responsibilities are fulfilled, and to those owners and operators of facilities in existence on November 19, 1980 who have failed to provide timely notification as required by section 3010(a) of RCRA, failed to file Part A of the permit application as required by Subsections R315-270-10 (e) and R315-270-10(g), or both. These standards apply to [all] treatment, storage and disposal of hazardous waste at these facilities after the effective date of these [regulations] rules, except as specifically provided otherwise in Rule R315-265 or Rule R315-261.

Comment: As stated in section 3005(a) of RCRA, after the effective date of regulations under that section, [i.e.,] which are Rules R315-270 and R315-124, the treatment, storage and disposal of hazardous waste is prohibited except in accordance with a permit. Section 3005(e) of RCRA provides for the continued operation of an existing facility that meets certain conditions, until final administrative disposition of the owner's and operator's permit application is made.

(c) The requirements of Rule R315-265 do not apply to the following:

(1) A person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the Marine Protection, Research, and Sanctuaries Act[;].

Comment: [These-]Rule R315-265 [regulations-]does apply to the treatment or storage of hazardous waste before it is loaded onto an ocean vessel for incineration or disposal at sea, as provided in Subsection R315-265-1(b).

(2) Reserved.

(3) The owner or operator of a POTW [which]that treats, stores, or disposes of hazardous waste[;].

Comment: The owner or operator of a facility under Subsections R315-265-1(c)(1) through R315-265-1(c)(3) is subject to the requirements of Rule R315-264 to the extent they are included in a permit by rule granted to such a person under 40 CFR 122, or are required by 40 CFR 144.14.

(4) Reserved.

(5) The owner or operator of a facility permitted under Rules R315-301 through R315-320 to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under Rule R315-265 by Section R315-262-14[;].

(6) The owner or operator of a facility managing recyclable materials described in Subsections R315-261-6(a)(2), R315-261-6(a)(3), and R315-261-6(a)(4), except to the extent they are referred to in Rule R315-~~279~~15 or Sections R315-266-20 through R315-266-23, R315-266-70, R315-266-80, or R315-266-100 through R315-266-112.

(7) A generator accumulating waste on site in compliance with applicable conditions for exemption in Sections R315-262-14 through R315-262-17 and Sections R315-262-200 through R315-262-216 and R315-262-230 through R315-262-233, except to the extent the requirements of Rule R315-265 are included in those sections[;].

(8) A farmer disposing of waste pesticides from his own use in compliance with Section R315-262-70~~[; or]~~.

(9) The owner or operator of a totally enclosed treatment facility, as defined in Section R315-260-10.

(10) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in Section R315-260-10, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes, [f]other than the D001 High TOC Subcategory defined in Section R315-268-40, Table Treatment Standards for Hazardous Wastes[;], or reactive (D003) waste, to remove the characteristic before land disposal, the owner~~[;]~~ or operator shall comply with the requirements set out in Subsection R315-265-17(b).

(11)(i) Except as provided in Subsection R315-265-1(c)(11)(ii), a person engaged in treatment or containment activities during immediate response to any of the following situations:

(A) [A]a discharge of a hazardous waste;

(B) [A]an imminent and substantial threat of a discharge of a hazardous waste; or

(C) [A]a discharge of a material [which]that, [when]if discharged, becomes a hazardous waste.

(ii) An owner or operator of a facility otherwise regulated by this Rule R315-265 shall comply with [all]the applicable requirements of Sections R315-265-30 through R315-265-37 and Sections R315-265-50 through R315-265-56.

(iii) Any person who is covered by Subsection R315-265-1(c)(11)(i) and who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to [all]the applicable requirements of [this-]Rule R315-265 and Rule R315-124 for those activities.

(12) A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of Section R315-262-30 at a transfer facility for a period of ten days or less.

(13) The addition of absorbent material to waste in a container, as defined in Section R315-260-10, or the addition of waste to the absorbent material in a container provided that these actions occur at the time waste is first placed in the containers; and Subsection R315-265-17(b), Sections R315-265-171, and R315-265-172 are complied with.

(14) Universal waste handlers and universal waste transporters, as defined in Section R315-260-10, handling the wastes

listed below. These handlers are subject to regulation under Rule R315-273, ~~when~~ if handling the ~~below listed~~ following universal wastes~~[-]~~:

- (i) ~~B~~ batteries as described in Section R315-273-2;
- (ii) ~~P~~ pesticides as described in Section R315-273-3;
- (iii) ~~M~~ mercury-containing equipment as described in Section R315-273-4; ~~and~~
- (iv) ~~L~~ lamps as described in Section R315-273-5;
- (v) ~~A~~ antifreeze as described in Subsection R315-273-6(a);

and

- (vi) ~~A~~ aerosol cans as described in Subsection R315-273-6(b).

(15) Reserved

(16) Reverse distributors accumulating potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals, as defined in Section R315-266-500. Reverse distributors are subject to regulation under Sections R315-266-500 through R315-266-510 in lieu of Rule R315-265 for the accumulation of potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals.

(d) The following hazardous wastes shall not be managed at facilities subject to regulation under Rule R315-265.

(1) EPA Hazardous Waste Nos. F~~[0]~~020, F~~[0]~~021, F~~[0]~~022, F~~[0]~~023, F~~[0]~~026, or F~~[0]~~027 unless:

- (i) ~~F~~ the wastewater treatment sludge is generated in a surface impoundment as part of the plant's wastewater treatment system;
- (ii) ~~F~~ the waste is stored in tanks or containers;
- (iii) ~~F~~ the waste is stored or treated in waste piles that meet the requirements of Subsection R315-264-250(c) as well as ~~all~~ other applicable requirements of Sections R315-265-250 through R315-265-260;

(iv) ~~F~~ the waste is burned in incinerators that are certified pursuant to the standards and procedures in 40 CFR 265.352, which is adopted by reference; or

(v) ~~F~~ the waste is burned in facilities that thermally treat the waste in a device other than an incinerator and that are certified pursuant to the standards and procedures in 40 CFR 265.383, which is adopted and incorporated by reference.

(e) The requirements of Rule R315-265 apply to owners or operators of ~~all~~ facilities which treat, store or dispose of hazardous waste referred to in Rule R315-268, and the Rule R315-268 standards are considered material conditions or requirements of the Rule R315-265 interim status standards.

**KEY: hazardous waste, TSD facilities, interim status**  
**Date of Enactment or Last Substantive Amendment:** ~~April 13,~~ 2020  
**Authorizing, and Implemented or Interpreted Law:** 19-6-105; 19-6-106

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R315-266	Filing No. 52927

**Agency Information**

<b>1. Department:</b>	Environmental Quality
<b>Agency:</b>	Waste Management and Radiation Control, Waste Management
<b>Building:</b>	MASOB

<b>Street address:</b>	195 N 1950 W	
<b>City, state:</b>	Salt Lake City, UT	
<b>Mailing address:</b>	PO Box 144880	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4880	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Thomas Ball	801-536-0251	tball@utah.gov
Rusty Lundberg	801-536-4257	rlundberg@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R315-266. Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities
<b>3. Purpose of the new rule or reason for the change:</b>
Under the current rules for management of hazardous waste, a small portion of pharmaceuticals are regulated as hazardous wastes when disposed. Hospitals, clinics, nursing homes, and other facilities that generate hazardous waste pharmaceuticals have experienced difficulty complying with the framework of the hazardous waste rules. To respond to these concerns and facilitate compliance among healthcare facilities, the Environmental Protection Agency (EPA) has finalized a tailored, sector-specific regulatory framework for managing hazardous waste pharmaceuticals at healthcare facilities and reverse distributors (facilities that receive and accumulate prescription pharmaceuticals for the purpose of facilitating manufacturer credit). On February 22, 2019, the EPA published the final rule in the Federal Register (84 FR 5816). The final rule entitled, Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine, applies to healthcare facilities that generate, accumulate, or otherwise handle hazardous waste pharmaceuticals and reverse distributors engaged in the management of prescription hazardous waste pharmaceuticals.
As stated above the rule provides a new set of sector-specific standards for healthcare facilities (for both humans and animals) and reverse distributors for management of their hazardous waste pharmaceuticals in lieu of the existing hazardous waste generator regulations. The final rule promulgates Sections R315-266-500 through R315-266-510. Healthcare facilities and reverse distributors must manage their hazardous waste pharmaceuticals under this new set of rules in lieu of operating under Rule R315-262 as they have been. These operating standards include a prohibition on disposing of hazardous waste pharmaceuticals in the sewer, called

sewering. The new rules also include a conditional exemption for hazardous waste pharmaceuticals that are also identified as controlled substances by the Drug Enforcement Administration (DEA). Further, the rules redefine when containers that held hazardous waste pharmaceuticals are considered empty. Healthcare facilities that are very small quantity generators (VSQGs) must comply with the sewer prohibition for their hazardous waste pharmaceuticals under the new rules and have the option of complying with Sections R315-266-500 through R315-266-510 in lieu of operating under the conditional exemption found in Section R315-262-14. Additionally, the final rule amends the P075 acute hazardous waste listing for nicotine and salts to indicate that U.S. Food and Drug Administration (FDA)-approved over-the counter (OTC) nicotine replacement therapies (NRTs) are not included in the listing.

These rule changes became effective at the Federal level on August 21, 2019. (EDITOR'S NOTE: The proposed amendment to Rule R315-262 is under Filing No. 52924 in this issue, August 1, 2020, of the Bulletin.)

**4. Summary of the new rule or change:**

Sections R315-266-500 through R315-266-510 are added. These sections contain new rules for the management of hazardous waste pharmaceuticals by healthcare facilities and reverse distributors.

To facilitate the addition of Sections R315-266-500 through R315-266-510, Sections R315-266-203 through R315-266-214 were renumbered as Sections R315-266-600 through R315-266-611. These sections contain appendices to Rule R315-266 and need to remain at the end of the rule.

In addition to the amendments listed above, nonsubstantive changes were made to correct typographical errors and to the format and the wording throughout the amended rule to correct format and wording that was not consistent with the current Rulewriting Manual for Utah Rulewriters.

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**

The operates one hospital. This hospital is not currently listed as a generator of hazardous waste which could mean that the hospital does not generate any hazardous waste or is a VSQG of hazardous waste. However, this hospital could be subject to the new rules because it falls under the definition of healthcare facility as contained in the rules.

Adoption of these new rules could result in no change to the state budget if the hospital does not generate any hazardous waste.

If the hospital were to generate hazardous waste the estimated cost due to the adoption of this rule is approximately \$85 per year. The estimated savings due to the adoption of this rule is approximately \$245 per year and would result in an overall cost savings of approximately \$160 per year.

Data to assist in making this determination was obtained from the EPA document entitled "Regulatory Impact Analysis for EPA's Final Regulations for the Management of Hazardous Waste Pharmaceuticals" dated October 2018.

**B) Local governments:**

It is not anticipated that adoption of these rule changes will have any effect on local governments because no local governments in the operate healthcare facilities or reverse distributors.

**C) Small businesses ("small business" means a business employing 1-49 persons):**

There are approximately 7,437 facilities in the that are healthcare facilities and reverse distributors as defined by this rule. Approximately 6,956 of these facilities are small businesses that would potentially be affected by this rule. Not all healthcare facilities and reverse distributors are generators of hazardous waste so it is not possible to determine exactly how many of these businesses will be affected by this rule adoption. Based on information obtained from EPA, it is estimated that approximately 904 of these facilities are generators of hazardous waste. The estimated cost to small businesses due to the adoption of this rule is approximately \$85 per year. The estimated savings to small businesses due to the adoption of this rule is approximately \$245 per year resulting in an overall cost savings of approximately \$160 per year.

Data to assist in making this determination was obtained from the EPA document entitled "Regulatory Impact Analysis for EPA's Final Regulations for the Management of Hazardous Waste Pharmaceuticals" dated October 2018.

**D) Non-small businesses ("non-small business" means a business employing 50 or more persons):**

As stated previously, there are approximately 7,437 facilities in the that are healthcare facilities and reverse distributors as defined by this rule. Approximately 476 of these facilities are non-small businesses that would potentially be affected by this rule. Not all healthcare facilities and reverse distributors are generators of hazardous waste so it is not possible to determine exactly how many of these businesses will be affected by this rule adoption. Based on information obtained from EPA, it is estimated that approximately 62 of these facilities are generators of hazardous waste. The estimated cost to non-small businesses due to the adoption of this rule is approximately \$85 per year. The estimated savings to non-small businesses due to the adoption of this rule is



approximately \$245 per year resulting in an overall cost savings of approximately \$160 per year.

Data to assist in making this determination was obtained from the EPA document entitled "Regulatory Impact Analysis for EPA's Final Regulations for the Management of Hazardous Waste Pharmaceuticals" dated October 2018.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The Division believes that all facilities that could be impacted fiscally by this rule are captured in the four previous categories. It is anticipated if there are any persons other than small businesses, non-small businesses, state, or local governments that are healthcare facilities or reverse distributors, that these persons would see a cost savings with the adoption of this rule similar to the savings discussed previously.

**F) Compliance costs for affected persons:**

It is not anticipated that there will be any additional compliance costs for affected persons due to the adoption of this rule other than those mentioned above.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

**Regulatory Impact Table**

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$85	\$85	\$85
Local Governments	\$0	\$0	\$0
Small Businesses	\$76,840	\$76,840	\$76,840
Non-Small Businesses	\$5,270	\$5,270	\$5,270
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$82,195</b>	<b>\$82,195</b>	<b>\$82,195</b>
<b>Fiscal Benefits</b>			
State Government	\$245	\$245	\$245
Local Governments	\$0	\$0	\$0
Small Businesses	\$221,480	\$221,480	\$221,480

Non-Small Businesses	\$15,190	\$15,190	\$15,190
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$236,915</b>	<b>\$236,915</b>	<b>\$236,915</b>
<b>Net Fiscal Benefits</b>	<b>\$154,720</b>	<b>\$154,720</b>	<b>\$154,720</b>

**H) Department head approval of regulatory impact analysis:**

The Executive Director of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

It is not anticipated that these rule changes will have a negative fiscal impact on any healthcare facility or reverse distributor involved in the management of hazardous waste pharmaceuticals. This rule simplifies requirements and provides regulatory flexibilities and thereby improves regulatory clarity for healthcare facilities and provides more regulatory certainty for reverse distributors. The simplification and clarity provided by these rule changes will reduce the regulatory burden on these facilities, increase compliance, and result in better protection of human health and the environment.

**B) Name and title of department head commenting on the fiscal impacts:**

L. Scott Baird, Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Section 19-6-104    Section 19-6-105    Section 19-6-106

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2020

**10. This rule change MAY become effective on:** 09/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Ty L. Howard, Director	<b>Date:</b>	07/09/2020
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**R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.**

**R315-266. Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities.**

**R315-266-500. Hazardous Waste Pharmaceuticals -- Definitions for Sections R315-266-500 through R315-266-510.**

(a) The following definitions apply to Sections R315-266-500 through R315-266-510:

(1) "Evaluated hazardous waste pharmaceutical" means a prescription hazardous waste pharmaceutical that has been evaluated by a reverse distributor in accordance with Subsection R315-266-510(a)(3) and will not be sent to another reverse distributor for further evaluation or verification of manufacture credit.

(2) "Hazardous waste pharmaceutical" means a pharmaceutical that is a solid waste, as defined in Section R315-261-2, and exhibits one or more characteristics identified in Sections R315-261-20 through R315-261-24 or is listed in Sections R315-261-30 through R315-261-35. A pharmaceutical is not a solid waste, as defined in Section R315-261-2, and therefore not a hazardous waste pharmaceutical, if it is legitimately used or reused, for example, lawfully donated for its intended purpose, or reclaimed. An over-the-counter pharmaceutical, dietary supplement, or homeopathic drug is not a solid waste, as defined in Section R315-261-2, and therefore not a hazardous waste pharmaceutical, if it has a reasonable expectation of being legitimately used or reused, for example, lawfully redistributed for its intended purpose, or reclaimed.

(3) "Healthcare facility" means any person that is lawfully authorized to:

(i) provide preventative, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, and counseling, service, assessment or procedure with respect to the physical or mental condition, or functional status, of a human or animal or that affects the structure or function of the human or animal body; or

(ii) distribute, sell, or dispense pharmaceuticals, including over-the-counter pharmaceuticals, dietary supplements, homeopathic drugs, or prescription pharmaceuticals. This definition includes, but is not limited to, wholesale distributors, third-party logistics providers that serve as forward distributors, military medical logistics facilities, hospitals, psychiatric hospitals, ambulatory surgical centers, health clinics, physicians' offices, optical and dental providers, chiropractors, long-term care facilities, ambulance services, pharmacies, long-term care pharmacies, mail-order pharmacies, retailers of pharmaceuticals, veterinary clinics, and veterinary hospitals. This definition does not include pharmaceutical manufacturers, reverse distributors, or reverse logistics centers.

(4) "Household waste pharmaceutical" means a pharmaceutical that is a solid waste, as defined in Section R315-261-2, but is excluded from being a hazardous waste under Subsection R315-261-4(b)(1).

(5) "Long-term care facility" means a licensed entity that provides assistance with activities of daily living, including managing and administering pharmaceuticals to one or more individuals at the facility. This definition includes, but is not limited to, hospice facilities, nursing facilities, skilled nursing facilities, and the nursing and skilled nursing care portions of continuing care retirement communities. Not included within the scope of this definition are group homes, independent living communities, assisted living facilities, and the independent and assisted living portions of continuing care retirement communities.

(6) "Non-creditable hazardous waste pharmaceutical" means a prescription hazardous waste pharmaceutical that does not have a reasonable expectation to be eligible for manufacturer credit or a nonprescription hazardous waste pharmaceutical that does not have a reasonable expectation to be legitimately used or reused or reclaimed. This includes but is not limited to, investigational drugs, free samples of pharmaceuticals received by healthcare facilities, residues of pharmaceuticals remaining in empty containers, contaminated personal protective equipment, floor sweepings, and clean-up material from the spills of pharmaceuticals.

(7) Non-hazardous waste pharmaceutical means a pharmaceutical that is a solid waste, as defined in Section R315-261-2, and is not listed in Sections R315-261-30 through R315-261-35, and does not exhibit a characteristic identified in Sections R315-261-20 through R315-261-24.

(8) "Non-pharmaceutical hazardous waste" means a solid waste, as defined in Section R315-261-2, that is listed in Sections R315-261-30 through R315-261-35, or exhibits one or more characteristics identified in Sections R315-261-20 through R315-261-24, but is not a pharmaceutical, as defined in Section R315-266-500.

(9) "Pharmaceutical" means any drug or dietary supplement for use by humans or other animals; any electronic nicotine delivery system, such as electronic cigarette or vaping pen; or any liquid nicotine, e-liquid, packaged for retail sale for use in electronic nicotine delivery systems, such as pre-filled cartridges or vials. This definition includes, but is not limited to, dietary supplements, as defined by the Federal Food, Drug and Cosmetic Act; prescription drugs, as defined by 21 CFR 203.3(y); over-the-counter drugs; homeopathic drugs; compounded drugs; investigational new drugs; pharmaceuticals remaining in non-empty containers; personal protective equipment contaminated with pharmaceuticals; and clean-up material from spills of pharmaceuticals. This definition does not include dental amalgam or sharps.

(10) "Potentially creditable hazardous waste pharmaceutical" means a prescription hazardous waste pharmaceutical that has a reasonable expectation to receive manufacturer credit and is:

(i) in original manufacturer packaging, except pharmaceuticals that were subject to a recall;

(ii) undispensed; and

(iii) unexpired or less than one-year past expiration date. The term does not include evaluated hazardous waste pharmaceuticals or nonprescription pharmaceuticals including, but not limited to, over-the-counter drugs, homeopathic drugs, and dietary supplements.

(11) "Reverse distributor" means any person that receives and accumulates prescription pharmaceuticals that are potentially creditable hazardous waste pharmaceuticals for the purpose of facilitating or verifying manufacturer credit. Any person, including forward distributors, third-party logistics providers, and pharmaceutical manufacturers, that processes prescription pharmaceuticals for the

facilitation or verification of manufacturer credit is considered a reverse distributor.

**R315-266-501. Hazardous Waste Pharmaceuticals -- Applicability.**

(a) A healthcare facility that is a very small quantity generator when counting its hazardous waste, including both its hazardous waste pharmaceuticals and its non-pharmaceutical hazardous waste, remains subject to Section R315-262-14 and is not subject to Sections R315-266-500 through R315-266-510, except for Sections R315-266-505 and R315-266-507 and the optional provisions of Section R315-266-504.

(b) A healthcare facility that is a very small quantity generator when counting its hazardous waste, including both its hazardous waste pharmaceuticals and its non-pharmaceutical hazardous waste, has the option of complying with Subsection R315-266-501(d) for the management of its hazardous waste pharmaceuticals as an alternative to complying with Section R315-262-14 and the optional provisions of Section R315-266-504.

(c) A healthcare facility or reverse distributor remains subject to the applicable hazardous waste rules with respect to the management of its non-pharmaceutical hazardous waste.

(d) With the exception of healthcare facilities identified in Subsection R315-266-501(a), a healthcare facility is subject to the following in lieu of Rules R315-262 through R315-265:

(1) Sections R315-266-502 and R315-266-505 through R315-266-508 with respect to the management of:

(i) non-creditable hazardous waste pharmaceuticals; and

(ii) potentially creditable hazardous waste pharmaceuticals if they are not destined for a reverse distributor.

(2) Subsections R315-266-502(a), R315-266-503, R315-266-505 through R315-266-507 and R315-266-509 with respect to the management of potentially creditable hazardous waste pharmaceuticals that are prescription pharmaceuticals and are destined for a reverse distributor.

(e) A reverse distributor is subject to Sections R315-266-505 through R315-266-510 in lieu of Rules R315-262 through R315-265 with respect to the management of hazardous waste pharmaceuticals.

(f) Hazardous waste pharmaceuticals generated or managed by entities other than healthcare facilities and reverse distributors, that is pharmaceutical manufacturers and reverse logistics centers, are not subject to Sections R315-266-500 through R315-266-510. Other generators are subject to Rule R315-262 for the generation and accumulation of hazardous wastes, including hazardous waste pharmaceuticals.

(g) The following are not subject to Rules R315-260 through R315-273, except as specified:

(1) Pharmaceuticals that are not solid waste, as defined by Section R315-261-2, because they are legitimately used or reused, for example, lawfully donated for their intended purpose, or reclaimed.

(2) Over-the-counter pharmaceuticals, dietary supplements, or homeopathic drugs that are not solid wastes, as defined by Section R315-261-2, because they have a reasonable expectation of being legitimately used or reused, for example, lawfully redistributed for their intended purpose, or reclaimed.

(3) Pharmaceuticals being managed in accordance with a recall strategy that has been approved by the Food and Drug Administration in accordance with 21 CFR part 7 subpart C. Sections R315-266-500 through R315-266-510 do apply to the management of the recalled hazardous waste pharmaceuticals after the Food and Drug Administration approves the destruction of the recalled items.

(4) Pharmaceuticals being managed in accordance with a recall corrective action plan that has been accepted by the Consumer Product Safety Commission in accordance with 16 CFR part 1115.

Sections R315-266-500 through R315-266-510 do apply to the management of the recalled hazardous waste pharmaceuticals after the Consumer Product Safety Commission approves the destruction of the recalled items.

(5) Pharmaceuticals stored according to a preservation order, or during an investigation or judicial proceeding until after the preservation order, investigation, or judicial proceeding has concluded or a decision is made to discard the pharmaceuticals or both.

(6) Investigational new drugs for which an investigational new drug application is in effect in accordance with the Food and Drug Administration's regulations in 21 CFR part 312. Sections R315-266-500 through R315-266-510 do apply to the management of the investigational new drug after the decision is made to discard the investigational new drug or the Food and Drug Administration approves the destruction of the investigational new drug, if the investigational new drug is a hazardous waste.

(7) Household waste pharmaceuticals, including those that have been collected by an authorized collector, as defined by the Drug Enforcement Administration, provided the authorized collector complies with the conditional exemption in Subsections R315-266-506(a)(2) and R315-266-506(b).

**R315-266-502. Hazardous Waste Pharmaceuticals -- Standards for Healthcare Facilities Managing Non-Creditable Hazardous Waste Pharmaceuticals.**

(a) Notification and withdrawal from Sections R315-266-500 through R315-266-510 for healthcare facilities managing hazardous waste pharmaceuticals.

(1) Notification. A healthcare facility shall notify the Director, using the Site Identification Form, EPA Form 8700-12, that it is a healthcare facility operating under Sections R315-266-500 through R315-266-510. A healthcare facility is not required to fill out Box 10.B., Waste Codes for Federally Regulated Hazardous Waste, of the Site Identification Form with respect to its hazardous waste pharmaceuticals. A healthcare facility shall submit a separate notification, Site Identification Form, for each site or EPA identification number.

(i) A healthcare facility that already has an EPA identification number shall notify the Director, using the Site Identification Form, EPA Form 8700-12, that it is a healthcare facility as part of its next Biennial Report, if it is required to submit one; or if not required to submit a Biennial Report, within 60 days of the effective date of Sections R315-266-500 through R315-266-510, or within 60 days of becoming subject to Sections R315-266-500 through R315-266-510.

(ii) A healthcare facility that does not have an EPA identification number shall obtain one by notifying the Director, using the Site Identification Form, EPA Form 8700-12, that it is a healthcare facility as part of its next Biennial Report, if it is required to submit one; or if not required to submit a Biennial Report, within 60 days of the effective date of Sections R315-266-500 through R315-266-510, or within 60 days of becoming subject to Sections R315-266-500 through R315-266-510.

(iii) A healthcare facility shall keep a copy of its notification on file for as long as the healthcare facility is subject to Sections R315-266-500 through R315-266-510.

(2) Withdrawal. A healthcare facility that operated under Sections R315-266-500 through R315-266-510 but is no longer subject to Sections R315-266-500 through R315-266-510, because it is a very small quantity generator under Section R315-262-14, and elects to withdraw from Sections R315-266-500 through R315-266-510, shall notify the Director using the Site Identification Form, EPA Form 8700-12, that it is no longer operating under Sections R315-266-500 through R315-266-510. A healthcare facility is not required to fill out Box 10.B.,

NOTICES OF PROPOSED RULES

Waste Codes for Federally Regulated Hazardous Waste, of the Site Identification Form with respect to its hazardous waste pharmaceuticals. A healthcare facility shall submit a separate notification, Site Identification Form, for each EPA identification number.

(i) A healthcare facility shall submit the Site Identification Form notifying that it is withdrawing from Sections R315-266-500 through R315-266-510 before it begins operating under the conditional exemption of Section R315-262-14.

(ii) A healthcare facility shall keep a copy of its withdrawal on file for three years from the date of signature on the notification of its withdrawal.

(b) Training of personnel managing non-creditable hazardous waste pharmaceuticals at healthcare facilities. A healthcare facility shall ensure that any personnel that manage non-creditable hazardous waste pharmaceuticals are thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal facility operations and emergencies.

(c) Hazardous waste determination for non-creditable pharmaceuticals. A healthcare facility that generates a solid waste that is a non-creditable pharmaceutical shall determine whether that pharmaceutical is a hazardous waste pharmaceutical, for example, it exhibits a characteristic identified in Sections R315-261-20 through R315-261-24 or is listed in Sections R315-261-30 through R315-261-35, in order to determine whether the waste is subject to Sections R315-266-500 through R315-266-510. A healthcare facility may choose to manage its non-hazardous waste pharmaceuticals as non-creditable hazardous waste pharmaceuticals under Sections R315-266-500 through R315-266-510.

(d) Standards for containers used to accumulate non-creditable hazardous waste pharmaceuticals at healthcare facilities.

(1) A healthcare facility shall place non-creditable hazardous waste pharmaceuticals in a container that is structurally sound, compatible with its contents, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(2) A healthcare facility that manages ignitable or reactive non-creditable hazardous waste pharmaceuticals, or that mixes or commingles incompatible non-creditable hazardous waste pharmaceuticals shall manage the container so that it does not have the potential to:

(i) generate extreme heat or pressure, fire or explosion, or violent reaction;

(ii) produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health;

(iii) produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions;

(iv) damage the structural integrity of the container of non-creditable hazardous waste pharmaceuticals; or

(v) through other like means threaten human health or the environment.

(3) A healthcare facility shall keep containers of non-creditable hazardous waste pharmaceuticals closed and secured in a manner that prevents unauthorized access to its contents.

(4) A healthcare facility may accumulate non-creditable hazardous waste pharmaceuticals and non-hazardous non-creditable waste pharmaceuticals in a container, except that non-creditable hazardous waste pharmaceuticals prohibited from being combusted because of the dilution prohibition of Subsection R315-268-3(c) shall be accumulated in separate containers and labeled with applicable hazardous waste numbers, in other words the hazardous waste codes.

(e) Labeling containers used to accumulate non-creditable hazardous waste pharmaceuticals at healthcare facilities. A healthcare

facility shall label or clearly mark each container of non-creditable hazardous waste pharmaceuticals with the phrase "Hazardous Waste Pharmaceuticals".

(f) Maximum accumulation time for non-creditable hazardous waste pharmaceuticals at healthcare facilities.

(1) A healthcare facility may accumulate non-creditable hazardous waste pharmaceuticals on site for one year or less without a permit or having interim status.

(2) A healthcare facility that accumulates non-creditable hazardous waste pharmaceuticals on-site shall demonstrate the length of time that the non-creditable hazardous waste pharmaceuticals have been accumulating, starting from the date it first becomes a waste. A healthcare facility may make this demonstration by any of the following methods:

(i) marking or labeling the container of non-creditable hazardous waste pharmaceuticals with the date that the non-creditable hazardous waste pharmaceuticals became a waste;

(ii) maintaining an inventory system that identifies the date the non-creditable hazardous waste pharmaceuticals being accumulated first became a waste; or

(iii) placing the non-creditable hazardous waste pharmaceuticals in a specific area and identifying the earliest date that any of the non-creditable hazardous waste pharmaceuticals in the area became a waste.

(g) Land disposal restrictions for non-creditable hazardous waste pharmaceuticals. The non-creditable hazardous waste pharmaceuticals generated by a healthcare facility are subject to the land disposal restrictions of Rule R315-268. A healthcare facility that generates non-creditable hazardous waste pharmaceuticals shall comply with the land disposal restrictions in accordance with Subsection R315-268-7(a) requirements, except that it is not required to identify the hazardous waste numbers, in other words the hazardous waste codes, on the land disposal restrictions notification.

(h) Procedures for healthcare facilities for managing rejected shipments of non-creditable hazardous waste pharmaceuticals. A healthcare facility that sends a shipment of non-creditable hazardous waste pharmaceuticals to a designated facility with the understanding that the designated facility can accept and manage the waste, and later receives that shipment back as a rejected load in accordance with the manifest discrepancy provisions of Section R315-264-72 or R315-265-72 may accumulate the returned non-creditable hazardous waste pharmaceuticals on site for up to an additional 90 days provided the rejected or returned shipment is managed in accordance with Subsections R315-266-502(d) and R315-266-502(e). Upon receipt of the returned shipment, the healthcare facility shall:

(1) sign either:

(i) item 18c of the original manifest, if the original manifest was used for the returned shipment; or

(ii) item 20 of the new manifest, if a new manifest was used for the returned shipment;

(2) provide the transporter a copy of the manifest;

(3) within 30 days of receipt of the rejected shipment, send a copy of the manifest to the designated facility that returned the shipment to the healthcare facility; and

(4) within 90 days of receipt of the rejected shipment, transport or offer for transport the returned shipment in accordance with the shipping standards of Subsection R315-266-508(a).

(i) Reporting by healthcare facilities for non-creditable hazardous waste pharmaceuticals.

(1) Biennial reporting by healthcare facilities. Healthcare facilities are not subject to biennial reporting requirements under Section R315-262-41, with respect to non-creditable hazardous waste

pharmaceuticals managed under Sections R315-266-500 through R315-266-510.

(2) Exception reporting by healthcare facilities for a missing copy of the manifest.

(i) For shipments from a healthcare facility to a designated facility:

(A) If a healthcare facility does not receive a copy of the manifest with the signature of the owner or operator of the designated facility within 60 days of the date the non-creditable hazardous waste pharmaceuticals were accepted by the initial transporter, the healthcare facility shall submit:

(I) a legible copy of the original manifest, indicating that the healthcare facility has not received confirmation of delivery, to the Director; and

(II) a handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating that the return copy was not received and explaining the efforts taken to locate the non-creditable hazardous waste pharmaceuticals and the results of those efforts.

(B) Reserved.

(ii) For shipments rejected by the designated facility and shipped to an alternate facility.

(A) If a healthcare facility does not receive a copy of the manifest for a rejected shipment of the non-creditable hazardous waste pharmaceuticals that is forwarded by the designated facility to an alternate facility, using appropriate manifest procedures, with the signature of the owner or operator of the alternate facility, within 60 days of the date the non-creditable hazardous waste was accepted by the initial transporter forwarding the shipment of non-creditable hazardous waste pharmaceuticals from the designated facility to the alternate facility, the healthcare facility shall submit:

(I) A legible copy of the original manifest, indicating that the healthcare facility has not received confirmation of delivery, to the Director; and

(II) A handwritten or typed note on the manifest itself, or on an attached sheet of paper, stating that the return copy was not received and explaining the efforts taken to locate the non-creditable hazardous waste pharmaceuticals and the results of those efforts.

(B) Reserved.

(3) Additional reports. The Director may require healthcare facilities to furnish additional reports concerning the quantities and disposition of non-creditable hazardous waste pharmaceuticals.

(j) Recordkeeping by healthcare facilities for non-creditable hazardous waste pharmaceuticals.

(1) A healthcare facility shall keep a copy of each manifest signed in accordance with Subsection R315-262-23(a) for three years or until it receives a signed copy from the designated facility which received the non-creditable hazardous waste pharmaceuticals. This signed copy shall be retained as a record for at least three years from the date the waste was accepted by the initial transporter.

(2) A healthcare facility shall keep a copy of each exception report for a period of at least three years from the date of the report.

(3) A healthcare facility shall keep records of any test results, waste analyses, or other determinations made to support its hazardous waste determinations consistent with Subsection R315-262-11(f), for at least three years from the date the waste was last sent to on-site or off-site treatment, storage or disposal. A healthcare facility that manages its non-creditable non-hazardous waste pharmaceuticals as non-creditable hazardous waste pharmaceuticals is not required to keep documentation of hazardous waste determinations.

(4) The periods of retention referred to in Section R315-266-502 are extended automatically during the course of any unresolved

enforcement action regarding the regulated activity, or as requested by the Director.

(5) Records shall be readily available upon request by an inspector.

(k) Response to spills of non-creditable hazardous waste pharmaceuticals at healthcare facilities. A healthcare facility shall immediately contain any spills of non-creditable hazardous waste pharmaceuticals and manage the spill clean-up materials as non-creditable hazardous waste pharmaceuticals in accordance with the requirements of Sections R315-266-500 through R315-266-510.

(l) Accepting non-creditable hazardous waste pharmaceuticals from an off-site healthcare facility that is a very small quantity generator. A healthcare facility may accept non-creditable hazardous waste pharmaceuticals from an off-site healthcare facility that is a very small quantity generator under Section R315-262-14, without a permit or without having interim status, provided the receiving healthcare facility:

(1) is under the control of the same person, as defined in Section R315-260-10, as the very small quantity generator healthcare facility that is sending the non-creditable hazardous waste pharmaceuticals off-site, "control," for the purposes of Section R315-266-502, means the power to direct the policies of the healthcare facility, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate healthcare facilities on behalf of a different person as defined in Section R315-260-10 shall not be deemed to "control" such healthcare facilities, or has a contractual or other documented business relationship whereby the receiving healthcare facility supplies pharmaceuticals to the very small quantity generator healthcare facility;

(2) is operating under Sections R315-266-500 through R315-266-510 for the management of its non-creditable hazardous waste pharmaceuticals;

(3) manages the non-creditable hazardous waste pharmaceuticals that it receives from off site in compliance with Sections R315-266-500 through R315-266-510; and

(4) keeps records of the non-creditable hazardous waste pharmaceuticals shipments it receives from off site for three years from the date that the shipment is received.

### **R315-266-503. Hazardous Waste Pharmaceuticals – Standards for Healthcare Facilities Managing Potentially Creditable Hazardous Waste Pharmaceuticals.**

(a) Hazardous waste determination for potentially creditable pharmaceuticals. A healthcare facility that generates a solid waste that is a potentially creditable pharmaceutical shall determine whether the potentially creditable pharmaceutical is a potentially creditable hazardous waste pharmaceutical, for example, it is listed in Sections R315-261-30 through R315-261-35 or exhibits a characteristic identified in Sections R315-261-20 through R315-261-24. A healthcare facility may choose to manage its potentially creditable non-hazardous waste pharmaceuticals as potentially creditable hazardous waste pharmaceuticals under Sections R315-266-500 through R315-266-510.

(b) Accepting potentially creditable hazardous waste pharmaceuticals from an off-site healthcare facility that is a very small quantity generator. A healthcare facility may accept potentially creditable hazardous waste pharmaceuticals from an off-site healthcare facility that is a very small quantity generator under Section R315-262-14, without a permit or without having interim status, provided the receiving healthcare facility:

(1) is under the control of the same person, as defined in Section R315-260-10, as the very small quantity generator healthcare facility that is sending the potentially creditable hazardous waste

pharmaceuticals off site, or has a contractual or other documented business relationship whereby the receiving healthcare facility supplies pharmaceuticals to the very small quantity generator healthcare facility;

(2) is operating under Sections R315-266-500 through R315-266-510 for the management of its potentially creditable hazardous waste pharmaceuticals;

(3) manages the potentially creditable hazardous waste pharmaceuticals that it receives from off site in compliance with Sections R315-266-500 through R315-266-510; and

(4) keeps records of the potentially creditable hazardous waste pharmaceuticals shipments it receives from off site for three years from the date that the shipment is received.

(c) Prohibition. Healthcare facilities are prohibited from sending hazardous wastes other than potentially creditable hazardous waste pharmaceuticals to a reverse distributor.

(d) Biennial Reporting by healthcare facilities. Healthcare facilities are not subject to biennial reporting requirements under Section R315-262-41 with respect to potentially creditable hazardous waste pharmaceuticals managed under Sections R315-266-500 through R315-266-510.

(e) Recordkeeping by healthcare facilities.

(1) A healthcare facility that initiates a shipment of potentially creditable hazardous waste pharmaceuticals to a reverse distributor shall keep the following records, paper or electronic, for each shipment of potentially creditable hazardous waste pharmaceuticals for three years from the date of shipment:

(i) the confirmation of delivery; and

(ii) the shipping papers prepared in accordance with 49 CFR part 172 subpart C, if applicable.

(2) The periods of retention referred to in Section R315-266-503 are extended automatically during the course of any unresolved enforcement action regarding the regulated activity, or as requested by the Director.

(3) Records shall be readily available upon request by an inspector.

(f) Response to spills of potentially creditable hazardous waste pharmaceuticals at healthcare facilities. A healthcare facility shall immediately contain any spills of potentially creditable hazardous waste pharmaceuticals and manage the spill clean-up materials as non-creditable hazardous waste pharmaceuticals in accordance with Sections R315-266-500 through R315-266-510.

**R315-266-504. Hazardous Waste Pharmaceuticals -- Healthcare Facilities that are Very Small Quantity Generators for Both Hazardous Waste Pharmaceuticals and Non-Pharmaceutical Hazardous Waste.**

(a) Potentially creditable hazardous waste pharmaceuticals. A healthcare facility that is a very small quantity generator for both hazardous waste pharmaceuticals and non-pharmaceutical hazardous waste may send its potentially creditable hazardous waste pharmaceuticals to a reverse distributor.

(b) Off-site collection of hazardous waste pharmaceuticals generated by a healthcare facility that is a very small quantity generator. A healthcare facility that is a very small quantity generator for both hazardous waste pharmaceuticals and non-pharmaceutical hazardous waste may send its hazardous waste pharmaceuticals off-site to another healthcare facility, provided:

(1) the receiving healthcare facility meets the conditions in Subsections R315-266-502(1) and R315-266-503(b), as applicable, or

(2) the very small quantity generator healthcare facility meets the conditions in Subsection R315-262-14(a)(5)(viii) and the receiving

large quantity generator meets the conditions in Subsection R315-262-17(f).

(c) Long-term care facilities that are very small quantity generators. A long-term care facility that is a very small quantity generator for both hazardous waste pharmaceuticals and non-pharmaceutical hazardous waste may dispose of its hazardous waste pharmaceuticals, excluding contaminated personal protective equipment or clean-up materials, in an on-site collection receptacle of an authorized collector, as defined by the Drug Enforcement Administration, that is registered with the Drug Enforcement Administration provided the contents are collected, stored, transported, destroyed and disposed of in compliance with applicable Drug Enforcement Administration regulations for controlled substances.

(d) Long-term care facilities with 20 beds or fewer. A long-term care facility with 20 beds or fewer is presumed to be a very small quantity generator subject to Section R315-262-14 for both hazardous waste pharmaceuticals and non-pharmaceutical hazardous waste and not subject to Sections R315-266-500 through R315-266-510, except for Sections R315-266-505 and R315-266-507 and the other optional provisions of Section R315-266-504. The Director has the responsibility to demonstrate that a long-term care facility with 20 beds or fewer generates quantities of hazardous waste that are in excess of the very small quantity generator limits as defined in Section R315-260-10. A long-term care facility with more than 20 beds that operates as a very small quantity generator under Section R315-262-14 shall demonstrate that it generates quantities of hazardous waste that are within the very small quantity generator limits as defined by Section R315-260-10.

**R315-266-505. Hazardous Waste Pharmaceuticals -- Prohibition of Sewering Hazardous Waste Pharmaceuticals.**

Healthcare facilities, including very small quantity generators operating under Section R315-262-14 in lieu of Sections R315-266-500 through R315-266-510, and reverse distributors are prohibited from discharging hazardous waste pharmaceuticals to a sewer system that passes through to a publicly-owned treatment works. Healthcare facilities and reverse distributors remain subject to the prohibitions in 40 CFR 403.5(b)(1).

**R315-266-506. Hazardous Waste Pharmaceuticals -- Conditional Exemptions for Hazardous Waste Pharmaceuticals That Are Also Controlled Substances and Household Waste Pharmaceuticals Collected in a Take-Back Event or Program.**

(a) Conditional exemptions. Provided the conditions of Subsection R315-266-506(b) are met, the following are exempt from Rules R315-262 through R315-273:

(1) hazardous waste pharmaceuticals that are also listed on a schedule of controlled substances by the Drug Enforcement Administration in 21 CFR part 1308; and

(2) household waste pharmaceuticals that are collected in a take-back event or program, including those that are collected by an authorized collector, as defined by the Drug Enforcement Administration, registered with the Drug Enforcement Administration that commingles the household waste pharmaceuticals with controlled substances from an ultimate user, as defined by the Drug Enforcement Administration.

(b) Conditions for exemption. The hazardous waste pharmaceuticals shall be:

(1) managed in compliance with the sewer prohibition of Section R315-266-505; and

(2) collected, stored, transported, and disposed of in compliance with applicable Drug Enforcement Administration regulations for controlled substances; and

(3) destroyed by a method that Drug Enforcement Administration has publicly deemed in writing to meet their non-retrievable standard of destruction or combusted at one of the following:

(i) a permitted large municipal waste combustor, subject to 40 CFR part 62 subpart FFF or applicable state plan for existing large municipal waste combustors, or 40 CFR part 60 subparts Eb for new large municipal waste combustors;

(ii) a permitted small municipal waste combustor, subject to 40 CFR part 62 subpart JJJ or applicable state plan for existing small municipal waste combustors, or 40 CFR part 60 subparts AAAA for new small municipal waste combustors;

(iii) a permitted hospital, medical and infectious waste incinerator, subject to 40 CFR part 62 subpart HHH or applicable state plan for existing hospital, medical and infectious waste incinerators, or 40 CFR part 60 subpart Ec for new hospital, medical and infectious waste incinerators;

(iv) a permitted commercial and industrial solid waste incinerator, subject to 40 CFR part 62 subpart III or applicable state plan for existing commercial and industrial solid waste incinerators, or 40 CFR part 60 subpart CCCC for new commercial and industrial solid waste incinerators; or

(v) a permitted hazardous waste combustor subject to 40 CFR part 63 subpart EEE.

**R315-266-507. Hazardous Waste Pharmaceuticals -- Residues of Hazardous Waste Pharmaceuticals in Empty Containers.**

(a) Stock, dispensing and unit-dose containers. A stock bottle, dispensing bottle, vial, or ampule, not to exceed 1 liter or 10,000 pills; or a unit-dose container, such as a unit-dose packet, cup, wrapper, blister pack, or delivery device, is considered empty and the residues are not regulated as hazardous waste provided the pharmaceuticals have been removed from the stock bottle, dispensing bottle, vial, ampule, or the unit-dose container using the practices commonly employed to remove materials from that type of container.

(b) Syringes. A syringe is considered empty and the residues are not regulated as hazardous waste under Sections R315-266-500 through R315-266-510 provided the contents have been removed by fully depressing the plunger of the syringe. If a syringe is not empty, the syringe shall be placed with its remaining hazardous waste pharmaceuticals into a container that is managed and disposed of as a non-creditable hazardous waste pharmaceutical under Sections R315-266-500 through R315-266-510 and any applicable federal, state, and local requirements for sharps containers and medical waste.

(c) Intravenous (IV) bags. An IV bag is considered empty and the residues are not regulated as hazardous waste provided the pharmaceuticals in the IV bag have been fully administered to a patient. If an IV bag is not empty, the IV bag shall be placed with its remaining hazardous waste pharmaceuticals into a container that is managed and disposed of as a non-creditable hazardous waste pharmaceutical under Sections R315-266-500 through R315-266-510, unless the IV bag held non-acute hazardous waste pharmaceuticals and is empty as defined in Subsection R315-261-7(b)(1).

(d) Other containers, including delivery devices. Hazardous waste pharmaceuticals remaining in any other type of unused, partially administered, or fully administered containers shall be managed as non-creditable hazardous waste pharmaceuticals under Sections R315-266-500 through R315-266-510, unless the container held non-acute hazardous waste pharmaceuticals and is empty as defined in Subsection R315-261-7(b)(1) or R315-261-7(b)(2). This includes, but is not limited to, residues in inhalers, aerosol cans, nebulizers, tubes of ointments, gels, or creams.

**R315-266-508. Hazardous Waste Pharmaceuticals -- Shipping Non-Creditable Hazardous Waste Pharmaceuticals from a Healthcare Facility or Evaluated Hazardous Waste Pharmaceuticals from a Reverse Distributor.**

(a) Shipping non-creditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals. A healthcare facility shall ship non-creditable hazardous waste pharmaceuticals and a reverse distributor shall ship evaluated hazardous waste pharmaceuticals off-site to a designated facility, that is, a permitted or interim status treatment, storage, or disposal facility, in compliance with:

(1) The following pre-transport requirements, before transporting or offering for transport off-site:

(i) Packaging. Package the waste in accordance with the applicable Department of Transportation regulations on hazardous materials under 49 CFR parts 173, 178, and 180.

(ii) Labeling. Label each package in accordance with the applicable Department of Transportation regulations on hazardous materials under 49 CFR part 172 subpart E.

(iii) Marking.

(A) Mark each package of hazardous waste pharmaceuticals in accordance with the applicable Department of Transportation (DOT) regulations on hazardous materials under 49 CFR part 172 subpart D.

(B) Mark each container of 119 gallons or less used in such transportation with the following words and information in accordance with the requirements of 49 CFR 172.304:

HAZARDOUS WASTE---Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency.

Healthcare Facility's or Reverse distributor's Name and Address \_\_\_\_\_.

Healthcare Facility's or Reverse distributor's EPA Identification Number \_\_\_\_\_.

Manifest Tracking Number \_\_\_\_\_.

(C) Lab packs that will be incinerated in compliance with Subsection R315-268-42(c) are not required to be marked with EPA Hazardous Waste Numbers, except D004, D005, D006, D007, D008, D010, and D011, where applicable. A nationally recognized electronic system, such as bar coding or radio frequency identification, may be used to identify the EPA Hazardous Waste Numbers.

(iv) Placarding. Placard or offer the initial transporter the appropriate placards according to Department of Transportation regulations for hazardous materials under 49 CFR part 172 subpart F.

(2) The manifest requirements of Sections R315-262-20 through R315-262-27, except as follows:

(i) A healthcare facility shipping non-creditable hazardous waste pharmaceuticals is not required to list each applicable hazardous waste number, in other words, hazardous waste codes, in Item 13 of EPA Form 8700-22.

(ii) A healthcare facility shipping non-creditable hazardous waste pharmaceuticals shall write either the word "PHARMS" or "PHRM" in Item 13 of EPA Form 8700-22.

(b) Exporting non-creditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals. A healthcare facility or reverse distributor that exports non-creditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals is subject to Sections R315-262-80 through R315-262-89.

(c) Importing non-creditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals. Any person that imports non-creditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals is subject to Sections R315-

262-80 through R315-262-89. A healthcare facility or reverse distributor may not accept imported non-creditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals unless they have a permit or interim status that allows them to accept hazardous waste from off site.

**R315-266-509. Hazardous Waste Pharmaceuticals -- Shipping Potentially Creditable Hazardous Waste Pharmaceuticals from a Healthcare Facility or a Reverse Distributor to a Reverse Distributor.**

(a) Shipping potentially creditable hazardous waste pharmaceuticals. A healthcare facility or a reverse distributor who transports or offers for transport potentially creditable hazardous waste pharmaceuticals off-site to a reverse distributor shall comply with applicable U.S. Department of Transportation regulations in 49 CFR part 171 through 180 for any potentially creditable hazardous waste pharmaceutical that meets the definition of hazardous material in 49 CFR 171.8. For purposes of the Department of Transportation regulations, a material is considered a hazardous waste if it is subject to the Hazardous Waste Manifest Requirements of the U.S. Environmental Protection Agency specified in Rule R315-262. Because a potentially creditable hazardous waste pharmaceutical does not require a manifest, it is not considered hazardous waste under the Department of Transportation regulations.

(b) Delivery confirmation. Upon receipt of each shipment of potentially creditable hazardous waste pharmaceuticals, the receiving reverse distributor shall provide confirmation, paper or electronic, to the healthcare facility or reverse distributor that initiated the shipment that the shipment of potentially creditable hazardous waste pharmaceuticals has arrived at its destination and is under the custody and control of the reverse distributor.

(c) Procedures for if delivery confirmation is not received within 35 days. If a healthcare facility or reverse distributor initiates a shipment of potentially creditable hazardous waste pharmaceuticals to a reverse distributor and does not receive delivery confirmation within 35 calendar days from the date that the shipment of potentially creditable hazardous waste pharmaceuticals was sent, the healthcare facility or reverse distributor that initiated the shipment shall contact the carrier and the intended recipient, in other word the reverse distributor, promptly to report that the delivery confirmation was not received and to determine the status of the potentially creditable hazardous waste pharmaceuticals.

(d) Exporting potentially creditable hazardous waste pharmaceuticals. A healthcare facility or reverse distributor that sends potentially creditable hazardous waste pharmaceuticals to a foreign destination shall comply with the applicable sections of Sections R315-262-80 through R315-262-89, except the manifesting requirement of Subsection R315-262-83(c), in addition to Subsections R315-266-509(a) through R315-266-509(c).

(e) Importing potentially creditable hazardous waste pharmaceuticals. Any person that imports potentially creditable hazardous waste pharmaceuticals into the United States is subject to Subsections R315-266-509(a) through R315-266-509(c) in lieu of Sections R315-262-80 through R315-262-89. Immediately after the potentially creditable hazardous waste pharmaceuticals enter the United States, they are subject to the applicable requirements of Sections R315-266-500 through R315-266-510.

**R315-266-510. Hazardous Waste Pharmaceuticals -- Standards for the Management of Potentially Creditable Hazardous Waste Pharmaceuticals and Evaluated Hazardous Waste Pharmaceuticals at Reverse Distributors.**

A reverse distributor may accept potentially creditable hazardous waste pharmaceuticals from off site and accumulate potentially creditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals on site without a hazardous waste permit or without having interim status, provided that it complies with the following conditions:

(a) Standards for reverse distributors managing potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals.

(1) Notification. A reverse distributor shall notify the Director, using the Site Identification Form, EPA Form 8700-12, that it is a reverse distributor operating under Sections R315-266-500 through R315-266-510.

(i) A reverse distributor that already has an EPA identification number shall notify the Director, using the Site Identification Form, EPA Form 8700-12, that it is a reverse distributor, as defined in Section R315-266-500, within 60 days of the effective date of Sections R315-266-500 through R315-266-510, or within 60 days of becoming subject to Sections R315-266-500 through R315-266-510.

(ii) A reverse distributor that does not have an EPA identification number shall obtain one by notifying the Director, using the Site Identification Form, EPA Form 8700-12, that it is a reverse distributor, as defined in Section R315-266-500, within 60 days of the effective date of Sections R315-266-500 through R315-266-510, or within 60 days of becoming subject to Sections R315-266-500 through R315-266-510.

(2) Inventory by the reverse distributor. A reverse distributor shall maintain a current inventory of the potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals that are accumulated on site.

(i) A reverse distributor shall inventory each potentially creditable hazardous waste pharmaceutical within 30 calendar days of each waste arriving at the reverse distributor.

(ii) The inventory shall include the identity, for example, name or national drug code, and quantity of each potentially creditable hazardous waste pharmaceutical and evaluated hazardous waste pharmaceutical.

(iii) If the reverse distributor already meets the inventory requirements of Subsection R315-266-510(a)(2) because of other regulatory requirements, such as State Board of Pharmacy regulations, the facility is not required to provide a separate inventory pursuant to Section R315-266-510.

(3) Evaluation by a reverse distributor that is not a manufacturer. A reverse distributor that is not a pharmaceutical manufacturer shall evaluate a potentially creditable hazardous waste pharmaceutical within 30 calendar days of the waste arriving at the reverse distributor to establish whether it is destined for another reverse distributor for further evaluation or verification of manufacturer credit or for a permitted or interim status treatment, storage, or disposal facility.

(i) A potentially creditable hazardous waste pharmaceutical that is destined for another reverse distributor is still considered a "potentially creditable hazardous waste pharmaceutical" and shall be managed in accordance with Subsection R315-266-510(b).

(ii) A potentially creditable hazardous waste pharmaceutical that is destined for a permitted or interim status treatment, storage or disposal facility is considered an "evaluated hazardous waste pharmaceutical" and shall be managed in accordance with Subsection R315-266-510(c).

(4) Evaluation by a reverse distributor that is a manufacturer. A reverse distributor that is a pharmaceutical manufacturer shall evaluate a potentially creditable hazardous waste pharmaceutical to verify manufacturer credit within 30 calendar days of the waste arriving



at the facility and following the evaluation shall manage the evaluated hazardous waste pharmaceuticals in accordance with Subsection R315-266-501(c).

(5) Maximum accumulation time for hazardous waste pharmaceuticals at a reverse distributor.

(i) A reverse distributor may accumulate potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals on site for 180 calendar days or less. The 180 days start after the potentially creditable hazardous waste pharmaceutical has been evaluated and applies to any hazardous waste pharmaceuticals accumulated on site, regardless of whether they are destined for another reverse distributor, that is potentially creditable hazardous waste pharmaceuticals, or a permitted or interim status treatment, storage, or disposal facility, that is evaluated hazardous waste pharmaceuticals.

(ii) Aging pharmaceuticals. Unexpired pharmaceuticals that are otherwise creditable but are awaiting their expiration date, in other words, aging in a holding morgue, can be accumulated for up to 180 days after the expiration date, provided that the unexpired pharmaceuticals are managed in accordance with Subsection R315-266-510(a) and the container labeling and management standards in Subsections R315-266-510(c)(4)(i) through R315-266-510(c)(4)(vi).

(6) Security at the reverse distributor facility. A reverse distributor shall prevent unknowing entry and minimize the possibility for the unauthorized entry into the portion of the facility where potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals are kept.

(i) Examples of methods that may be used to prevent unknowing entry and minimize the possibility for unauthorized entry include, but are not limited to:

(A) a 24-hour continuous monitoring surveillance system;

(B) an artificial barrier such as a fence; or

(C) a means to control entry, such as keycard access.

(ii) If the reverse distributor already meets the security requirements of Subsection R315-266-510(a)(6) because of other regulatory requirements, such as Drug Enforcement Administration or State Board of Pharmacy regulations, the facility is not required to provide separate security measures pursuant to Section R315-266-510.

(7) Contingency plan and emergency procedures at a reverse distributor. A reverse distributor that accepts potentially creditable hazardous waste pharmaceuticals from off-site shall prepare a contingency plan and comply with the other requirements of Sections R315-262-250 through R315-262-265.

(8) Closure of a reverse distributor. If closing an area where a reverse distributor accumulates potentially creditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals, the reverse distributor shall comply with Subsections R315-262-17(a)(8)(ii) and R315-262-17(a)(8)(iii).

(9) Reporting by a reverse distributor.

(i) Unauthorized waste report. A reverse distributor shall submit an unauthorized waste report if the reverse distributor receives waste from off site that it is not authorized to receive, for example, non-pharmaceutical hazardous waste, regulated medical waste. The reverse distributor shall prepare and submit an unauthorized waste report to the Director within 45 calendar days after the unauthorized waste arrives at the reverse distributor and shall send a copy of the unauthorized waste report to the healthcare facility, or other entity, that sent the unauthorized waste. The reverse distributor shall manage the unauthorized waste in accordance with applicable rules. The unauthorized waste report shall be signed by the owner or operator of the reverse distributor, or its authorized representative, and contain the following information:

(A) the EPA identification number, name and address of the reverse distributor;

(B) the date the reverse distributor received the unauthorized waste;

(C) the EPA identification number, name, and address of the healthcare facility that shipped the unauthorized waste, if available;

(D) a description and the quantity of each unauthorized waste the reverse distributor received;

(E) the method of treatment, storage, or disposal for each unauthorized waste; and

(F) a brief explanation of why the waste was unauthorized, if known.

(ii) Additional reports. The Director may require reverse distributors to furnish additional reports concerning the quantities and disposition of potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals.

(10) Recordkeeping by reverse distributors. A reverse distributor shall keep certain records, paper or electronic, readily available upon request by an inspector. The periods of retention referred to in Section R315-266-510 are extended automatically during the course of any unresolved enforcement action regarding the regulated activity, or as requested by the Director. A reverse distributor shall keep the following records:

(i) a copy of its notification on file for as long as the facility is subject to Sections R315-266-500 through R315-266-510;

(ii) a copy of the delivery confirmation and the shipping papers for each shipment of potentially creditable hazardous waste pharmaceuticals that it receives, and a copy of each unauthorized waste report, for at least three years from the date the shipment arrives at the reverse distributor; and

(iii) a copy of its current inventory for as long as the facility is subject to Sections R315-266-500 through R315-266-510.

(b) Additional standards for reverse distributors managing potentially creditable hazardous waste pharmaceuticals destined for another reverse distributor. A reverse distributor that does not have a permit or interim status shall comply with the following conditions, in addition to the requirements in Subsection R315-266-510(a), for the management of potentially creditable hazardous waste pharmaceuticals that are destined for another reverse distributor for further evaluation or verification of manufacturer credit:

(1) A reverse distributor that receives potentially creditable hazardous waste pharmaceuticals from a healthcare facility shall send those potentially creditable hazardous waste pharmaceuticals to another reverse distributor within 180 days after the potentially creditable hazardous waste pharmaceuticals have been evaluated or follow Subsection R315-266-510(c) for evaluated hazardous waste pharmaceuticals.

(2) A reverse distributor that receives potentially creditable hazardous waste pharmaceuticals from another reverse distributor shall send those potentially creditable hazardous waste pharmaceuticals to a reverse distributor that is a pharmaceutical manufacturer within 180 days after the potentially creditable hazardous waste pharmaceuticals have been evaluated or follow Subsection R315-266-510(c) for evaluated hazardous waste pharmaceuticals.

(3) A reverse distributor shall ship potentially creditable hazardous waste pharmaceuticals destined for another reverse distributor in accordance with Section R315-266-509.

(4) Recordkeeping by reverse distributors. A reverse distributor shall keep certain records, paper or electronic, readily available upon request by an inspector for each shipment of potentially creditable hazardous waste pharmaceuticals that it initiates to another reverse distributor, for at least three years from the date of shipment.

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The periods of retention referred to in Section R315-266-510 are extended automatically during the course of any unresolved enforcement action regarding the regulated activity, or as requested by the Director. A reverse distributor shall keep the following records:

(i) the confirmation of delivery; and

(ii) the DOT shipping papers prepared in accordance with 49 CFR part 172 subpart C, if applicable.

(c) Additional standards for reverse distributors managing evaluated hazardous waste pharmaceuticals. A reverse distributor that does not have a permit or interim status shall comply with the following conditions, in addition to the requirements of Subsection R315-266-510(a), for the management of evaluated hazardous waste pharmaceuticals:

(1) Accumulation area at the reverse distributor. A reverse distributor shall designate an on-site accumulation area where it will accumulate evaluated hazardous waste pharmaceuticals.

(2) Inspections of on-site accumulation area. A reverse distributor shall inspect its on-site accumulation area at least once every seven days, looking at containers for leaks and for deterioration caused by corrosion or other factors, as well as for signs of diversion.

(3) Personnel training at a reverse distributor. Personnel at a reverse distributor that handle evaluated hazardous waste pharmaceuticals are subject to the training requirements of Subsection R315-262-17(a)(7).

(4) Labeling and management of containers at on-site accumulation areas. A reverse distributor accumulating evaluated hazardous waste pharmaceuticals in containers in an on-site accumulation area shall:

(i) label the containers with the words, "hazardous waste pharmaceuticals";

(ii) ensure the containers are in good condition and managed to prevent leaks;

(iii) use containers that are made of or lined with materials which will not react with, and are otherwise compatible with, the evaluated hazardous waste pharmaceuticals, so that the ability of the container to contain the waste is not impaired;

(iv) keep containers closed, if holding liquid or gel evaluated hazardous waste pharmaceuticals. If the liquid or gel evaluated hazardous waste pharmaceuticals are in their original, intact, sealed packaging; or repackaged, intact, sealed packaging, they are considered to meet the closed container standard;

(v) manage any container of ignitable or reactive evaluated hazardous waste pharmaceuticals, or any container of commingled incompatible evaluated hazardous waste pharmaceuticals so that the container does not have the potential to:

(A) generate extreme heat or pressure, fire or explosion, or violent reaction;

(B) produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health;

(C) produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions;

(D) damage the structural integrity of the container of hazardous waste pharmaceuticals; or

(E) through other like means threaten human health or the environment; and

(vi) accumulate evaluated hazardous waste pharmaceuticals that are prohibited from being combusted because of the dilution prohibition of Subsection R315-268-3(c), for example, arsenic trioxide (P012), in separate containers from other evaluated hazardous waste pharmaceuticals at the reverse distributor.

(5) Hazardous waste numbers. Prior to shipping evaluated hazardous waste pharmaceuticals off site, each container shall be

marked with the applicable hazardous waste numbers, in other words hazardous waste codes. A nationally recognized electronic system, such as bar coding or radio frequency identification, may be used to identify the EPA Hazardous Waste Numbers.

(6) Shipments. A reverse distributor shall ship evaluated hazardous waste pharmaceuticals that are destined for a permitted or interim status treatment, storage or disposal facility in accordance with the applicable shipping standards in Subsections R315-266-508(a) or R315-266-508(b).

(7) Procedures for a reverse distributor for managing rejected shipments. A reverse distributor that sends a shipment of evaluated hazardous waste pharmaceuticals to a designated facility with the understanding that the designated facility can accept and manage the waste, and later receives that shipment back as a rejected load in accordance with the manifest discrepancy provisions of Section R315-264-72 or R315-265-72, may accumulate the returned evaluated hazardous waste pharmaceuticals on site for up to an additional 90 days in the on-site accumulation area provided the rejected or returned shipment is managed in accordance with Subsections R315-266-510(a) and R315-266-510(c). Upon receipt of the returned shipment, the reverse distributor shall:

(i) sign either:

(A) item 18c of the original manifest, if the original manifest was used for the returned shipment; or

(B) item 20 of the new manifest, if a new manifest was used for the returned shipment;

(ii) provide the transporter a copy of the manifest;

(iii) within 30 days of receipt of the rejected shipment of the evaluated hazardous waste pharmaceuticals, send a copy of the manifest to the designated facility that returned the shipment to the reverse distributor; and

(iv) within 90 days of receipt of the rejected shipment, transport or offer for transport the returned shipment of evaluated hazardous waste pharmaceuticals in accordance with the applicable shipping standards of Subsection R315-266-508(a) or R315-266-508(b).

(8) Land disposal restrictions. Evaluated hazardous waste pharmaceuticals are subject to the land disposal restrictions of Rule R315-268. A reverse distributor that accepts potentially creditable hazardous waste pharmaceuticals from off-site shall comply with the land disposal restrictions in accordance with the requirements of Subsection R315-268-7(a).

(9) Reporting by a reverse distributor for evaluated hazardous waste pharmaceuticals.

(i) Biennial reporting by a reverse distributor. A reverse distributor that ships evaluated hazardous waste pharmaceuticals off-site shall prepare and submit a single copy of a biennial report to the Director by March 1 of each even numbered year in accordance with Section R315-262-41.

(ii) Exception reporting by a reverse distributor for a missing copy of the manifest.

(A) For shipments from a reverse distributor to a designated facility.

(I) If a reverse distributor does not receive a copy of the manifest with the signature of the owner or operator of the designated facility within 35 days of the date the evaluated hazardous waste pharmaceuticals were accepted by the initial transporter, the reverse distributor shall contact the transporter or the owner or operator of the designated facility to determine the status of the evaluated hazardous waste pharmaceuticals.

(II) A reverse distributor shall submit an exception report to the Director if it has not received a copy of the manifest with the

signature of the owner or operator of the designated facility within 45 days of the date the evaluated hazardous waste pharmaceutical was accepted by the initial transporter. The exception report shall include:

(1) a legible copy of the manifest for which the reverse distributor does not have confirmation of delivery; and

(2) a cover letter signed by the reverse distributor, or its authorized representative, explaining the efforts taken to locate the evaluated hazardous waste pharmaceuticals and the results of those efforts.

(B) For shipments rejected by the designated facility and shipped to an alternate facility.

(I) A reverse distributor that does not receive a copy of the manifest with the signature of the owner or operator of the alternate facility within 35 days of the date the evaluated hazardous waste pharmaceuticals were accepted by the initial transporter shall contact the transporter or the owner or operator of the alternate facility to determine the status of the hazardous waste. The 35-day time frame begins the date the evaluated hazardous waste pharmaceuticals are accepted by the transporter forwarding the hazardous waste shipment from the designated facility to the alternate facility.

(II) A reverse distributor shall submit an Exception Report to the Director if it has not received a copy of the manifest with the signature of the owner or operator of the alternate facility within 45 days of the date the evaluated hazardous waste pharmaceuticals were accepted by the initial transporter. The 45-day timeframe begins the date the evaluated hazardous waste pharmaceuticals are accepted by the transporter forwarding the hazardous waste pharmaceutical shipment from the designated facility to the alternate facility. The Exception Report shall include:

(1) a legible copy of the manifest for which the generator does not have confirmation of delivery; and

(2) a cover letter signed by the reverse distributor, or its authorized representative, explaining the efforts taken to locate the evaluated hazardous waste pharmaceuticals and the results of those efforts.

(10) Recordkeeping by a reverse distributor for evaluated hazardous waste pharmaceuticals.

(i) A reverse distributor shall keep a log, written or electronic, of the inspections of the on-site accumulation area, required by Subsection R315-266-510(c)(2). This log shall be retained as a record for at least three years from the date of the inspection.

(ii) A reverse distributor shall keep a copy of each manifest signed in accordance with Subsection R315-262-23(a) for three years or until it receives a signed copy from the designated facility that received the evaluated hazardous waste pharmaceutical. This signed copy shall be retained as a record for at least three years from the date the evaluated hazardous waste pharmaceutical was accepted by the initial transporter.

(iii) A reverse distributor shall keep a copy of each biennial report for at least three years from the due date of the report.

(iv) A reverse distributor shall keep a copy of each exception report for at least three years from the submission of the report.

(v) A reverse distributor shall keep records to document personnel training, in accordance with Subsection R315-262-17(a)(7)(iv).

(vi) Records shall be readily available upon request by an inspector. The periods of retention referred to in Section R315-266-510 are extended automatically during the course of any unresolved enforcement action regarding the regulated activity, or as requested by the Director.

(d) When a reverse distributor shall have a permit. A reverse distributor is an operator of a hazardous waste treatment, storage, or disposal facility and is subject to the requirements of Rules R315-264,

and R315-265, and the permit requirements of Rule R315-270, if the reverse distributor:

- (1) does not meet the conditions of Section R315-266-510;
- (2) accepts manifested hazardous waste from off site; or
- (3) treats or disposes of hazardous waste pharmaceuticals on site.

**R315-266-[203]600. Appendix I to Rule R315-266 -- Tier I and Tier II Feed Rate and Emissions Screening Limits for Metals.**

Appendix I of 40 CFR 266, 2015 edition, is adopted and incorporated by reference.

**R315-266-[204]601. Appendix II to Rule R315-266 -- Tier I Feed Rate Screening Limits for Total Chlorine.**

Terrain-adjusted effective stack height (m)	Noncomplex Terrain Urban (g/hr)	Rural (g/hr)	Complex Terrain (g/hr)
4	8.2E+01	4.2E+01	1.9E+01
6	9.1E+01	4.8E+01	2.8E+01
8	1.0E+02	5.3E+01	4.1E+01
10	1.2E+02	6.2E+01	5.8E+01
12	1.3E+02	7.7E+01	7.2E+01
14	1.5E+02	9.1E+01	9.1E+01
16	1.7E+02	1.2E+02	1.1E+02
18	1.9E+02	1.4E+02	1.2E+02
20	2.1E+02	1.8E+02	1.3E+02
22	2.4E+02	2.3E+02	1.4E+02
24	2.7E+02	2.9E+02	1.6E+02
26	3.1E+02	3.7E+02	1.7E+02
28	3.5E+02	4.7E+02	1.9E+02
30	3.9E+02	5.8E+02	2.1E+02
35	5.3E+02	9.6E+02	2.6E+02
40	6.2E+02	1.4E+03	3.3E+02
45	8.2E+02	2.0E+03	4.0E+02
50	1.1E+03	2.6E+03	4.8E+02
55	1.3E+03	3.5E+03	6.2E+02
60	1.6E+03	4.6E+03	7.7E+02
65	2.0E+03	6.2E+03	9.1E+02
70	2.3E+03	7.2E+03	1.1E+03
75	2.5E+03	8.6E+03	1.2E+03
80	2.9E+03	1.0E+04	1.3E+03
85	3.3E+03	1.2E+04	1.4E+03
90	3.7E+03	1.4E+04	1.6E+03
95	4.2E+03	1.7E+04	1.8E+03
100	4.8E+03	2.1E+04	2.0E+03
105	5.3E+03	2.4E+04	2.3E+03
110	6.2E+03	2.9E+04	2.5E+03
115	7.2E+03	3.5E+04	2.8E+03
120	8.2E+03	4.1E+04	3.2E+03

**R315-266-[205]602. Appendix III to Rule R315-266 -- Tier II Emission Rate Screening Limits for Free Chlorine and Hydrogen Chloride.**

Appendix III of 40 CFR 266, 2015 edition, is adopted and incorporated by reference.

**R315-266-[206]603. Appendix IV to Rule R315-266 -- Reference Air Concentrations\*.**

Constituent	CAS No.	RAC (ug/m <sup>3</sup> )
Acetaldehyde	75-07-0	10
Acetonitrile	75-05-8	10
Acetophenone	98-86-2	100
Acrolein	107-02-8	20
Aldicarb	116-06-3	1
Aluminum Phosphide	20859-73-8	0.3

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Allyl Alcohol	107-18-6	5
Antimony	7440-36-0	0.3
Barium	7440-39-3	50
Barium Cyanide	542-62-1	50
Bromomethane	74-83-9	0.8
Calcium Cyanide	592-01-8	30
Carbon Disulfide	75-15-0	200
Chloral	75-87-6	2
Chlorine (free)		0.4
2-Chloro-1,3-butadiene	126-99-8	3
Chromium III	16065-83-1	1000
Copper Cyanide	544-92-3	5
Cresols	1319-77-3	50
Cumene	98-82-8	1
Cyanide (free)	57-12-15	20
Cyanogen	460-19-5	30
Cyanogen Bromide	506-68-3	80
Di-n-butyl Phthalate	84-74-2	100
o-Dichlorobenzene	95-50-1	10
p-Dichlorobenzene	106-46-7	10
Dichlorodifluoromethane	75-71-8	200
2,4-Dichlorophenol	120-83-2	3
Diethyl Phthalate	84-66-2	800
Dimethoate	60-51-5	0.8
2,4-Dinitrophenol	51-28-5	2
Dinoseb	88-85-7	0.9
Diphenylamine	122-39-4	20
Endosulfan	115-29-1	0.05
Endrin	72-20-8	0.3
Fluorine	7782-41-4	50
Formic Acid	64-18-6	2000
Glycidyaldehyde	765-34-4	0.3
Hexachlorocyclopentadiene	77-47-4	5
Hexachlorophene	70-30-4	0.3
Hydrocyanic Acid	74-90-8	20
Hydrogen Chloride	7647-01-1	7
Hydrogen Sulfide	7783-06-4	3
Isobutyl Alcohol	78-83-1	300
Lead	7439-92-1	0.09
Maleic Anhydride	108-31-6	100
Mercury	7439-97-6	0.3
Methacrylonitrile	126-98-7	0.1
Methomyl	16752-77-5	20
Methoxychlor	72-43-5	50
Methyl Chlorocarbonate	79-22-1	1000
Methyl Ethyl Ketone	78-93-3	80
Methyl Parathion	298-00-0	0.3
Nickel Cyanide	557-19-7	20
Nitric Oxide	10102-43-9	100
Nitrobenzene	98-95-3	0.8
Pentachlorobenzene	608-93-5	0.8
Pentachlorophenol	87-86-5	30
Phenol	108-95-2	30
M-Phenylenediamine	108-45-2	5
Phenylmercuric Acetate	62-38-4	0.075
Phosphine	7803-51-2	0.3
Phthalic Anhydride	85-44-9	2000
Potassium Cyanide	151-50-8	50
Potassium Silver Cyanide	506-61-6	200
Pyridine	110-86-1	1
Selenious Acid	7783-60-8	3
Selenourea	630-10-4	5
Silver	7440-22-4	3
Silver Cyanide	506-64-9	100
Sodium Cyanide	143-33-9	30
Strychnine	57-24-9	0.3
1,2,4,5-Tetrachlorobenzene	95-94-3	0.3
2,3,4,6-Tetrachlorophenol	58-90-2	30
Tetraethyl Lead	78-00-2	0.0001
Tetrahydrofuran	109-99-9	10
Thallic Oxide	1314-32-5	0.3
Thallium	7440-28-0	0.5
Thallium (I) Acetate	563-68-8	0.5
Thallium (I) Carbonate	6533-73-9	0.3
Thallium (I) Chloride	7791-12-0	0.3
Thallium (I) Nitrate	10102-45-1	0.5
Thallium Selenite	12039-52-0	0.5
Thallium (I) Sulfate	7446-18-6	0.075

Thiram	137-26-8	5
Toluene	108-88-3	300
1,2,4-Trichlorobenzene	120-82-1	20
Trichloromonofluoromethane	75-69-4	300
2,4,5-Trichlorophenol	95-95-4	100
Vanadium Pentoxide	1314-62-1	20
Warfarin	81-81-2	0.3
Xylenes	1330-20-7	80
Zinc Cyanide	557-21-1	50
Zinc Phosphide	1314-84-7	0.3

\*The RAC for other appendix VIII Rule R315-261 constituents not listed herein or in appendix V of Rule R315-266 is 0.1 ug/m<sup>3</sup>.

**R315-266-[207]604. Appendix V to Rule R315-266 -- Risk Specific Doses.**

Constituent	CAS No.	Table	
		Unit risk (m3/microg)	RsD (microg/m3)
Acrylamide	79-06-1	1.3E[+]_03	7.7E[+]_03
Acrylonitrile	107-13-1	6.8E[+]_05	1.5E[+]_01
Aldrin	309-00-2	4.9E[+]_03	2.0E[+]_03
Aniline	62-53-3	7.4E[+]_06	1.4E+00
Arsenic	7440-38-2	4.3E[+]_03	2.3E[+]_03
Benz(a)anthracene	56-55-3	8.9E[+]_04	1.1E[+]_02
Benzene	71-43-2	8.3E[+]_06	1.2E+00
Benzidine	92-87-5	6.7E[+]_02	1.5E[+]_04
Benzo(a)pyrene	50-32-8	3.3E[+]_03	3.0E[+]_03
Beryllium	7440-41-7	2.4E[+]_03	4.2E[+]_03
Bis(2-chloroethyl) ether	111-44-4	3.3E[+]_04	3.0E[+]_02
Bis(chloromethyl) ether	542-88-1	6.2E[+]_02	1.6E[+]_04
Bis(2-ethylhexyl)-phthalate	117-81-7	2.4E[+]_07	4.2E+01
1,3-Butadiene	106-99-0	2.8E[+]_04	3.6E[+]_02
Cadmium	7440-43-9	1.8E[+]_03	5.6E[+]_03
Carbon Tetrachloride	56-23-5	1.5E[+]_05	6.7E[+]_01
Chlordane	57-74-9	3.7E[+]_04	2.7E[+]_02
Chloroform	67-66-3	2.3E[+]_05	4.3E[+]_01
Chloromethane	74-87-3	3.6E[+]_06	2.8E+00
Chromium VI	7440-47-3	1.2E[+]_02	8.3E[+]_04
DDT	50-29-3	9.7E[+]_05	1.0E[+]_01
Dibenz(a,h)anthracene	53-70-3	1.4E[+]_02	7.1E[+]_04
1,2-Dibromo-3-chloropropane	96-12-8	6.3E[+]_03	1.6E[+]_03
1,2-Dibromoethane	106-93-4	2.2E[+]_04	4.5E[+]_02
1,1-Dichloroethane	75-34-3	2.6E[+]_05	3.8E[+]_01
1,2-Dichloroethane	107-06-2	2.6E[+]_05	3.8E[+]_01
1,1-Dichloroethylene	75-35-4	5.0E[+]_05	2.0E[+]_01
1,3-Dichloropropene	542-75-6	3.5E[+]_01	2.9E[+]_05
Diieldrin	60-57-1	4.6E[+]_03	2.2E[+]_03
Diethylstilbestrol	56-53-1	1.4E[+]_01	7.1E[+]_05
Dimethylnitrosamine	62-75-9	1.4E[+]_02	7.1E[+]_04
2,4-Dinitrotoluene	121-14-2	8.8E[+]_05	1.1E[+]_01
1,2-Diphenylhydrazine	122-66-7	2.2E[+]_04	4.5E[+]_02
1,4-Dioxane	123-91-1	1.4E[+]_06	7.1E+00
Epichlorohydrin	106-89-8	1.2E[+]_06	8.3E+00
Ethylene Oxide	75-21-8	1.0E[+]_04	1.0E[+]_01
Ethylene Dibromide	106-93-4	2.2E[+]_04	4.5E[+]_02
Formaldehyde	50-00-0	1.3E[+]_05	7.7E[+]_01
Heptachlor	76-44-8	1.3E[+]_03	7.7E[+]_03
Heptachlor Epoxide	1024-57-3	2.6E[+]_03	3.8E[+]_03
Hexachlorobenzene	118-74-1	4.9E[+]_04	2.0E[+]_02
Hexachlorobutadiene	87-68-3	2.0E[+]_05	5.0E[+]_01
Alpha-hexachloro-cyclohexane	319-84-6	1.8E[+]_03	5.6E[+]_03
Beta-hexachloro-cyclohexane	319-85-7	5.3E[+]_04	1.9E[+]_02
Gamma-hexachloro-cyclohexane	58-89-9	3.8E[+]_04	2.6E[+]_02

Hexachlorocyclohexane, Technical	5.1E[+]04	2.0E[+]02
Hexachlorodibenzo-p-dioxin (1,2 Mixture)	1.3E+0	7.7E[+]06
Hexachloroethane	67-72-1	4.0E[+]06
Hydrazine	302-01-2	2.9E[+]03
Hydrazine Sulfate	302-01-2	2.9E[+]03
3-Methylcholanthrene	56-49-5	2.7E[+]03
Methyl Hydrazine	60-34-4	3.1E[+]04
Methylene Chloride	75-09-2	4.1E[+]06
4,4'-Methylene-bis-2-chloroaniline	101-14-4	4.7E[+]05
Nickel	7440-02-0	2.4E[+]04
Nickel Refinery Dust	7440-02-0	2.4E[+]04
Nickel Subulfide	12035-72-2	4.8E[+]04
2-Nitropropane	79-46-9	2.7E[+]02
N-Nitroso-n-butylamine	924-16-3	1.6E[+]03
N-Nitroso-n-methylurea	684-93-5	8.6E[+]02
N-Nitrosodiethylamine	55-18-5	4.3E[+]02
N-Nitrosopyrrolidine	930-55-2	6.1E[+]04
Pentachloronitrobenzene	82-68-8	7.3E[+]05
PCBs	1336-36-3	1.2E[+]03
Pronamide	23950-58-5	4.6E[+]06
Reserpine	50-55-5	3.0E[+]03
2,3,7,8-Tetrachloro-dibenzo-p-dioxin	1746-01-6	4.5E+01
1,1,2,2-Tetrachloroethane	79-34-5	5.8E[+]05
Thiourea	62-56-6	5.5E[+]04
1,1,2-Trichloroethane	79-00-5	1.6E[+]05
Trichloroethylene	79-01-6	1.3E[+]06
2,4,6-Trichlorophenol	88-06-2	5.7E[+]06
Toxaphene	8001-35-2	3.2E[+]04
Vinyl Chloride	75-01-4	7.1E[+]06

Acrolein	107-02-8	5xE[+]01
Acrylamide	79-06-1	2xE[+]04
Acrylonitrile	107-13-1	7xE[+]04
Aldrin	309-00-2	2xE[+]05
Allyl alcohol	107-18-6	2xE[+]01
Aluminum phosphide	20859-73-8	1xE[+]02
Aniline	62-53-3	6xE[+]02
Barium cyanide	542-62-1	1xE+00
Benz(a)anthracene	56-55-3	1xE[+]04
Benzene	71-43-2	5xE[+]03
Benzidine	92-87-5	1xE[+]06
Bis(2-chloroethyl) ether	111-44-4	3xE[+]04
Bis(chloroethyl) ether	542-88-1	2xE[+]06
Bis(2-ethylhexyl) phthalate	117-81-7	3xE+01
Bromoform	75-25-2	7xE[+]01
Calcium cyanide	592-01-8	1xE[+]06
Carbon disulfide	75-15-0	4xE+00
Carbon tetrachloride	56-23-5	5xE[+]03
Chlordane	57-74-9	3xE[+]04
Chlorobenzene	108-90-7	1xE+00
Chloroform	67-66-3	6xE[+]02
Copper cyanide	544-92-3	2xE[+]01
Cresols (Cresylic acid)	1319-77-3	2xE+00
Cyanogen	460-19-5	1xE+00
DDT	50-29-3	1xE[+]03
Dibenz(a, h)-anthracene	53-70-3	7xE[+]06
1,2-Dibromo-3-chloropropane	96-12-8	2xE[+]05
p-Dichlorobenzene	106-46-7	7.5xE[+]02
Dichlorodifluoromethane	75-71-8	7xE+00
1,1-Dichloroethylene	75-35-4	5xE[+]03
2,4-Dichlorophenol	120-83-2	1xE[+]01
1,3-Dichloropropene	542-75-6	1xE[+]03
Dieldrin	60-57-1	2xE[+]05
Diethyl phthalate	84-66-2	3xE+01
Diethylstilbesterol	56-53-1	7xE[+]07
Dimethoate	60-51-5	3xE[+]02
2,4-Dinitrotoluene	121-14-2	5xE[+]04
Diphenylamine	122-39-4	9xE[+]01
1,2-Diphenylhydrazine	122-66-7	5xE[+]04
Endosulfan	115-29-7	2xE[+]03
Endrin	72-20-8	2xE[+]04
Epichlorohydrin	106-89-8	4xE[+]02
Ethylene dibromide	106-93-4	4xE[+]07
Ethylene oxide	75-21-8	3xE[+]04
Fluorine	7782-41-4	4xE+00
Formic acid	64-18-6	7xE+01
Heptachlor	76-44-8	8xE[+]05
Heptachlor epoxide	1024-57-3	4xE[+]05
Hexachlorobenzene	118-74-1	2xE[+]04
Hexachlorobutadiene	87-68-3	5xE[+]03
Hexachlorocyclopentadiene	77-47-4	2xE[+]01
Hexachlorodibenzo-p-dioxins	19408-74-3	6xE[+]08
Hexachloroethane	67-72-1	3xE[+]02
Hydrazine	302-01-1	1xE[+]04
Hydrogen cyanide	74-90-8	7xE[+]05
Hydrogen sulfide	7783-06-4	1xE[+]06
Isobutyl alcohol	78-83-1	1xE+01
Methomyl	16752-77-5	1xE+00
Methoxychlor	72-43-5	1xE[+]01
3-Methylcholanthrene	56-49-5	4xE[+]05
4,4'-Methylenebis(2-chloroaniline)	101-14-4	2xE[+]03
Methylene chloride	75-09-2	5xE[+]02
Methyl ethyl ketone (MEK)	78-93-3	2xE+00
Methyl hydrazine	60-34-4	3xE[+]04
Methyl parathion	298-00-0	2xE[+]02
Naphthalene	91-20-3	1xE+01
Nickel cyanide	557-19-7	7xE[+]01
Nitric oxide	10102-43-9	4xE+00

**R315-266-[208]605. Appendix VI to Rule R315-266 -- Stack Plume Rise.**

Appendix VI of 40 CFR 266, 2015 edition, is adopted and incorporated by reference.

**R315-266-[209]606. Appendix VII to Rule R315-266 -- Health-Based Limits for Exclusion of Waste-Derived Residues.**

Table

Metals -- TCLP Extract Concentration Limits.

Constituent	CAS No.	Concentration limits (mg/L)
Antimony	7440-36-0	1xE+00
Arsenic	7440-38-2	5xE+00
Barium	7440-39-3	1xE+02
Beryllium	7440-41-7	7xE[+]03
Cadmium	7440-43-9	1xE+00
Chromium	7440-47-3	5xE+00
Lead	7439-92-1	5xE+00
Mercury	7439-97-6	2xE[+]01
Nickel	7440-02-0	7xE+01
Selenium	7782-49-2	1xE+00
Silver	7440-22-4	5xE+00
Thallium	7440-28-0	7xE+00

Nonmetals -- Residue Concentration Limits

Constituent	CAS No.	Concentration limits for residues (mg/kg)
Acetonitrile	75-05-8	2xE[+]01
Acetophenone	98-86-2	4xE+00

NOTICES OF PROPOSED RULES

Nitrobenzene	98-95-3	2xE <sup>[1]</sup> _02
N-Nitrosodi-n-butylamine	924-16-3	6xE <sup>[1]</sup> _05
N-Nitrosodiethylamine	55-18-5	2xE <sup>[1]</sup> _06
N-Nitroso-N-methylurea	684-93-5	1xE <sup>[1]</sup> _07
N-Nitrosopyrrolidine	930-55-2	2xE <sup>[1]</sup> _04
Pentachlorobenzene	608-93-5	3xE <sup>[1]</sup> _02
Pentachloronitrobenzene (PCNB)	82-68-8	1xE <sup>[1]</sup> _01
Pentachlorophenol	87-86-5	1xE+00
Phenol	108-95-2	1xE+00
Phenylmercury acetate	62-38-4	3xE <sup>[1]</sup> _03
Phosphine	7803-51-2	1xE <sup>[1]</sup> _02
Polychlorinated biphenyls, N.O.S	1336-36-3	5xE <sup>[1]</sup> _05
Potassium cyanide	151-50-8	2xE+00
Potassium silver cyanide	506-61-6	7xE+00
Pronamide	23950-58-5	3xE+00
Pyridine	110-86-1	4xE <sup>[1]</sup> _02
Reserpine	50-55-5	3xE <sup>[1]</sup> _05
Selenourea	630-10-4	2xE <sup>[1]</sup> _01
Silver cyanide	506-64-9	4xE+00
Sodium cyanide	143-33-9	1xE+00
Strychnine	57-24-9	1xE <sup>[1]</sup> _02
1,2,4,5-Tetrachlorobenzene	95-94-3	1xE <sup>[1]</sup> _02
1,1,2,2-tetrachloroethane	79-34-5	2xE <sup>[1]</sup> _03
Tetrachloroethylene	127-18-4	7xE <sup>[1]</sup> _01
2,3,4,6-Tetrachlorophenol	58-90-2	1xE <sup>[1]</sup> _02
Tetraethyl lead	78-00-2	4xE <sup>[1]</sup> _06
Thiourea	62-56-6	2xE <sup>[1]</sup> _04
Toluene	108-88-3	1xE+01
Toxaphene	8001-35-2	5xE <sup>[1]</sup> _03
1,1,2-Trichloroethane	79-00-5	6xE <sup>[1]</sup> _03
Trichloroethylene	79-01-6	5xE <sup>[1]</sup> _03
Trichloromonofluoromethane	75-69-4	1xE+01
2,4,5-Trichlorophenol	95-95-4	4xE+00
2,4,6-Trichlorophenol	88-06-2	4xE+00
Vanadium pentoxide	1314-62-1	7xE <sup>[1]</sup> _01
Vinyl chloride	75-01-4	2xE <sup>[1]</sup> _03

\*Note 1: The health-based concentration limits for appendix VIII Rule R315-261 constituents for which a health-based concentration is not provided below is 2xE<sup>[1]</sup>\_06 mg/kg.

Note 2: The levels specified in this appendix and the default level of 0.002 micrograms per kilogram or the level of detection for constituents as identified in Note 1 of this appendix are administratively stayed under the condition, for those constituents specified in Subsection R315-266-112(b)(1), that the owner or operator complies with alternative levels defined as the land disposal restriction limits specified in Section R315-268-43 for F039 nonwastewaters. See Subsection R315-266-112(b)(2)(i).

**R315-266-[240]607. Appendix VIII to Rule R315-266 -- Organic Compounds for Which Residues Shall Be Analyzed.**

Table

Volatiles

- Benzene
- Toluene
- Carbon tetrachloride
- Chloroform
- Methylene chloride
- Trichloroethylene
- Tetra chloroethylene
- 1,1,1-Trichloroethane
- Chlorobenzene

- cis-1,4-Dichloro-2-butene
- Bromochloromethane
- Bromodichloromethane
- Bromoform
- Bromomethane
- Methylene bromide
- Methyl ethyl ketone

Semivolatiles

- Bis(2-ethylhexyl)phthalate
- Naphthalene
- Phenol
- Diethyl phthalate
- Butyl benzyl phthalate
- 2,4-Dimethylphenol
- o-Dichlorobenzene
- m-Dichlorobenzene
- p-Dichlorobenzene
- Hexachlorobenzene
- 2,4,6-Trichlorophenol
- Fluoranthene
- o-Nitrophenol
- 1,2,4-Trichlorobenzene
- o-Chlorophenol
- Pentachlorophenol
- Pyrene
- Dimethyl phthalate
- Mononitrobenzene
- 2,6-Toluene diisocyanate
- Polychlorinated dibenzo-p-dioxins(1)
- Polychlorinated dibenzo-furans(1)

(1) Analyses for polychlorinated dibenzo-p-dioxins and polychlorinated dibenzo-furans are required only for residues collected from areas downstream of the combustion chamber, e.g., ductwork, boiler tubes, heat exchange surfaces, air pollution control devices, etc.

Note to Appendix VIII: Analysis is not required for those compounds that do not have an established F039 nonwastewater concentration limit.

**R315-266-[241]608. Appendix IX to Rule R315-266 -- Methods Manual for Compliance With the BIF Regulations.**

Appendix IX of 40 CFR 266, 2015 edition, is adopted and incorporated by reference.

**R315-266-[242]609. Appendix XI to Rule R315-266 -- Lead-Bearing Materials That May Be Processed in Exempt Lead Smelters.**

A. Exempt Lead-Bearing Materials [When] If Generated or Originally Produced By Lead-Associated Industries(1)

- Acid dump<sup>[1]</sup> or fill solids
- Sump mud
- Materials from laboratory analyses
- Acid filters
- Baghouse bags
- Clothing, e.g., coveralls, aprons, shoes, hats, gloves
- Sweepings
- Air filter bags and cartridges
- Respiratory cartridge filters
- Shop abrasives
- Stacking boards
- Waste shipping containers, e.g., cartons, bags, drums, cardboard
- Paper hand towels
- Wiping rags and sponges
- Contaminated pallets
- Water treatment sludges, filter cakes, residues, and solids

Emission control dusts, sludges, filter cakes, residues, and solids from lead-associated industries, e.g., K069 and D008 wastes  
 Spent grids, posts, and separators  
 Spent batteries  
 Lead oxide and lead oxide residues  
 Lead plates and groups  
 Spent battery cases, covers, and vents  
 Pasting belts  
 Water filter media  
 Cheesecloth from pasting rollers  
 Pasting additive bags  
 Asphalt paving materials  
 B. Exempt Lead-Bearing Materials ~~When~~ If Generated or Originally Produced By Any Industry  
 Charging jumpers and clips  
 Platen abrasive  
 Fluff from lead wire and cable casings  
 Lead-based pigments and compounding pigment dust  
 (1) Lead-associated industries are lead smelters, lead-acid battery manufacturing, and lead chemical manufacturing, e.g., manufacturing of lead oxide or other lead compounds.

**R315-266-~~243~~610. Appendix XII to Rule R315-266 -- Nickel or Chromium-Bearing Materials That May Be Processed in Exempt Nickel-Chromium Recovery Furnaces.**

A. Exempt Nickel or Chromium-Bearing Materials ~~when~~ If Generated by Manufacturers or Users of Nickel, Chromium, or Iron  
 Baghouse bags  
 Raney nickel catalyst  
 Floor sweepings  
 Air filters  
 Electroplating bath filters  
 Wastewater filter media  
 Wood pallets  
 Disposable clothing (coveralls, aprons, hats, and gloves)  
 Laboratory samples and spent chemicals  
 Shipping containers and plastic liners from containers or vehicles used to transport nickel or chromium-containing wastes  
 Respirator cartridge filters  
 Paper hand towels  
 B. Exempt Nickel or Chromium-Bearing Materials ~~when~~ If Generated by Any Industry  
 Electroplating wastewater treatment sludges (F006)  
 Solutions containing Nickel, ~~and/or~~ chromium ~~containing solutions~~ or both  
 Nickel, chromium, and iron catalysts  
 Nickel-cadmium and nickel-iron batteries  
 Filter cake from wet scrubber system water treatment plants in the specialty steel industry(1)  
 Filter cake from nickel-chromium alloy pickling operations(1)  
 (1) If a hazardous waste under an authorized State program.

**R315-266-~~244~~611. Appendix XIII to Rule R315-266 – Mercury Bearing Wastes That May Be Processed in Exempt Mercury Recovery Units.**

These are exempt mercury-bearing materials with less than 500 ppm of Rule R315-261, appendix VIII organic constituents ~~when~~ if generated by manufacturers or users of mercury or mercury products.  
 1. Activated carbon  
 2. Decomposer graphite  
 3. Wood

4. Paper
5. Protective clothing
6. Sweepings
7. Respiratory cartridge filters
8. Cleanup articles
9. Plastic bags and other contaminated containers
10. Laboratory and process control samples
11. K106 and other wastewater treatment plant sludge and filter cake
12. Mercury cell sump and tank sludge
13. Mercury cell process solids
14. Recoverable levels of mercury contained in soil

**KEY: hazardous waste**  
**Date of Enactment or Last Substantive Amendment: ~~October 15, 2019~~ 2020**  
**Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R315-268	Filing No. 52928

**Agency Information**

<b>1. Department:</b>	Environmental Quality
<b>Agency:</b>	Waste Management and Radiation Control, Waste Management
<b>Building:</b>	MASOB
<b>Street address:</b>	195 N 1950 W
<b>City, state:</b>	Salt Lake City, UT
<b>Mailing address:</b>	PO Box 144880
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4880

Contact person(s):		
Name:	Phone:	Email:
Thomas Ball	801-536-0251	tball@utah.gov
Rusty Lundberg	801-536-4257	rlundberg@utah.gov

Please address questions regarding information on this notice to the agency.

**General Information**

<b>2. Rule or section catchline:</b>
R315-268. Land Disposal Restrictions
<b>3. Purpose of the new rule or reason for the change:</b>
Under the current rules for management of hazardous waste, a small portion of pharmaceuticals are regulated as hazardous wastes when disposed. Hospitals, clinics, nursing homes, and other facilities that generate hazardous waste pharmaceuticals have experienced

difficulty complying with the framework of the hazardous waste rules. To respond to these concerns and facilitate compliance among healthcare facilities, the Environmental Protection Agency (EPA) has finalized a tailored, sector-specific regulatory framework for managing hazardous waste pharmaceuticals at healthcare facilities and reverse distributors (facilities that receive and accumulate prescription pharmaceuticals for the purpose of facilitating manufacturer credit). On February 22, 2019, the EPA published the final rule in the Federal Register (84 FR 5816). The final rule entitled, Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine, applies to healthcare facilities that generate, accumulate, or otherwise handle hazardous waste pharmaceuticals and reverse distributors engaged in the management of prescription hazardous waste pharmaceuticals.

As stated above the rule provides a new set of sector-specific standards for healthcare facilities (for both humans and animals) and reverse distributors for management of their hazardous waste pharmaceuticals in lieu of the existing hazardous waste generator regulations. The final rule promulgates Sections R315-266-500 through R315-266-510. Healthcare facilities and reverse distributors must manage their hazardous waste pharmaceuticals under this new set of rules in lieu of operating under Rule R315-262 as they have been. These operating standards include a prohibition on disposing of hazardous waste pharmaceuticals in the sewer, called sewerage. The new rules also include a conditional exemption for hazardous waste pharmaceuticals that are also identified as controlled substances by the Drug Enforcement Administration (DEA). Further, the rules redefine when containers that held hazardous waste pharmaceuticals are considered empty. Healthcare facilities that are very small quantity generators (VSQGs) must comply with the sewer prohibition for their hazardous waste pharmaceuticals under the new rules and have the option of complying with Sections R315-266-500 through R315-266-510 in lieu of operating under the conditional exemption found in Section R315-262-14. Additionally, the final rule amends the P075 acute hazardous waste listing for nicotine and salts to indicate that U.S. Food and Drug Administration (FDA)-approved over-the counter (OTC) nicotine replacement therapies (NRTs) are not included in the listing.

These rule changes became effective at the Federal level on August 21, 2019. (EDITOR'S NOTE: The proposed amendment to Rule R315-262 is under Filing No. 52924 and the proposed amendment to Rule R315-266 is under Filing No. 52927 in this issue, August 1, 2020, of the Bulletin.)

**4. Summary of the new rule or change:**

The headings to Section R315-268-7 and Subsection R315-268-7(a) are amended to include reverse distributors.

Subsection R315-268-50(a)(4) is added. This rule allows a healthcare facility to accumulate waste on site solely for the purpose of accumulating enough hazardous waste pharmaceuticals as necessary to facilitate proper recovery, treatment, or disposal as long as the facility complies with Sections R315-266-500 through R315-266-510.

Subsection R315-268-50(a)(5) is added. This rule allows a reverse distributor to accumulate waste on site solely for the purpose of accumulating enough hazardous waste pharmaceuticals as necessary to facilitate proper recovery, treatment, or disposal as long as the reverse distributor complies with Section R315-266-510.

In addition to the amendments listed above, nonsubstantive changes were made to correct typographical errors and to the format and the wording throughout the amended rule to correct format and wording that was not consistent with the current Rulewriting Manual for Utah Rulewriters.

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**

The hospital operates one hospital. This hospital is not currently listed as a generator of hazardous waste which could mean that the hospital does not generate any hazardous waste or is a VSQG of hazardous waste. However, this hospital could be subject to the new rules because it falls under the definition of healthcare facility as contained in the rules.

Adoption of these new rules could result in no change to the state budget if the hospital does not generate any hazardous waste.

If the hospital were to generate hazardous waste, then the estimated cost due to the adoption of this rule is approximately \$85 per year. The estimated savings due to the adoption of this rule is approximately \$245 per year and would result in an overall cost savings of approximately \$160 per year.

Data to assist in making this determination was obtained from the EPA document entitled "Regulatory Impact Analysis for EPA's Final Regulations for the Management of Hazardous Waste Pharmaceuticals" dated October 2018.

**B) Local governments:**

It is not anticipated that adoption of these rule changes will have any effect on local governments because no local governments in the state operate healthcare facilities or reverse distributors.



**C) Small businesses** ("small business" means a business employing 1-49 persons):

There are approximately 7,437 facilities in the that are healthcare facilities and reverse distributors as defined by this rule. Approximately 6,956 of these facilities are small businesses that would potentially be affected by this rule. Not all healthcare facilities and reverse distributors are generators of hazardous waste so it is not possible to determine exactly how many of these businesses will be affected by this rule adoption. Based on information obtained from EPA, it is estimated that approximately 904 of these facilities are generators of hazardous waste. The estimated cost to small businesses due to the adoption of this rule is approximately \$85 per year. The estimated savings to small businesses due to the adoption of this rule is approximately \$245 per year resulting in an overall cost savings of approximately \$160 per year.

Data to assist in making this determination was obtained from the EPA document entitled "Regulatory Impact Analysis for EPA's Final Regulations for the Management of Hazardous Waste Pharmaceuticals" dated October 2018.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):

As stated previously, there are approximately 7,437 facilities in the that are healthcare facilities and reverse distributors as defined by this rule. Approximately 476 of these facilities are non-small businesses that would potentially be affected by this rule. Not all healthcare facilities and reverse distributors are generators of hazardous waste so it is not possible to determine exactly how many of these businesses will be affected by this rule adoption. Based on information obtained from EPA, it is estimated that approximately 62 of these facilities are generators of hazardous waste. The estimated cost to non-small businesses due to the adoption of this rule is approximately \$85 per year. The estimated savings to non-small businesses due to the adoption of this rule is approximately \$245 per year resulting in an overall cost savings of approximately \$160 per year.

Data to assist in making this determination was obtained from the EPA document entitled "Regulatory Impact Analysis for EPA's Final Regulations for the Management of Hazardous Waste Pharmaceuticals" dated October 2018.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The Division believes that all facilities that could be impacted fiscally by this rule are captured in the four previous categories. It is anticipated if there are any persons other than small businesses, non-small businesses, state, or local governments that are healthcare facilities or reverse distributors, that these

persons would see a cost savings with the adoption of this rule similar to the savings discussed previously.

**F) Compliance costs for affected persons:**

It is not anticipated that there will be any additional compliance costs for affected persons due to the adoption of this rule other than those mentioned above.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

**Regulatory Impact Table**

<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$85	\$85	\$85
Local Governments	\$0	\$0	\$0
Small Businesses	\$76,840	\$76,840	\$76,840
Non-Small Businesses	\$5,270	\$5,270	\$5,270
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$82,195</b>	<b>\$82,195</b>	<b>\$82,195</b>
<b>Fiscal Benefits</b>			
State Government	\$245	\$245	\$245
Local Governments	\$0	\$0	\$0
Small Businesses	\$221,480	\$221,480	\$221,480
Non-Small Businesses	\$15,190	\$15,190	\$15,190
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$236,915</b>	<b>\$236,915</b>	<b>\$236,915</b>
<b>Net Fiscal Benefits</b>	<b>\$154,720</b>	<b>\$154,720</b>	<b>\$154,720</b>

**H) Department head approval of regulatory impact analysis:**

The Executive Director of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

It is not anticipated that these rule changes will have a negative fiscal impact on any healthcare facility or reverse

distributor involved in the management of hazardous waste pharmaceuticals. This rule simplifies requirements and provides regulatory flexibilities and thereby improves regulatory clarity for healthcare facilities and provides more regulatory certainty for reverse distributors. The simplification and clarity provided by these rule changes will reduce the regulatory burden on these facilities, increase compliance, and result in better protection of human health and the environment.

**B) Name and title of department head commenting on the fiscal impacts:**

L. Scott Baird, Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Section 19-6-104	Section 19-6-105	Section 19-6-106
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2020

**10. This rule change MAY become effective on:** 09/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Ty L. Howard, Director	<b>Date:</b>	07/09/2020
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**R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.**  
**R315-268. Land Disposal Restrictions.**  
**R315-268-7. Land Disposal Restrictions -- Testing, Tracking, and Recordkeeping Requirements for Generators, Reverse Distributors, Treaters, and Disposal Facilities.**

(a) Requirements for generators and reverse distributors:

(1) A generator of hazardous waste shall determine if the waste has to be treated before it can be land disposed. This is done by determining if the hazardous waste meets the treatment standards in Sections R315-268-40, R315-268-45, or R315-268-49. This determination can be made concurrently with the hazardous waste determination required in Section R315-262-11, in either of two ways: testing the waste or using knowledge of the waste. If the generator tests the waste, testing would normally determine the total concentration of hazardous constituents, or the concentration of hazardous constituents in an extract of the waste obtained using test method 1311 in "Test Methods of Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, incorporated by reference, see Section R315-260-11, depending on whether the treatment standard for the waste is expressed as a total concentration or concentration of hazardous constituent in the waste's extract. Alternatively, the generator shall send the waste to a hazardous waste treatment facility permitted under Section 19-6-108, where the waste treatment facility shall comply with the requirements of Section R315-264-13 and Subsection R315-268-7(b). In addition, ~~some~~certain hazardous wastes shall be treated by particular treatment methods before they can be land disposed and ~~some~~soils ~~are~~contaminated by such hazardous wastes. These treatment standards are also found in Section R315-268-40[s] and are described in detail in Section R315-268-42, Table 1. These wastes, and soils contaminated with such wastes, do not need to be tested, however, if they are in a waste mixture, other wastes with concentration level treatment standards would have to be tested. If a generator determines they are managing a waste or soil contaminated with a waste, that displays a hazardous characteristic of ignitability, corrosivity, reactivity, or toxicity, they shall comply with the special requirements of Section R315-268-9 in addition to any applicable requirements in Section R315-268-7.

(2) If the waste or contaminated soil does not meet the treatment standards, or if the generator chooses not to make the determination of whether ~~his~~the waste shall be treated, with the initial shipment of waste to each treatment or storage facility, the generator shall send a one-time written notice to each treatment or storage facility receiving the waste, and place a copy in the file. The notice shall include the information in column "268-7(a)(2)" of the Generator Paperwork Requirements Table in Subsection R315-268-7(a)(4). Alternatively, if the generator chooses not to make the determination of whether the waste shall be treated, the notification shall include the EPA Hazardous Waste Numbers and Manifest Number of the first shipment and shall state "This hazardous waste may or may not be subject to the LDR treatment standards. The treatment facility shall make the determination." No further notification is necessary until such time that the waste or facility change, in which case a new notification shall be sent and a copy placed in the generator's file.

(3) If the waste or contaminated soil meets the treatment standard at the original point of generation:

(i) With the initial shipment of waste to each treatment, storage, or disposal facility, the generator shall send a one-time written notice to each treatment, storage, or disposal facility receiving the waste, and place a copy in the file. The notice shall include the information indicated in column "268-7(a)(3)" of the Generator Paperwork Requirements Table in Subsection R315-268-7(a)(4) and the following certification statement, signed by an authorized representative:

I certify under penalty of law that I personally have examined and am familiar with the waste through analysis and testing or through knowledge of the waste to support this certification that the waste complies with the treatment standards specified in Sections R315-268-40 through R315-268-49. I believe that the information I submitted is

true, accurate, and complete. I am aware that there are significant penalties for submitting a false certification, including the possibility of a fine and imprisonment.

(ii) For contaminated soil, with the initial shipment of wastes to each treatment, storage, or disposal facility, the generator shall send a one-time written notice to each facility receiving the waste and place a copy in the file. The notice shall include the information in column "268-7(a)(3)" of the Generator Paperwork Requirements Table in Subsection R315-268-7(a)(4).

(iii) If the waste changes, the generator shall send a new notice and certification to the receiving facility[?] and place a copy in their files. Generators of hazardous debris excluded from the definition of hazardous waste under Subsection R315-261-3(f) are not subject to these requirements.

(4) For reporting, tracking, and recordkeeping ~~if[when]~~ exceptions allow certain wastes or contaminated soil that do not meet the treatment standards to be land disposed: ~~There are certain exemptions from the requirement that hazardous wastes or contaminated soil meet treatment standards before they can be land disposed. These include, but are not limited to case-by-case extensions under Section R315-268-5, disposal in a no-migration unit under Section R315-268-6, or a national capacity variance or case-by-case capacity variance under Sections R315-268-20 through R315-268-39. If a generator's waste is so exempt, then with the initial shipment of waste, the generator shall send a one-time written notice to each land disposal facility receiving the waste. The notice shall include the information indicated in column "268-7(a)(4)" of the Generator Paperwork Requirements Table below. If the waste changes, the generator shall send a new notice to the receiving facility, and place a copy in their files.~~

TABLE 1

Generator Paperwork Requirements

Required information	268-7 (a)(2)	268-7 (a)(3)	268-7 (a)(4)	268-7 (a)(9)
1. EPA Hazardous Waste Numbers and Manifest Number of first shipment	X	X	X	X
2. Statement: this waste is not prohibited from land disposal			X	
3. The waste is subject to the LDRs. The constituents of concern for F001-F005, and F039, and underlying hazardous constituents in characteristic wastes, unless the waste will be treated and monitored for <del>each</del> constituent[s]. If <del>each</del> constituent[s] will be treated and monitored, there is no need to put <del>each of them</del> on the LDR notice	X	X		
4. The notice shall include the applicable wastewater[?] or nonwastewater category (see Section R315-268-2(d) and <u>R315-268-2(f)</u> and subdivisions made within a waste code based on waste-specific criteria, <del>if</del> such as D003 reactive cyanide[?])	X	X		
5. Waste analysis data, <del>if</del> available	X	X	X	
6. Date the waste is subject to the prohibition			X	
7. For hazardous debris, <del>if</del> treating with the alternative treatment technologies provided by Section R315-268-45: the	X			X

contaminants subject to treatment, as described in Section R315-268-45(b); and an indication that these contaminants are being treated to comply with Section R315-268-45

8. For contaminated soil subject to LDRs as provided in <del>Subsection</del> R315-268-49(a), the constituents subject to treatment as described in <del>Subsection</del> R315-268-49(d), and the following statement: "This contaminated soil, does/does not, contain listed hazardous waste and, does/does not, exhibit a characteristic of hazardous waste and, is subject to/complies with, the soil treatment standards as provided by <del>Subsection</del> R315-268-49(c) or the universal treatment standards"	X	X		
9. A certification is needed, see applicable section for exact wording		X		X

(5) If a generator is managing and treating prohibited waste or contaminated soil in tanks, containers, or containment buildings regulated under Sections R315-262-15, R315-262-16, and R315-262-17 to meet applicable LDR treatment standards found at Section R315-268-40, the generator shall develop and follow a written waste analysis plan which describes the procedures it will carry out to comply with the treatment standards. Generators treating hazardous debris under the alternative treatment standards of Table 1 to Section R315-268-45, however, are not subject to these waste analysis requirements. The plan ~~must~~ shall be kept on site in the generator's records, and the following requirements ~~must~~ shall be met:

(i) The waste analysis plan shall be based on a detailed chemical and physical analysis of a representative sample of the prohibited waste(s) being treated, and contain ~~all~~ the information necessary to treat the waste[?] in accordance with the requirements of Rule R315-268, including the selected testing frequency.

(ii) Such plan shall be kept in the facility's on-site files and made available to inspectors.

(iii) Wastes shipped off-site pursuant to Subsection R315-268-7(a) shall comply with the notification requirements of Subsection R315-268-7(a)(3).

(6) If a generator determines that the waste or contaminated soil is restricted based solely on his knowledge of the waste, ~~all~~ the supporting data used to make this determination shall be retained on-site in the generator's files. If a generator determines that the waste is restricted based on testing this waste or an extract developed using the test method 1311 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as referenced in Section R315-260-11, and ~~all~~ the waste analysis data shall be retained on-site in the generator's files.

(7) If a generator determines that he is managing a prohibited waste that is excluded from the definition of hazardous or solid waste or is exempted from regulation under Sections R315-261-2 through R315-261-6 subsequent to the point of generation, including deactivated characteristic hazardous wastes managed in wastewater treatment systems subject to the Clean Water Act (CWA) as specified at Subsection R315-261-4(a)(2) or that are CWA-equivalent, or are managed in an underground injection well regulated by the SDWA, he shall place a one-time notice describing such generation, subsequent exclusion from the definition of hazardous or solid waste or exemption

NOTICES OF PROPOSED RULES

from regulation under Sections R315-261-2 through R315-261-6, and the disposition of the waste, in the facility's on-site files.

(8) Generators shall retain on-site a copy of ~~all~~the notices, certifications, waste analysis data, and other documentation produced pursuant to Section R315-268-7 for at least three years from the date that the waste that is the subject of such documentation was last sent to on-site or off-site treatment, storage, or disposal. The three[-]year record retention period is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Director. The requirements of Subsection R315-268-7(a) apply to solid wastes even ~~when~~if the hazardous characteristic is removed prior to disposal, or ~~when~~if the waste is excluded from the definition of hazardous or solid waste under Sections R315-261-2 through R315-261-6, or exempted from hazardous waste regulation, subsequent to the point of generation.

(9) If a generator is managing a lab pack containing hazardous wastes and wishes to use the alternative treatment standard for lab packs found at Subsection R315-268-42(c):

(i) With the initial shipment of waste to a treatment facility, the generator shall submit a notice that provides the information in column "268-7(a)(9)" in the Generator Paperwork Requirements Table of Subsection R315-268-7(a)(4), and the following certification. The certification, which shall be signed by an authorized representative and shall be placed in the generator's files, shall say the following:

I certify under penalty of law that I personally have examined and am familiar with the waste and that the lab pack contains only wastes that have not been excluded under ~~a~~Appendix IV to Rule R315-268 and that this lab pack will be sent to a combustion facility in compliance with the alternative treatment standards for lab packs at Subsection R315-268-42(c). I am aware that there are significant penalties for submitting a false certification, including the possibility of fine or imprisonment.

(ii) No further notification is necessary until such time that the wastes in the lab pack change, or the receiving facility changes, in which case a new notice and certification shall be sent and a copy placed in the generator's file.

(iii) If the lab pack contains characteristic hazardous wastes, D001-D043 excluding D009, underlying hazardous constituents, as defined in Subsection R315-268-2(i) need not be determined.

(iv) The generator shall also comply with the requirements in Subsections R315-268-7(a)(6) and R315-268-7(a)(7).

(10) Small quantity generators with tolling agreements pursuant to Subsection R315-262-20(e) shall comply with the applicable notification and certification requirements of Subsection R315-268-7(a) for the initial shipment of the waste subject to the agreement. Such generators shall retain on-site a copy of the notification and certification, together with the tolling agreement, for at least three years after termination or expiration of the agreement. The three-year record retention period is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Director.

(b) Treatment facilities shall test their wastes according to the frequency specified in their waste analysis plans as required by Section R315-264-13, for permitted TSDs, or ~~[40 CFR 265.13, which is adopted by reference]~~Section R315-265-13, for interim status facilities. Such testing shall be performed as provided in Subsections R315-268-7(b)(1), R315-268-7(b)(2) and R315-268-7(b)(3).

(1) For wastes or contaminated soil with treatment standards expressed in the waste extract, ~~[TCLP]~~, the owner or operator of the treatment facility shall test an extract of the treatment residues, using test method 1311, the Toxicity Characteristic Leaching Procedure, described in "Test Methods for Evaluating Solid Waste, Physical/Chemical

Methods," EPA Publication SW-846 as incorporated by reference in Section R315-260-11, to assure that the treatment residues extract meet the applicable treatment standards.

(2) For wastes or contaminated soil with treatment standards expressed as concentrations in the waste, the owner or operator of the treatment facility shall test the treatment residues, not an extract of such residues, to assure that they meet the applicable treatment standards.

(3) A one-time notice shall be sent with the initial shipment of waste or contaminated soil to the land disposal facility. A copy of the notice shall be placed in the treatment facility's file.

(i) No further notification is necessary until such time that the waste or receiving facility change, in which case a new notice shall be sent and a copy placed in the treatment facility's file.

(ii) The one-time notice shall include these requirements:

TABLE 2

Treatment Facility Paperwork Requirements

Required information	268-7(b)
1. EPA Hazardous Waste Numbers and Manifest Number of first shipment	X
2. The waste is subject to the LDRs. The constituents of concern for F001-F005, and F039, and underlying hazardous constituents in characteristic wastes, unless the waste will be treated and monitored for <del>each</del> each constituent[s]. If <del>each</del> each constituent[s] will be treated and monitored, there is no need to put <u>each of them</u> <del>each</del> on the LDR notice.	X
3. The notice shall include the applicable wastewater <del> or</del> or nonwastewater category, see Subsections R315-268-2(d) and <u>R315-268-2(f)</u> <del>[-]</del> and subdivisions made within a waste code based on waste-specific criteria, such as D003 reactive cyanide	X
4. Waste analysis data, <del>when</del> if available	X
5. For contaminated soil subject to LDRs as provided in Subsection R315-268-49(a), the constituents subject to treatment as described in Subsection R315-268-49(d) and the following statement, "this contaminated soil, does/does not, exhibit a characteristic of hazardous waste and, is subject to/complies with, the soil treatment standards as provided by Subsection R315-268-49(c)".	X
6. A certification is needed, see applicable section for exact wording	X

(4) The treatment facility shall submit a one-time certification signed by an authorized representative with the initial shipment of waste or treatment residue of a restricted waste to the land disposal facility. The certification shall state:

I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification. Based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the treatment process has been operated and maintained properly so as to comply with the treatment standards specified in Section R315-268-40 without impermissible dilution of the prohibited waste. I am aware there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

A certification is also necessary for contaminated soil and it shall state:

I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification and believe that it has been maintained and operated properly so as to comply with treatment standards specified in Section R315-268-49 without impermissible

dilution of the prohibited wastes. I am aware there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

(i) A copy of the certification shall be placed in the treatment facility's on-site files. If the waste or treatment residue changes, or the receiving facility changes, a new certification shall be sent to the receiving facility, and a copy placed in the file.

(ii) Debris excluded from the definition of hazardous waste under Subsection R315-261-3(f) ~~[i.e.,]~~ that is debris treated by an extraction or destruction technology provided by Table 1, Section R315-268-45, and debris that the Director has determined does not contain hazardous waste, however, is subject to the notification and certification requirements of Subsection R315-268-7(d) rather than the certification requirements of Subsection R315-268-7(b).

(iii) For wastes with organic constituents having treatment standards expressed as concentration levels, if compliance with the treatment standards is based in whole or in part on the analytical detection limit alternative specified in Subsection R315-268-40(d), the certification, signed by an authorized representative, shall state the following:

I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification. Based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the nonwastewater organic constituents have been treated by combustion units as specified in Section R315-268-42, Table 1. I have been unable to detect the nonwastewater organic constituents, despite having used best good-faith efforts to analyze for such constituents. I am aware there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

(iv) For characteristic wastes that are subject to the treatment standards in Section R315-268-40, other than those expressed as a method of treatment, or Section R315-268-49, and that contain underlying hazardous constituents as defined in Subsection R315-268-2(i); if these wastes are treated on-site to remove the hazardous characteristic; and are then sent off-site for treatment of underlying hazardous constituents, the certification shall state the following:

I certify under penalty of law that the waste has been treated in accordance with the requirements of Section R315-268-40 or R315-268-49 to remove the hazardous characteristic. This decharacterized waste contains underlying hazardous constituents that require further treatment to meet treatment standards. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

(v) For characteristic wastes that contain underlying hazardous constituents as defined Subsection R315-268-2(i) that are treated on-site to remove the hazardous characteristic to treat underlying hazardous constituents to levels in Section R315-268-48 Universal Treatment Standards, the certification shall state the following:

I certify under penalty of law that the waste has been treated in accordance with the requirements of Section R315-268-40 to remove the hazardous characteristic and that underlying hazardous constituents, as defined in Subsection R315-268-2(i) have been treated on-site to meet the Section R315-268-48 Universal Treatment Standards. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

(5) If the waste or treatment residue will be further managed at a different treatment, storage, or disposal facility, the treatment, storage, or disposal facility sending the waste or treatment residue off-site shall comply with the notice and certification requirements applicable to generators under Section R315-268-7.

(6) Where the wastes are recyclable materials used in a manner constituting disposal subject to ~~the provisions of~~ Subsection R315-266-20(b) regarding treatment standards and prohibition levels, the owner or operator of a treatment facility, ~~[i.e.,]~~ the recycler, shall, for the initial shipment of waste, prepare a one-time certification described in Subsection R315-268-7(b)(4), and a one-time notice which includes the information in Subsection R315-268-7(b)(3), except the manifest number. The certification and notification shall be placed in the facility's on-site files. If the waste or the receiving facility changes, a new certification and notification shall be prepared and placed in the on-site files. In addition, the recycling facility shall also keep records of the name and location of each entity receiving the hazardous waste-derived product.

(c) Except where the owner or operator is disposing of any waste that is a recyclable material used in a manner constituting disposal pursuant to Subsection R315-266-20(b), the owner or operator of any land disposal facility disposing any waste subject to restrictions under Rule R315-268 shall:

(1) Have copies of the notice and certifications specified in Subsection R315-268-7(a) or R315-268-7(b).

(2) Test the waste, or an extract of the waste or treatment residue developed using test method 1311, the Toxicity Characteristic Leaching Procedure, described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846 as incorporated by reference in Section R315-260-11, to assure that the wastes or treatment residues are in compliance with the applicable treatment standards set forth in Sections R315-268-40 through R315-268-49. Such testing shall be performed according to the frequency specified in the facility's waste analysis plan as required by Section R315-264-13 or R315-265-13 ~~[40 CFR 265.13, which is adopted by reference]~~.

(d) Generators or treaters who first claim that hazardous debris is excluded from the definition of hazardous waste under Subsection R315-261-3(f) ~~[i.e.,]~~ that is debris treated by an extraction or destruction technology provided by Table 1, Section R315-268-45, and debris that the Director has determined does not contain hazardous waste, are subject to the following notification and certification requirements:

(1) A one-time notification, including the following information, shall be submitted to the Director:

(i) The name and address of the Subtitle D facility receiving the treated debris;

(ii) A description of the hazardous debris as initially generated, including the applicable EPA Hazardous Waste Number ~~[s]~~; and

(iii) For debris excluded under Subsection R315-261-3(f)(1), the technology from Table 1, Section R315-268-45, used to treat the debris.

(2) The notification shall be updated if the debris is shipped to a different facility, and, for debris excluded under Subsection R315-261-2(f)(1), if a different type of debris is treated or if a different technology is used to treat the debris.

(3) For debris excluded under Subsection R315-261-3(f)(1), the owner or operator of the treatment facility shall document and certify compliance with the treatment standards of Table 1, Section R315-268-45, as follows:

(i) Records shall be kept of ~~an~~ each inspection ~~[s]~~, evaluation ~~[s]~~, and analyses of treated debris that are made to determine compliance with the treatment standards;

(ii) Records shall be kept of any data or information the treater obtains during treatment of the debris that identifies key operating parameters of the treatment unit; and

(iii) For each shipment of treated debris, a certification of compliance with the treatment standards shall be signed by an authorized representative and placed in the facility's files. The certification shall state the following: "I certify under penalty of law that the debris has been treated in accordance with the requirements of Section R315-268-45. I am aware that there are significant penalties for making a false certification, including the possibility of fine and imprisonment."

(e) Generators and treaters who first receive from the Director a determination that a given contaminated soil subject to LDRs as provided in Subsection R315-268-49(a) no longer contains a listed hazardous waste and generators and treaters who first determine that a contaminated soil subject to LDRs as provided in Subsection R315-268-49(a) no longer exhibits a characteristic of hazardous waste shall:

(1) Prepare a one-time only documentation of these determinations including ~~all~~ supporting information; and ~~7~~

(2) Maintain that information in the facility files and other records for a minimum of three years.

**R315-268-50. Land Disposal Restrictions -- Prohibitions on Storage of Restricted Wastes.**

(a) Except as provided in Section R315-268-50, the storage of hazardous wastes restricted from land disposal under Sections R315-268-20 through R315-268-39 is prohibited, unless the following conditions are met:

(1) A generator stores such wastes in tanks, containers, or containment buildings on-site solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and the generator complies with the requirements in Sections R315-262-16 and R315-262-17, and Rules R315-264 and R315-265.

(2) An owner~~[/]~~ or operator of a hazardous waste treatment, storage, or disposal facility stores such wastes in tanks, containers, or containment buildings solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and:

(i) Each container is clearly marked to identify its contents and with:

(A) The words "Hazardous Waste";

(B) The applicable EPA hazardous waste number~~{[s]}~~, EPA hazardous waste codes, in Sections R315-261-20 through R315-261-24 and R315-261-30 through R315-261-35; or use a nationally recognized electronic system, such as bar coding, to identify the EPA hazardous waste number~~{[s]}~~;

(C) An indication of the hazards of the contents, examples include:

(I) the applicable hazardous waste characteristic~~{[s]}~~, ~~[i.e., ]~~ignitable, corrosive, reactive, toxic;

(II) hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E, labeling, or subpart F, placarding;

(III) a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or

(IV) a chemical hazard label consistent with the National Fire Protection Association code 704; and

(D) The date each period of accumulation begins;

(ii) Each tank is clearly marked with a description of its contents, the quantity of each hazardous waste received, and the date each period of accumulation begins, or such information for each tank

is recorded and maintained in the operating record at that facility. Regardless of whether the tank itself is marked, an owner~~[/]~~ or operator shall comply with the operating record requirements specified in Section R315-264-73 or R315-265-73~~[40 CFR 265.73, which are adopted by reference]~~.

(3) A transporter stores manifested shipments of such wastes at a transfer facility for 10 days or less.

(4) A healthcare facility accumulates such wastes in containers on site solely for the purpose of the accumulation of such quantities of hazardous waste pharmaceuticals as necessary to facilitate proper recovery, treatment, or disposal and the healthcare facility complies with the applicable requirements in Sections R315-266-500 through R315-266-503.

(5) A reverse distributor accumulates such wastes in containers on site solely for the purpose of the accumulation of such quantities of hazardous waste pharmaceuticals as necessary to facilitate proper recovery, treatment, or disposal and the reverse distributor complies with Section R315-266-510.

(b) An owner~~[/]~~ or operator of a treatment, storage or disposal facility may store such wastes for up to one year unless the Director can demonstrate that such storage was not solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal.

(c) An owner~~[/]~~ or operator of a treatment, storage or disposal facility may store such wastes beyond one year; however, the owner~~[/]~~ or operator bears the burden of proving that such storage was solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal.

(d) If a generator's waste is exempt from a prohibition on the type of land disposal utilized for the waste, for example, because of an approved case-by-case extension under Section R315-268-5, an approved Section R315-268-6 petition, or a national capacity variance under Sections R315-268-20 through R315-268-39, the prohibition in Subsection R315-268-50(a) does not apply during the period of such exemption.

(e) The prohibition in Subsection R315-268-50(a) does not apply to hazardous wastes that meet the treatment standards specified under Sections R315-268-41, R315-268-42, and R315-268-43 or the treatment standards specified under the variance in Section R315-268-44, or, where treatment standards have not been specified, is in compliance with the applicable prohibitions specified in Section R315-268-32 or RCRA section 3004.

(f) Liquid hazardous wastes containing polychlorinated biphenyls (PCBs) at concentrations greater than or equal to 50 ppm shall be stored at a facility that meets the requirements of 40 CFR 761.65(b) and shall be removed from storage and treated or disposed as required by Rule R315-268 within one year of the date when such wastes are first placed into storage. ~~[The provisions of]~~ Subsection R315-268-50(c) ~~does~~ not apply to such PCB wastes prohibited under Section R315-268-32.

(g) The prohibition and requirements in Section R315-268-50 do not apply to hazardous remediation wastes stored in a staging pile approved pursuant to Section R315-264-554.

**KEY: hazardous waste, land disposal restrictions**  
**Date of Enactment or Last Substantive Amendment: ~~[August 31, 2017]~~2020**  
**Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R315-270-1	Filing No. 52929

**Agency Information**

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Waste Management and Radiation Control, Waste Management	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state:</b>	Salt Lake City, UT	
<b>Mailing address:</b>	PO Box 144880	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4880	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Thomas Ball	801-536-0251	tball@utah.gov
Rusty Lundberg	801-536-4257	rlundberg@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R315-270-1. Hazardous Waste Permit Program – Purpose and Scope of These Rules
<b>3. Purpose of the new rule or reason for the change:</b>
Under the current rules for management of hazardous waste, a small portion of pharmaceuticals are regulated as hazardous wastes when disposed. Hospitals, clinics, nursing homes, and other facilities that generate hazardous waste pharmaceuticals have experienced difficulty complying with the framework of the hazardous waste rules. To respond to these concerns and facilitate compliance among healthcare facilities, the Environmental Protection Agency (EPA) has finalized a tailored, sector-specific regulatory framework for managing hazardous waste pharmaceuticals at healthcare facilities and reverse distributors (facilities that receive and accumulate prescription pharmaceuticals for the purpose of facilitating manufacturer credit). On February 22, 2019, the EPA published the final rule in the Federal Register (84 FR 5816). The final rule entitled, Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine, applies to healthcare facilities that generate, accumulate, or otherwise handle hazardous waste pharmaceuticals and reverse distributors engaged in the management of prescription hazardous waste pharmaceuticals.

As stated above the rule provides a new set of sector-specific standards for healthcare facilities (for both humans and animals) and reverse distributors for management of their hazardous waste pharmaceuticals in lieu of the existing hazardous waste generator regulations. The final rule promulgates Sections R315-266-500 through R315-266-510. Healthcare facilities and reverse distributors must manage their hazardous waste pharmaceuticals under this new set of rules in lieu of operating under Rule R315-262 as they have been. These operating standards include a prohibition on disposing of hazardous waste pharmaceuticals in the sewer, called sewerage. The new rules also include a conditional exemption for hazardous waste pharmaceuticals that are also identified as controlled substances by the Drug Enforcement Administration (DEA). Further, the rules redefine when containers that held hazardous waste pharmaceuticals are considered empty. Healthcare facilities that are very small quantity generators (VSQGs) must comply with the sewer prohibition for their hazardous waste pharmaceuticals under the new rules and have the option of complying with Sections R315-266-500 through R315-266-510 in lieu of operating under the conditional exemption found in Section R315-262-14. Additionally, the final rule amends the P075 acute hazardous waste listing for nicotine and salts to indicate that U.S. Food and Drug Administration (FDA)-approved over-the-counter (OTC) nicotine replacement therapies (NRTs) are not included in the listing.

These rule changes became effective at the Federal level on August 21, 2019. (EDITOR'S NOTE: The proposed amendment to Rule R315-262 is under Filing No. 52924 and the proposed amendment to Rule R315-266 is under Filing No. 52927 in this issue, August 1, 2020, of the Bulletin.)

**4. Summary of the new rule or change:**

Subsection R315-270-1(c)(2)(ix) is added. This rule exempts reverse distributors accumulating potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals from having to obtain a hazardous waste permit. The rule states that these reverse distributors are subject to Sections R315-266-500 through R315-266-510.

References to parts of 40 CFR 265 that were adopted and incorporated by reference that have now been adopted into Rule R315-265 were amended to reference the appropriate rules found in Rule R315-265. (EDITOR'S NOTE: The proposed amendment to Section R315-265-1 is under Filing No. 52926 in this issue, August 1, 2020, of the Bulletin.)

In addition to the amendments listed above, nonsubstantive changes were made to correct typographical errors and to the format and the wording throughout the amended rule to correct format and wording that was not consistent with the current Rulewriting Manual for Utah Rulewriters.

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**

The operates one hospital. This hospital is not currently listed as a generator of hazardous waste which could mean that the hospital does not generate any hazardous waste or is a VSQG of hazardous waste. However, this hospital could be subject to the new rules because it falls under the definition of healthcare facility as contained in the rules.

Adoption of these new rules could result in no change to the state budget if the hospital does not generate any hazardous waste.

If the hospital were to generate hazardous waste, then the estimated cost due to the adoption of this rule is approximately \$85 per year. The estimated savings due to the adoption of this rule is approximately \$245 per year and would result in an overall cost savings of approximately \$160 per year.

Data to assist in making this determination was obtained from the EPA document entitled "Regulatory Impact Analysis for EPA's Final Regulations for the Management of Hazardous Waste Pharmaceuticals" dated October 2018.

**B) Local governments:**

It is not anticipated that adoption of these rule changes will have any effect on local governments because no local governments in the operate healthcare facilities or reverse distributors.

**C) Small businesses** ("small business" means a business employing 1-49 persons):

There are approximately 7,437 facilities in the that are healthcare facilities and reverse distributors as defined by this rule. Approximately 6,956 of these facilities are small businesses that would potentially be affected by this rule. Not all healthcare facilities and reverse distributors are generators of hazardous waste so it is not possible to determine exactly how many of these businesses will be affected by this rule adoption. Based on information obtained from EPA, it is estimated that approximately 904 of these facilities are generators of hazardous waste. The estimated cost to small businesses due to the adoption of this rule is approximately \$85 per year. The estimated savings to small businesses due to the adoption of this rule is approximately \$245 per year resulting in an overall cost savings of approximately \$160 per year.

Data to assist in making this determination was obtained from the EPA document entitled "Regulatory Impact Analysis for EPA's Final Regulations for the Management of Hazardous Waste Pharmaceuticals" dated October 2018.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):

As stated previously, there are approximately 7,437 facilities in the that are healthcare facilities and reverse distributors as defined by this rule. Approximately 476 of these facilities are non-small businesses that would potentially be affected by this rule. Not all healthcare facilities and reverse distributors are generators of hazardous waste so it is not possible to determine exactly how many of these businesses will be affected by this rule adoption. Based on information obtained from EPA, it is estimated that approximately 62 of these facilities are generators of hazardous waste. The estimated cost to non-small businesses due to the adoption of this rule is approximately \$85 per year. The estimated savings to non-small businesses due to the adoption of this rule is approximately \$245 per year resulting in an overall cost savings of approximately \$160 per year.

Data to assist in making this determination was obtained from the EPA document entitled "Regulatory Impact Analysis for EPA's Final Regulations for the Management of Hazardous Waste Pharmaceuticals" dated October 2018.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an *agency*):

The Division believes that all facilities that could be impacted fiscally by this rule are captured in the four previous categories. It is anticipated if there are any persons other than small businesses, non-small businesses, state, or local governments that are healthcare facilities or reverse distributors, that these persons would see a cost savings with the adoption of this rule similar to the savings discussed previously.

**F) Compliance costs for affected persons:**

It is not anticipated that there will be any additional compliance costs for affected persons due to the adoption of this rule other than those mentioned above.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

**Regulatory Impact Table**

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$85	\$85	\$85
Local Governments	\$0	\$0	\$0
Small Businesses	\$76,840	\$76,840	\$76,840



Non-Small Businesses	\$5,270	\$5,270	\$5,270
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$82,195</b>	<b>\$82,195</b>	<b>\$82,195</b>
<b>Fiscal Benefits</b>			
State Government	\$245	\$245	\$245
Local Governments	\$0	\$0	\$0
Small Businesses	\$221,480	\$221,480	\$221,480
Non-Small Businesses	\$15,190	\$15,190	\$15,190
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$236,915</b>	<b>\$236,915</b>	<b>\$236,915</b>
<b>Net Fiscal Benefits</b>	<b>\$154,720</b>	<b>\$154,720</b>	<b>\$154,720</b>

**H) Department head approval of regulatory impact analysis:**

The Executive Director of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

It is not anticipated that these rule changes will have a negative fiscal impact on any healthcare facility or reverse distributor involved in the management of hazardous waste pharmaceuticals. This rule simplifies requirements and provides regulatory flexibilities and thereby improves regulatory clarity for healthcare facilities and provides more regulatory certainty for reverse distributors. The simplification and clarity provided by these rule changes will reduce the regulatory burden on these facilities, increase compliance, and result in better protection of human health and the environment.

**B) Name and title of department head commenting on the fiscal impacts:**

L. Scott Baird, Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Section 19-6-104	Section 19-6-105	Section 19-6-106
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2020

**10. This rule change MAY become effective on:** 09/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

**Agency head or designee, and title:** Ty L. Howard, Director  
**Date:** 07/09/2020

**R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.**

**R315-270. Hazardous Waste Permit Program.**

**R315-270-1. Hazardous Waste Permit Program -- Purpose and Scope of These Rules.**

(a) No person shall own, construct, modify, or operate any facility for the purpose of treating, storing, or disposing of hazardous waste without first submitting, and receiving the approval of the Director for, a hazardous waste permit for that facility. However, any person owning or operating a facility on or before November 19, 1980, who has given timely notification as required by section 3010 of the Resource Conservation and Recovery Act (RCRA) of 1976, 42 U.S.C., section 6921, et seq., and who has submitted a proposed hazardous waste permit as required by Section R315-270-1 and Section 19-6-108 for that facility, may continue to operate that facility without violating Section R315-270-1 until such time as the permit is approved or disapproved pursuant to Section R315-270-1.

(b)(1) The Director shall review each proposed hazardous waste permit application to determine whether the application will be in accord with ~~the provisions of~~ Rules R315-260 through R315-266, R315-268, R315-270, and R315-273, and Section 19-6-108 and, on that basis, shall approve or disapprove the application within the applicable time period specified in Section 19-6-108. If, after the receipt of plans, specifications, or other information required under Rule R315-270 and Section 19-6-108 and within the applicable time period of Section 19-6-108, the Director determines that the proposed construction, installation or establishment or any part of it will not be in accord with the requirements of Rule R315-270 or other applicable rules, he shall issue an order prohibiting the construction, installation or establishment of the proposal in whole or in part. The date of submission shall be deemed to

NOTICES OF PROPOSED RULES

be the date ~~of~~that ~~all~~the required information is provided to the Director as required by Rule R315-270.

(2) Any permit application ~~which~~that does not meet the requirements of Rules R315-260 through R315-266, R315-268, R315-270, and R315-273 shall be disapproved within the applicable time period specified in Section 19-6-108. If within the applicable time period specified in Section 19-6-108 the Director fails to approve or disapprove the permit application or to request the submission of any additional information or modification to the application, the application shall not be deemed approved but the applicant may petition the Director for a decision or seek judicial relief requiring a decision of approval or disapproval.

(3) An application for approval of a hazardous waste permit consists of two parts, part A and part B. For an existing facility, the requirement is satisfied by submitting only part A of the application until the date the Director sets for each individual facility for submitting part B of the application, which date shall be in no case less than six months after the Director gives notice to a particular facility that it shall submit part B of the application.

(c) Scope of the hazardous waste permit requirement. Section 19-6-108 requires a permit for the "treatment," "storage," and "disposal" of any "hazardous waste" as identified or listed in Rule R315-261. The terms "treatment," "storage," "disposal," and "hazardous waste" are defined in Section R315-270-2. Owners and operators of hazardous waste management units shall have permits during the active life, including the closure period, of the unit. Owners and operators of surface impoundments, landfills, land treatment units, and waste pile units that received waste after July 26, 1982, or that certified closure, ~~according to 40 CFR 265.115, which is adopted by reference~~in accordance with Section R315-265-115, after January 26, 1983, shall have post-closure permits, unless they demonstrate closure by removal or decontamination as provided under Subsections R315-270-1(c)(5) and R315-270-1(c)(6), or obtain an enforceable document in lieu of a post-closure permit, as provided under Subsection R315-270-1(c)(7). If a post-closure permit is required, the permit shall address applicable Rule R315-264 groundwater monitoring, unsaturated zone monitoring, corrective action, and post-closure care requirements. The denial of a permit for the active life of a hazardous waste management facility or unit does not affect the requirement to obtain a post-closure permit under Section R315-270-1.

(1) Specific inclusions. Owners and operators of certain facilities require hazardous waste permits as well as permits under other programs for certain aspects of the facility operation. Hazardous waste permits are required for the following:

(i) Injection wells that dispose of hazardous waste, and associated surface facilities that treat, store or dispose of hazardous waste. However, the owner and operator with a Utah or Federal UIC permit, shall be deemed to have a "permit by rule" for the injection well itself if they comply with the requirements of Subsection R315-270-60(b).

(ii) Treatment, storage, or disposal of hazardous waste at facilities requiring an NPDES permit. However, the owner and operator of a publicly owned treatment works receiving hazardous waste shall be deemed to have a "permit by rule" for that waste if they comply with the requirements of Section R315-270-60(c).

(2) Specific exclusions and exemptions. The following ~~persons are among those who~~ are not required to obtain a hazardous waste permit:

(i) A ~~G~~ generator[s] who accumulates hazardous waste on-site in compliance with ~~all of~~the conditions for exemption provided in Sections R315-262-14, R315-262-15, R315-262-16, and R315-262-17.

(ii) A ~~F~~ farmer[s] who disposes of hazardous waste pesticides from their own use as provided in Section R315-262-70~~[-]~~.

(iii) A ~~P~~ person[s] who owns or operates facilities solely for the treatment, storage or disposal of hazardous waste excluded from regulation[s] under Rule R315-270 by Section R315-261-4 or Section R315-262-14, very small quantity generator exemption.

(iv) An ~~O~~ owner[s] or operator[s] of totally enclosed treatment facilities as defined in Section R315-260-10.

(v) An ~~O~~ owner[s] and operator[s] of one or more elementary neutralization units or wastewater treatment units as defined in Section R315-260-10.

(vi) A ~~T~~ transporter[s] storing manifested shipments of hazardous waste in containers meeting the requirements of Section R315-262-30 at a transfer facility for a period of ten days or less.

(vii) A ~~P~~ person[s] adding absorbent material to waste in a container, as defined in Section R315-260-10, and a person[s] adding waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container; and Subsection R315-264-17(b) and Sections R315-264-171, and 172 are complied with.

(viii) Universal waste handlers and universal waste transporters, as defined in Section R315-260-10, managing the wastes listed below. These handlers are subject to regulation under Rule R315-273 if handling the following universal wastes~~[-]~~:

(A) ~~B~~ batteries as described in Section R315-273-2;

(B) ~~P~~ pesticides as described in Section R315-273-3;

(C) ~~M~~ mercury-containing equipment as described in Section R315-273-4; and

(D) ~~L~~ lamps as described in Section R315-273-5.

(ix) Reverse distributors accumulating potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals, as defined in Section R315-266-500. Reverse distributors are subject to regulation under Sections R315-266-500 through R315-266-510 for the accumulation of potentially creditable hazardous waste pharmaceuticals and evaluated hazardous waste pharmaceuticals.

(3) Further exclusions.

(i) A person is not required to obtain a permit for treatment or containment activities taken during immediate response to any of the following situations:

(A) ~~A~~ a discharge of a hazardous waste;

(B) ~~A~~ an imminent and substantial threat of a discharge of hazardous waste; or

(C) ~~A~~ a discharge of a material ~~which~~that, ~~when~~if discharged, becomes a hazardous waste.

(ii) Any person who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to ~~all~~the applicable requirements of Rule R315-270 for those activities.

(iii) In the case of emergency responses involving military munitions, the responding military emergency response specialist's organizational unit shall retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

(4) Permits for less than an entire facility. The Director may issue or deny a permit for one or more units at a facility without simultaneously issuing or denying a permit to ~~all~~each of the units at the facility. The interim status of any unit for which a permit has not been issued or denied is not affected by the issuance or denial of a permit to any other unit at the facility.

(5) Closure by removal. Owners~~[-]~~ or operators of surface impoundments, land treatment units, and waste piles closing by removal

or decontamination under Rule R315-265 standards shall obtain a post-closure permit unless they can demonstrate to the Director that the closure met the standards for closure by removal or decontamination in Section R315-264-228, Subsection R315-264-280(e), or Section R315-264-258, respectively. The demonstration may be made in the following ways:

(i) If the owner~~[A]~~ or operator has submitted a part B application for a post-closure permit, the owner~~[A]~~ or operator may request a determination, based on information contained in the application, that Rule R315-264 closure by removal standards were met. If the Director believes that Rule R315-264 standards were met, ~~[F]~~the Director shall notify the public of this proposed decision, allow for public comment, and reach a final determination according to the procedures in Subsection R315-270-1(c)(6).

(ii) If the owner~~[A]~~ or operator has not submitted a part B application for a post-closure permit, the owner~~[A]~~ or operator may petition the Director for a determination that a post-closure permit is not required because the closure met the applicable Rule R315-264 closure standards.

(A) The petition shall include data demonstrating that closure by removal or decontamination standards of Rule R315-264 were met.

(B) The Director shall approve or deny the petition according to the procedures outlined in Subsection R315-270-1(c)(6).

(6) Procedures for closure equivalency determination.

(i) If a facility owner~~[A]~~ or operator seeks an equivalency demonstration under Subsection R315-270-1(c)(5), the Director shall provide the public, through a newspaper notice, the opportunity to submit written comments on the information submitted by the owner~~[A]~~ or operator within 30 days from the date of the notice. The Director shall also, in response to a request or at the Director's discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning the equivalence of the Rule R315-265 closure to a Rule R315-264 closure. The Director shall give public notice of the hearing at least 30 days before it occurs. Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined.

(ii) The Director shall determine whether the Rule R315-265 closure met the Rule R315-264 closure by removal or decontamination requirements within 90 days of its receipt. If the Director finds that the closure did not meet the applicable Rule R315-264 standards, the Director shall provide the owner~~[A]~~ or operator with a written statement of the reasons why the closure failed to meet Rule R315-264 standards. The owner~~[A]~~ or operator may submit additional information in support of an equivalency demonstration within 30 days after receiving such written statement. The Director shall review any additional information submitted and make a final determination within 60 days.

(iii) If the Director determines that the facility did not close in accordance with Rule R315-264 closure by removal standards, the facility is subject to post-closure permitting requirements.

(7) Enforceable documents for post-closure care. At the discretion of the Director, an owner or operator may obtain, in lieu of a post-closure permit, an enforceable document imposing the requirements of ~~Section R315-265-121[40 CFR 265.121, which is adopted by reference]~~. "Enforceable document" means an order, a permit, or other document issued by the Director including, but not limited to, a corrective action order issued by EPA under section 3008(h), a CERCLA remedial action, or a closure or post-closure permit.

**KEY: hazardous waste**

**Date of Enactment or Last Substantive Amendment: ~~[August 31, 2017]~~2020**

**Authorizing, and Implemented or Interpreted Law: 19-6-105; 19-6-106**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R315-273-80	Filing No. 52930

**Agency Information**

<b>1. Department:</b>	Environmental Quality	
<b>Agency:</b>	Waste Management and Radiation Control, Waste Management	
<b>Building:</b>	MASOB	
<b>Street address:</b>	195 N 1950 W	
<b>City, state:</b>	Salt Lake City, UT	
<b>Mailing address:</b>	PO Box 144880	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4880	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Thomas Ball	801-536-0251	tball@utah.gov
Rusty Lundberg	801-536-4257	rlundberg@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R315-273-80. Standards for Universal Waste Management, Petitions to Include Other Wastes Under Rule R315-273 -- General
<b>3. Purpose of the new rule or reason for the change:</b>
Under the current rules for management of hazardous waste, a small portion of pharmaceuticals are regulated as hazardous wastes when disposed. Hospitals, clinics, nursing homes, and other facilities that generate hazardous waste pharmaceuticals have experienced difficulty complying with the framework of the hazardous waste rules. To respond to these concerns and facilitate compliance among healthcare facilities, the Environmental Protection Agency (EPA) has finalized a tailored, sector-specific regulatory framework for managing hazardous waste pharmaceuticals at healthcare facilities and reverse distributors (facilities that receive and accumulate prescription pharmaceuticals for the purpose of facilitating manufacturer credit). On February 22, 2019, the EPA published the final rule in the Federal Register (84 FR 5816). The final rule entitled, Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine, applies to healthcare facilities that generate, accumulate, or otherwise handle

hazardous waste pharmaceuticals and reverse distributors engaged in the management of prescription hazardous waste pharmaceuticals.

As stated above the rule provides a new set of sector-specific standards for healthcare facilities (for both humans and animals) and reverse distributors for management of their hazardous waste pharmaceuticals in lieu of the existing hazardous waste generator regulations. The final rule promulgates Sections R315-266-500 through R315-266-510. Healthcare facilities and reverse distributors must manage their hazardous waste pharmaceuticals under this new set of rules in lieu of operating under Rule R315-262 as they have been. These operating standards include a prohibition on disposing of hazardous waste pharmaceuticals in the sewer, called sewerage. The new rules also include a conditional exemption for hazardous waste pharmaceuticals that are also identified as controlled substances by the Drug Enforcement Administration (DEA). Further, the rules redefine when containers that held hazardous waste pharmaceuticals are considered empty. Healthcare facilities that are very small quantity generators (VSQGs) must comply with the sewer prohibition for their hazardous waste pharmaceuticals under the new rules and have the option of complying with Sections R315-266-500 through R315-266-510 in lieu of operating under the conditional exemption found in Section R315-262-14. Additionally, the final rule amends the P075 acute hazardous waste listing for nicotine and salts to indicate that U.S. Food and Drug Administration (FDA)-approved over-the counter (OTC) nicotine replacement therapies (NRTs) are not included in the listing.

These rule changes became effective at the Federal level on August 21, 2019. (EDITOR'S NOTE: The proposed amendment to Rule R315-262 is under Filing No. 52924 and the proposed amendment to Rule R315-266 is under Filing No. 52927 in this issue, August 1, 2020, of the Bulletin.)

**4. Summary of the new rule or change:**

Subsection R315-273-80(e) is added. This rule states that hazardous waste pharmaceuticals are regulated in Sections R315-266-500 through R315-266-510 and prohibits the addition of hazardous waste pharmaceuticals for management under Rule R315-273.

In addition to the amendments listed above, nonsubstantive changes were made to correct typographical errors and to the format and the wording throughout the amended rule to correct format and wording that was not consistent with the current Rulewriting Manual for Utah Rulewriters.

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**

The operates one hospital. This hospital is not currently listed as a generator of hazardous waste which could mean that the hospital does not generate any hazardous waste or is a VSQG of hazardous waste. However, this hospital could be subject to the new rules because it falls under the definition of healthcare facility as contained in the rules.

Adoption of these new rules could result in no change to the state budget if the hospital does not generate any hazardous waste.

If the hospital were to generate hazardous waste, then the estimated cost due to the adoption of this rule is approximately \$85 per year. The estimated savings due to the adoption of this rule is approximately \$245 per year and would result in an overall cost savings of approximately \$160 per year.

Data to assist in making this determination was obtained from the EPA document entitled "Regulatory Impact Analysis for EPA's Final Regulations for the Management of Hazardous Waste Pharmaceuticals" dated October 2018.

**B) Local governments:**

It is not anticipated that adoption of these rule changes will have any effect on local governments because no local governments in the operate healthcare facilities or reverse distributors.

**C) Small businesses ("small business" means a business employing 1-49 persons):**

There are approximately 7,437 facilities in the that are healthcare facilities and reverse distributors as defined by this rule. Approximately 6,956 of these facilities are small businesses that would potentially be affected by this rule. Not all healthcare facilities and reverse distributors are generators of hazardous waste so it is not possible to determine exactly how many of these businesses will be affected by this rule adoption. Based on information obtained from EPA, it is estimated that approximately 904 of these facilities are generators of hazardous waste. The estimated cost to small businesses due to the adoption of this rule is approximately \$85 per year. The estimated savings to small businesses due to the adoption of this rule is approximately \$245 per year resulting in an overall cost savings of approximately \$160 per year.

Data to assist in making this determination was obtained from the EPA document entitled "Regulatory Impact Analysis for EPA's Final Regulations for the Management of Hazardous Waste Pharmaceuticals" dated October 2018.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):

As stated previously, there are approximately 7,437 facilities in the that are healthcare facilities and reverse distributors as defined by this rule. Approximately 476 of these facilities are non-small businesses that would potentially be affected by this rule. Not all healthcare facilities and reverse distributors are generators of hazardous waste so it is not possible to determine exactly how many of these businesses will be affected by this rule adoption. Based on information obtained from EPA, it is estimated that approximately 62 of these facilities are generators of hazardous waste. The estimated cost to non-small businesses due to the adoption of this rule is approximately \$85 per year. The estimated savings to non-small businesses due to the adoption of this rule is approximately \$245 per year resulting in an overall cost savings of approximately \$160 per year.

Data to assist in making this determination was obtained from the EPA document entitled "Regulatory Impact Analysis for EPA's Final Regulations for the Management of Hazardous Waste Pharmaceuticals" dated October 2018.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The Division believes that all facilities that could be impacted fiscally by this rule are captured in the four previous categories. It is anticipated if there are any persons other than small businesses, non-small businesses, state, or local governments that are healthcare facilities or reverse distributors, that these persons would see a cost savings with the adoption of this rule similar to the savings discussed previously.

**F) Compliance costs for affected persons:**

It is not anticipated that there will be any additional compliance costs for affected persons due to the adoption of this rule other than those mentioned above.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$85	\$85	\$85
Local Governments	\$0	\$0	\$0
Small Businesses	\$76,840	\$76,840	\$76,840

Non-Small Businesses	\$5,270	\$5,270	\$5,270
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$82,195</b>	<b>\$82,195</b>	<b>\$82,195</b>
<b>Fiscal Benefits</b>			
State Government	\$245	\$245	\$245
Local Governments	\$0	\$0	\$0
Small Businesses	\$221,480	\$221,480	\$221,480
Non-Small Businesses	\$15,190	\$15,190	\$15,190
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$236,915</b>	<b>\$236,915</b>	<b>\$236,915</b>
<b>Net Fiscal Benefits</b>	<b>\$154,720</b>	<b>\$154,720</b>	<b>\$154,720</b>

**H) Department head approval of regulatory impact analysis:**

The Executive Director of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

It is not anticipated that these rule changes will have a negative fiscal impact on any healthcare facility or reverse distributor involved in the management of hazardous waste pharmaceuticals. This rule simplifies requirements and provides regulatory flexibilities and thereby improves regulatory clarity for healthcare facilities and provides more regulatory certainty for reverse distributors. The simplification and clarity provided by these rule changes will reduce the regulatory burden on these facilities, increase compliance, and result in better protection of human health and the environment.

**B) Name and title of department head commenting on the fiscal impacts:**

L. Scott Baird, Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Section 19-6-104	Section 19-6-105	Section 19-6-106
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	08/31/2020
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<b>10. This rule change MAY become effective on:</b>	09/07/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Ty L. Howard, Director	<b>Date:</b>	07/09/2020
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**R315. Environmental Quality, Waste Management and Radiation Control, Waste Management.**

**R315-273. Standards for Universal Waste Management.**

**R315-273-80. Standards for Universal Waste Management, Petitions to Include Other Wastes Under Rule R315-273 -- General.**

(a) Except as provided in Subsection R315-273-80(e), [A]ny person seeking to add a hazardous waste or a category of hazardous waste to Rule R315-273 may petition for a [regulatory] rule amendment under Sections R315-273-80 and R315-273-81 and Sections R315-260-20 and R315-260-23.

(b) To be successful, the petitioner shall demonstrate to the satisfaction of the Board that regulation under the universal waste [regulations] rules of Rule R315-273 is: appropriate for the waste or category of waste; will improve management practices for the waste or category of waste; and will improve implementation of the hazardous waste program. The petition shall include the information required by Subsection R315-260-20(b). The petition should also address as many of the factors listed in Section R315-273-81 as are appropriate for the waste or waste category addressed in the petition.

(c) The Board shall evaluate petitions using the factors listed in Section R315-273-81. The Board shall grant or deny a petition using the factors listed in Section R315-273-81. The decision shall be based on the weight of evidence showing that regulation under Rule R315-273 is appropriate for the waste or category of waste, shall improve management practices for the waste or category of waste, and shall improve implementation of the hazardous waste program.

(d) The Board may request additional information needed to evaluate the merits of the petition.

(e) Hazardous waste pharmaceuticals are regulated by Sections R315-266-500 through R315-266-510 and may not be added as a category of hazardous waste for management under Rule R315-273.

**KEY: hazardous waste, universal waste**

**Date of Enactment or Last Substantive Amendment:** ~~October 15, 2019~~ 2020

**Authorizing, and Implemented or Interpreted Law:** 19-6-105; 19-6-106

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R382-10-22	Filing No. 52938

**Agency Information**

<b>1. Department:</b>	Health
<b>Agency:</b>	Children's Health Insurance Program
<b>Building:</b>	Cannon Health Building
<b>Street address:</b>	288 N 1460 W, Salt Lake City, UT
<b>Mailing address:</b>	PO Box 143102
<b>City, state, zip:</b>	Salt Lake City, UT 84114-3102

Contact person(s):		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov

Please address questions regarding information on this notice to the agency.

**General Information**

<b>2. Rule or section catchline:</b>
R382-10-22. Public Health Emergency Provisions
<b>3. Purpose of the new rule or reason for the change:</b>
The purpose of this change is to allow certain income exclusions to help members of the Children's Health Insurance Program (CHIP) remain eligible during the Coronavirus (COVID-19) Pandemic.
<b>4. Summary of the new rule or change:</b>
This amendment allows income exclusions for recovery rebates, employer payments of student loans, qualified charitable contributions, and federal pandemic employment payments.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
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<b>A) State budget:</b>			
There is an increase of about \$4,541,400 to the state budget to allow income exclusions for members of CHIP who wish to remain eligible during the COVID-19 public health emergency period.			
<b>B) Local governments:</b>			
There is no impact on local governments because they neither fund CHIP nor make CHIP eligibility determinations.			
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):			
There is no impact on small businesses as this rule simply helps members of CHIP to remain eligible during the COVID-19 public health emergency period. It neither increases business revenue nor costs.			
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):			
There is no impact on non-small businesses as this rule simply helps members of CHIP to remain eligible during the COVID-19 public health emergency period. It neither increases business revenue nor costs.			
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):			
About 16,184 members of CHIP may collectively see out-of-pocket savings up to \$4,541,400 during the COVID-19 public health emergency period.			
<b>F) Compliance costs for affected persons:</b>			
There are no compliance costs to a single Medicaid provider or to a Medicaid member as this rule simply helps members of CHIP to remain eligible during the COVID-19 public health emergency period.			
<b>G) Regulatory Impact Summary Table</b> (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$4,541,400	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$4,541,400</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$4,541,400	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$4,541,400</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

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

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

Businesses will see neither revenue nor costs as this rule simply helps members of CHIP to remain eligible during the COVID-19 public health emergency period.

**B) Name and title of department head commenting on the fiscal impacts:**

Joseph K. Miner, MD, Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Section 26-1-5	Section 26-18-3	Pub. L. No. 116-136
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members.)

Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	08/31/2020
--	------------

<b>10. This rule change MAY become effective on:</b>	09/07/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Joseph K. Miner, MD, Executive Director	<b>Date:</b>	07/12/2020
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**R382. Health, Children's Health Insurance Program.**

**R382-10. Eligibility.**

**R382-10-22. Public Health Emergency Provisions.**

(1) During the public health emergency declared by the Secretary of Health and Human Services on January 27, 2020, the Department will continue coverage of children enrolled in CHIP.

(a) This applies to an individual who is eligible and enrolled on March 18, 2020, the date of enactment of Pub. L. No. 116 127, or who subsequently becomes eligible and enrolled in medical assistance during the emergency period and any extensions.

(b) Coverage for an individual eligible for CHIP during the public health emergency period will end only under the following circumstances:

(i) when a beneficiary is no longer a Utah resident;

(ii) upon a beneficiary's request; or

(iii) upon a beneficiary's death. Coverage continues through the date of death.

(2) An individual is not required to pay CHIP Premiums through the duration of the emergency period and any extensions. The Department will refund the individual any premiums collected during the emergency period and any extensions.

(3) The Department shall exclude the following from an individual's income:

(a) \$600 per week federal pandemic unemployment payments as defined in Section 2102 and 2104(b) of the Coronavirus Aid, Relief, and Economic Security (Cares) Act, Pub. L. No. 116 136, for programs established under Title XXI of the Social Security Act; and

(b) recovery rebates for individuals as defined in Section 2201 of the Cares Act, Pub. L. No. 116 136, for programs established under Title XXI of the Social Security Act. These rebates are treated as a refundable tax credit and may be paid in advance or upon filing a 2020 tax return.

(4) The Department shall exclude from income certain employer payments of student loans as defined in Section 2206 of the Cares Act, Pub. L. No. 116 136.

(a) Payments toward an employee's student loans may be paid directly to the employee or to the lender.

(b) This exclusion applies to payments made on or after the effective date of Pub. L. No. 116 136 and before January 1, 2021.

(5) The Department shall exclude the amount of qualified charitable contributions made by individuals during the taxable year as defined in Section 2204 of the Cares Act, Pub. L. No. 116 136.

(a) Allowable taxable years begin in the year 2020.

(b) The excluded contributions must not exceed \$300.

(6) An individual is not required to pay any cost-sharing fees associated with Coronavirus (COVID-19) testing services and treatments, including vaccines, specialized equipment, and therapies during the duration of the emergency period.

**KEY: children's health benefits**

**Date of Enactment or Last Substantive Amendment: ~~January 17, 2017~~ 2020**

**Notice of Continuation: April 11, 2018**

**Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-40**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R386-702	Filing No. 52934

**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Disease Control and Prevention, Epidemiology	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>City, state:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 142104	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-2104	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Cindy Burnett	801-538-6692	cburnett@utah.gov
Rachelle Boulton	801-538-6185	rboulton@utah.gov
Bree Barbeau	801-538-6300	bbarbeau@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R386-702. Communicable Disease Rule



<b>3. Purpose of the new rule or reason for the change:</b>
The purpose of this change is to amend the list of reportable diseases and clarify language to improve interpretation of rule requirements.
<b>4. Summary of the new rule or change:</b>
COVID-19 is added to the Communicable Disease Rule as an immediately reportable condition, and all test results for COVID-19 are reportable by electronic reporters. Language is clarified in the "Required Information" section to specify that all patient demographic information must be submitted to a performing laboratory for appropriate reporting to public health.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
This rule amendment will result in a cost to the Utah Department of Health of \$2,000 to pay for personnel time to configure surveillance systems and establish electronic laboratory reporting.
<b>B) Local governments:</b>
This rule change will have no fiscal impact on local governments. Changes to Utah's disease surveillance system and working with labs and health care facilities to ensure compliance occur are the responsibility of the Utah Department of Health.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
Affected industries include healthcare systems and laboratories performing COVID-19 testing. A search of small businesses using the Department of Workforce Services (DWS) Firm Find did not identify any small businesses that would be impacted by this rule change.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
Affected industries include healthcare systems and laboratories performing COVID-19 testing. Using DWS Firm Find, information from the Utah Public Health Laboratory, and information in Utah's EpiTrax database, the Department of Health (Department) identified 35 healthcare facilities and laboratories that are currently conducting COVID-19 testing. Additional healthcare facilities are laboratories that are planning to bring on COVID-19 testing in the near future. The Department estimates a total of 50 healthcare facilities and labs will be impacted by this rule. The Department estimates it will take 5 hours of programming time at \$75/hour to configure electronic reporting systems (total \$18,750).

<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):																																																				
No other specific persons will be affected by this rule. There are no compliance costs associated with this rule change for any other specific persons.																																																				
<b>F) Compliance costs for affected persons:</b>																																																				
Affected persons are as follows:																																																				
State: Utah Department of Health. It will cost \$2,000 to configure systems and establish electronic laboratory reporting (ELR) feeds (as outlined above). Once ELR is established there are no ongoing costs for state entities.																																																				
Non-small businesses: The cost of coming into compliance for affected businesses is estimated to be \$18,750. Once ELR feeds are established, there are no on-going costs to comply with this rule change.																																																				
<b>G) Regulatory Impact Summary Table</b> (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)																																																				
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<table border="1"> <thead> <tr> <th>Fiscal Cost</th> <th>FY2021</th> <th>FY2022</th> <th>FY2023</th> </tr> </thead> <tbody> <tr> <td>State Government</td> <td>\$2,000</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Local Governments</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Non-Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Other Persons</td> <td>\$18,750</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td><b>Total Fiscal Cost</b></td> <td><b>\$20,750</b></td> <td><b>\$0</b></td> <td><b>\$0</b></td> </tr> <tr> <td><b>Fiscal Benefits</b></td> <td></td> <td></td> <td></td> </tr> <tr> <td>State Government</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Local Governments</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Non-Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Other Persons</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> </tbody> </table>	Fiscal Cost	FY2021	FY2022	FY2023	State Government	\$2,000	\$0	\$0	Local Governments	\$0	\$0	\$0	Small Businesses	\$0	\$0	\$0	Non-Small Businesses	\$0	\$0	\$0	Other Persons	\$18,750	\$0	\$0	<b>Total Fiscal Cost</b>	<b>\$20,750</b>	<b>\$0</b>	<b>\$0</b>	<b>Fiscal Benefits</b>				State Government	\$0	\$0	\$0	Local Governments	\$0	\$0	\$0	Small Businesses	\$0	\$0	\$0	Non-Small Businesses	\$0	\$0	\$0	Other Persons	\$0	\$0	\$0
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<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

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

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

There are no small businesses that will be fiscally impacted by this change. Each of the identified 50 non-small businesses will likely see a cost for 5 hours to configure electronic reporting systems at \$75 per hours, a total impact of \$18,750 for all 50 facilities.

The need for COVID-19 testing and reporting during this public health emergency justifies the minimum fiscal impact on businesses.

**B) Name and title of department head commenting on the fiscal impacts:**

Joseph K. Miner, MD, Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Section 26-1-30	Section 26-6-3	Title 26, Chapter 23b
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	08/31/2020
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<b>10. This rule change MAY become effective on:</b>	09/07/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative

Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Joseph K. Miner, MD, Executive Director	<b>Date:</b>	07/12/2020
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**R386. Health, Disease Control and Prevention, Epidemiology. R386-702. Communicable Disease Rule.**

**R386-702-1. Purpose Statement.**

(1) The Communicable Disease Rule is adopted under authority of Sections 26-1-30, 26-6-3, and ~~26-23b~~ Title 26, Chapter 23b, Detection of Public Health Emergencies Act.

(2) This rule outlines a multidisciplinary approach to communicable and infectious disease control and emphasizes reporting, surveillance, isolation, treatment and epidemiological investigation to identify and control preventable causes of infectious diseases. Reporting requirements and authorizations are specified for communicable and infectious diseases, outbreaks, and unusual occurrence of any disease. Each section has been adopted with the intent of reducing disease morbidity and mortality through the rapid implementation of established practices and procedures.

(3) The successes of medicine and public health dramatically reduced the risk of epidemics and early loss of life due to infectious agents during the twentieth century. However, the emergence of diseases such as Middle Eastern Respiratory Syndrome (MERS), and the rapid spread of diseases such as West Nile virus to the United States from other parts of the world, made possible by advances in transportation, trade, food production, and other factors, highlight the continuing threat to health from infectious diseases. Continual attention to these threats and cooperation among all health care providers, government agencies, and other entities that are partners in protecting the public's health are crucial to maintain and improve the health of the citizens of Utah.

**R386-702-2. Definitions.**

~~1~~ (1) ~~Terms in this rule defined in Section 26-6-2:~~

~~1~~(a) "Carrier" means the same as that term is defined in Section 26-6-2.~~[Carrier]~~

~~2~~(b) "Communicable disease" means the same as that term is defined in Section 26-6-2.~~[Communicable disease]~~

~~3~~(c) "Contact" means the same as that term is defined in Section 26-6-2.~~[Contact]~~

~~4~~(d) "Epidemic" means the same as that term is defined in Section 26-6-2.~~[Epidemie]~~

~~5~~(e) "Infection" means the same as that term is defined in Section 26-6-2.~~[Infection]~~

~~6~~(f) "Schools" means the same as that term is defined in Section 26-6-2.~~[Schools]~~

~~7~~ (2) ~~Terms in this rule defined in Section 26-6-6:~~

~~7~~(a) "Health care provider" means the same as that term is defined in Section 26-6-6.~~[Health care provider]~~

~~8~~ (3) ~~Terms in this rule defined in Section 26-21-2:~~

~~8~~(a) "Assisted living facilities" means the same as that term is defined in Section 26-21-2.~~[Assisted living facilities]~~

~~9~~(b) "Nursing care facilities" means the same as that term is defined in Section 26-21-2.~~[Nursing care facilities]~~

~~10~~ (4) ~~Terms in this rule defined in Section 26-23b-102:~~

(10[~~a~~]) "Bioterrorism" means the same as that term is defined in Section 26-23b-102.[~~Bioterrorism~~]

[~~— (5) Terms in this rule defined in Section 26-39-102;~~]

(11[~~a~~]) "Childcare programs" means the same as that term is defined in Section 26-39-102.[~~Childcare programs~~]

[~~— (6) Terms in this rule defined in Section 78B-3-403;~~]

(12[~~a~~]) "Health care facilities" means the same as that term is defined in Section 78B-3-403.[~~Health care facilities~~]

[~~— (7) Terms in this rule defined in Section 62A-15-602;~~]

(13[~~a~~]) "Mental health facilities" means the same as that term is defined in Section 62A-15-602.[~~Mental health facilities~~]

[~~— (8) Terms in this rule defined in Section R386-80-2;~~]

(14[~~a~~]) "Local health department" means the same as that term is defined in Section R386-80-2.[~~Local health department~~]

(15[~~9~~]) In addition, for purposes of this rule:

(a) "Blood and plasma center" is defined as a blood bank, blood storage facility, plasma center, hospital, any [~~another~~] facility where blood or blood products are collected, or any facility where blood services are provided.

(b) "Care facilities licensed through the Department of Human Services" is described as any facility licensed through the Utah Department of Human Services, and includes adult day care facilities, adult foster care facilities, crisis respite facilities, domestic violence shelters and treatment programs, foster care homes, mental health treatment programs, residential treatment and day treatment facilities for persons with disabilities, substance abuse treatment programs, and youth treatment programs.

(c) "Case" is defined as any person, living or deceased, identified as having a communicable disease, condition, or syndrome that meets criteria for being reportable under this rule, or that is otherwise under public health investigation.

(d) "Clinic" is defined as any facility where a health care provider practices.

(e) "Condition" is defined as an abnormal state of health that may interfere with a person's regular feelings of wellbeing.

(f) "Correctional facility" is defined as a[~~n~~] facility that forcibly confines an individual under the authority of the government, including [~~but not limited to~~] prisons, detention centers, jails, juvenile detention centers.

(g) "Department" is defined as the Utah Department of Health.

(h) "Diagnostic facility" is defined as the facility where the case or suspect case was seen and evaluated by a healthcare provider.

(i) "Dispensary" is defined as an office in a school, hospital, industrial plant, or other organization that dispenses medications or medical supplies.

(j) "Electronic case reporting" is defined as the transmission of clinical, diagnostic, laboratory, and treatment related data from reporting entities to the Department in a structured, computer-readable format that reflects comparable content to HL7 CDA(reg trademark) R2 Implementation Guide: Public Health Case Report, Release 2 - US Realm - the Electronic Initial Case Report (eICR). Electronic Initial Case Reporting is a form of electronic reporting.

(k) "Electronic laboratory reporting" is defined as the transmission of laboratory or health related data from reporting entities to the Department using HL7 ORU-R01 2.3.1 or 2.5.1, LOINC, and SNOMED standard message structure and vocabulary. Electronic laboratory reporting is a form of electronic reporting.

(l) "Electronic reporting" is defined as the transmission of laboratory or health related data from reporting entities to the

Department in a structured, computer-readable format that reflects comparable content to HL7 messaging.

(m) "Encounter" is defined as an instance of an individual presenting to a health care facility.

(n) "Event" is defined as any communicable disease, condition, laboratory result, syndrome, outbreak, epidemic, or other public health hazard that meets criteria for being reportable under this rule.

(o) "Good Samaritan" is defined as a person who gives reasonable aid to strangers in grave physical distress.

(p) "Invasive disease" is defined as infection occurring in parts of the body where organisms are not normally present, such as the bloodstream, organs, or the meninges.

(q) "Laboratory" is defined as any facility that receives, refers, or analyzes clinical specimens.

(r) "Manual reporting" is defined as the transmission of laboratory or health related data from reporting entities to the Department using processes that require hand keying for data to be incorporated into Department databases.

(s) "Normally sterile site" is defined as a part of the body where organisms are not normally present, such as the bloodstream, organs, or the meninges.

(t) "Outbreak" is defined as the increased occurrence of any communicable disease, health condition, or syndrome in a community, institution, or region; or two or more cases of a communicable disease, health condition, or syndrome in persons with a common exposure.

(u) "Public health hazard" is defined as the presence of an infectious organism or condition in the environment that[~~which~~] endangers the health of a specified population.

(v) "Suspect case" is defined as any person, living or deceased, who a reporting entity, local health department, or the Department believes might be a case, but for whom it has not been established that the criteria necessary to become a case have been met.

(w) "Syndrome" is defined as a set of signs or symptoms that often occur together.

### **R386-702-3. Reportable Events.**

(1) The Department declares the following events to be of concern to public health and reporting of all instances is required or authorized by Sections 26-6-6 and [~~26-23b~~] Title 26, Chapter 23b, Detection of Public Health Emergencies Act.

(2) Events r[~~R~~]eportable by each[~~an~~] e[~~E~~]ntity are as follows:[~~ies.~~]

(a) a[~~A~~]cute flaccid myelitis;

(b) a[~~A~~]dverse event resulting from smallpox vaccination ([~~V~~]vaccinia virus, [~~O~~]orthopox virus);

(c) [~~A~~]n aplasmiasis (Anaplasma phagocytophil[~~i~~]um);

(d) [~~A~~]nthrax (Bacillus anthracis) or anthrax-like illness caused by Bacillus cereus strains that express anthrax toxin genes;

(e) [~~A~~]ntibiotic resistant organisms from any clinical specimen that meet the following criteria:

(i) [~~R~~]esistant to a carbapenem in:

(A) Acinetobacter species;[~~s~~]

(B) Enterobacter species;[~~s~~]

(C) Escherichia coli;[~~s~~] or

(D) Klebsiella species;[~~s~~] or

(ii) Resistant to vancomycin in[~~s~~][

[~~— (A) ] Staphylococcus aureus (VRSA);[~~s~~] or~~

(iii) d[~~D~~]emonstrated carbapenemase production in:

NOTICES OF PROPOSED RULES

- (A) Acinetobacter species<sub>2</sub>[<sub>7</sub>]
- (B) Enterobacter species<sub>2</sub>[<sub>7</sub>]
- (C) Escherichia coli<sub>2</sub>[<sub>7</sub>]
- (D) Klebsiella species<sub>2</sub>[<sub>7</sub>] or
- (E) [~~A~~]any other Enterobacteriaceae species<sub>2</sub>[<sub>7</sub>]
- (f) [~~A~~]arbovirus infection, including [~~but not limited to~~]:
- (i) [~~C~~]chikungunya virus infection<sub>2</sub>[<sub>7</sub>]
- (ii) West Nile virus infection<sub>2</sub>[<sub>7</sub>] and
- (iii) Zika virus infection<sub>2</sub>[<sub>7</sub>] including congenital;
- (g) [~~B~~]babesiosis (Babesia spp.);
- (h) [~~B~~]botulism (Clostridium botulinum);
- (i) [~~B~~]brucellosis (Brucella spp.);
- (j) [~~C~~]campylobacteriosis (Campylobacter spp.);
- (k) Candida auris or Candida haemulonii from any body site;
- (l) Chagas disease (Trypanosoma cruzi);
- (m) [~~C~~]chancroid (Haemophilus ducreyi);
- (n) [~~C~~]chickenpox ([~~V~~]varicella zoster virus, VZV, [~~H~~]human herpesvirus 3, HHV-3);
- (o) [~~C~~]chlamydia (Chlamydia trachomatis);
- (p) [~~C~~]coccidioidomycosis (Coccidioides spp.), also known as valley fever;
- (q) Colorado tick fever (Colorado tick fever virus, Coltivirus spp.), also known as American mountain tick fever;
- (r) novel coronavirus disease including Middle East respiratory syndrome (MERS-CoV), Severe acute respiratory syndrome (SARS-CoV), and COVID-19 (SARS-CoV-2);
- (s)[~~#~~] [~~C~~]cryptosporidiosis (Cryptosporidium spp.);
- (t)[~~s~~] [~~C~~]cyclosporiasis (Cyclospora spp., including Cyclospora cayetanensis);
- (u)[~~t~~] [~~D~~]dengue fever ([~~D~~]dengue virus);
- (v)[~~#~~] [~~d~~]diphtheria (Corynebacterium diphtheriae);
- (w)[~~#~~] [~~E~~]ehrlichiosis (Ehrlichia spp.);
- (x)[~~w~~] [~~E~~]encephalitis (bacterial, fungal, parasitic, protozoan, and viral);
- (y)[~~#~~] Shiga toxin-producing Escherichia coli (STEC) infection;
- (z)[~~y~~] [~~G~~]giardiasis (Giardia lamblia), also known as beaver fever;
- (aa)[~~z~~] g[~~G~~]onorrhea (Neisseria gonorrhoeae), including sexually transmitted and ophthalmia neonatorum;
- (bb)[~~aa~~] Haemophilus influenzae, invasive disease;
- (cc)[~~bb~~] h[~~H~~]antivirus infection (Sin Nombre virus);
- (dd)[~~ee~~] [~~H~~]hemolytic uremic syndrome, postdiarrheal;
- (ee)[~~dd~~] h[~~H~~]epatitis, viral<sub>2</sub>[<sub>7</sub>] including [~~but not limited to~~]:
- (i) h[~~H~~]epatitis A<sub>2</sub>[<sub>7</sub>]
- (ii) h[~~H~~]epatitis B (acute, chronic, and perinatal)<sub>2</sub>[<sub>7</sub>]
- (iii) h[~~H~~]epatitis C (acute, chronic, and perinatal)<sub>2</sub>[<sub>7</sub>]
- (iv) h[~~H~~]epatitis D<sub>2</sub>[<sub>7</sub>] and
- (v) h[~~H~~]epatitis E;
- (ff)[~~ee~~] h[~~H~~]uman immunodeficiency virus (HIV) infection, including acquired immune deficiency syndrome (AIDS) diagnosis;
- (gg)[~~ff~~] i[~~F~~]nfluenza virus infection:
- (i) a[~~A~~]ssociated with a hospitalization<sub>2</sub>[<sub>7</sub>]
- (ii) a[~~A~~]ssociated with a death in a person under 18 years of age<sub>2</sub>[<sub>7</sub>] or
- (iii) s[~~S~~]uspected or confirmed to be caused by a non-seasonal influenza strain;
- (hh)[~~gg~~] Legionellosis (Legionella spp.), also known as Legionnaires' disease;
- (ii)[~~hh~~] l[~~L~~]eptospirosis (Leptospira spp.);

- (jj)[~~#~~] l[~~L~~]isteriosis (Listeria spp., including Listeria monocytogenes);
- (kk)[~~jj~~] Lyme disease (Borrelia burgdorferi, Borrelia mayonii);
- (ll)[~~kk~~] [~~M~~]malaria (Plasmodium spp.);
- (mm)[~~ll~~] [~~M~~]measles ([~~M~~]measles virus), also known as rubella;
- (nn)[~~mm~~] [~~M~~]meningitis (bacterial, fungal, parasitic, protozoan, and viral);
- (oo)[~~nn~~] [~~M~~]meningococcal disease (Neisseria meningitidis), invasive;
- [~~-----~~oo] Middle East Respiratory Syndrome (MERS);
- (pp) [~~M~~]mumps ([~~M~~]mumps virus);
- (qq) [~~M~~]mycobacterial infections, including:
- (i) [~~F~~]tuberculosis (Mycobacterium tuberculosis complex)<sub>2</sub>[<sub>7</sub>]
- (ii) [~~L~~]eprosy (Mycobacterium leprae), also known as Hansen's [~~D~~]isease; or<sub>2</sub>[<sub>7</sub>]
- (iii) [~~AH~~]any other mycobacterial infections (Mycobacterium spp.);
- (rr) [~~P~~]pertussis (Bordetella pertussis);
- (ss) [~~P~~]plague (Yersinia pestis);
- (tt) [~~P~~]poliomyelitis ([~~P~~]poliovirus), paralytic and nonparalytic;
- (uu) [~~P~~]psittacosis (Chlamydophila psittaci), also known as ornithosis;
- (vv) Q fever (Coxiella burnetii);
- (ww) [~~R~~]rabies ([~~R~~]rabies virus), human and animal;
- (xx) [~~R~~]relapsing fever (Borrelia spp.), tick-borne and louse-borne;
- (yy) [~~R~~]rubella ([~~R~~]rubella virus), including congenital syndrome;
- (zz) [~~S~~]salmonellosis (Salmonella spp.);
- [~~-----~~aaa] Severe acute respiratory syndrome, also known as SARS (SARS coronavirus or SARS-CoV);
- (aaa)[~~bbb~~] [~~S~~]shigellosis (Shigella spp.);
- (bbb)[~~eee~~] [~~S~~]smallpox (Variola major and Variola minor);
- (ccc)[~~ddd~~] [~~S~~]spotted fever rickettsioses (Rickettsia spp.), including Rocky Mountain spotted fever (Rickettsia rickettsii);
- (ddd)[~~eee~~] [~~S~~]streptococcal disease, invasive, due to:
- (i) Streptococcus pneumoniae<sub>2</sub>[<sub>7</sub>]
- (ii) [~~G~~]group A [~~S~~]streptococcus (Streptococcus pyogenes)<sub>2</sub>[<sub>7</sub>] or<sub>2</sub>[~~and~~]
- (iii) [~~G~~]group B [~~S~~]streptococcus (Streptococcus agalactiae);
- (eee)[~~fff~~] Syphilis (Treponema pallidum), including:
- (i) any[~~##~~] stage<sub>2</sub>[<sub>7</sub>]
- (ii) congenital<sub>2</sub>[<sub>7</sub>] and
- (iii) syphilitic stillbirths;
- (fff)[~~ggg~~] [~~F~~]tetanus (Clostridium tetani);
- (ggg)[~~hhh~~] [~~F~~]toxic shock syndrome, staphylococcal (Staphylococcus aureus) or streptococcal (Streptococcus pyogenes);
- (hhh)[~~iii~~] [~~F~~]transmissible spongiform encephalopathies (prion diseases), including Creutzfeldt-Jakob disease;
- (iii)[~~jjj~~] [~~F~~]trichinellosis (Trichinella spp.);
- (jjj)[~~kkk~~] [~~F~~]tularemia (Francisella tularensis);
- (kkk)[~~lll~~] [~~F~~]typhoid (Salmonella typhi), cases and carriers;
- (lll)[~~mmm~~] [~~V~~]vibriosis (Vibrio spp.), including [~~C~~]cholera (Vibrio cholerae);
- (mmm)[~~nnn~~] [~~V~~]viral hemorrhagic fevers<sub>2</sub>[<sub>7</sub>] including [~~but not limited to~~]:

- (i) Ebola virus disease~~[fever]~~ (Ebolavirus spp.);~~;~~
- (ii) Lassa fever (Lassa virus);~~;~~ and
- (iii) Marburg fever (Marburg virus);

~~(3) Perinatally Transmissible Conditions Reportable by All Entities.~~

~~(a) Pregnancy is a reportable event for a subset of the following communicable diseases, and reporting is required even if the communicable disease was reported to public health prior to the pregnancy. Perinatally transmissible conditions reportable by each entity are as follows:~~

- (i) ~~[H]~~hepatitis B infection;
- (ii) ~~[H]~~hepatitis C infection;
- (iii) HIV infection;
- (iv) ~~[L]~~listeriosis;
- (v) ~~[R]~~rubella;
- (vi) ~~[S]~~syphilis infection; and
- (vii) Zika virus infection.

~~(4) Antimicrobial susceptibility tests reportable by each entity are as follows:~~

~~(a) Full panel antimicrobial susceptibility test results, including minimum inhibitory concentration and results suppressed to the ordering clinician, are reportable when performed on the following organisms:~~

~~(i) Candida auris or Candida haemulonii from any body site;~~

- (ii) Mycobacterium tuberculosis;
- (iii) Neisseria gonorrhoeae;
- (iv) Salmonella species;
- (v) Shigella species; and
- (vi) Streptococcus pneumoniae;
- (vii) ~~[O]~~organisms resistant to a carbapenem in:
  - (A) Acinetobacter species;
  - (B) Enterobacter species;
  - (C) Escherichia coli; or
  - (D) Klebsiella species;
- (viii) ~~[O]~~organisms resistant to vancomycin in:
  - (A) Staphylococcus aureus (VRSA);

~~(b) Individual carbapenemase test results including positive, negative, equivocal, indeterminate, and the method used, are reportable when performed on the following organisms:~~

~~(i) Resistant to a carbapenem, or with demonstrated carbapenemase, in:~~

- (i) ~~[A]~~ Acinetobacter species;
- (ii) ~~[B]~~ Enterobacter species;
- (iii) ~~[C]~~ Escherichia coli; and
- (iv) ~~[D]~~ Klebsiella species.

~~(b) Antiviral susceptibility test results including nucleotide sequencing, genotyping, or phenotypic analysis are reportable when performed on the following organisms:~~

~~(i) Human immunodeficiency virus (HIV).~~

~~(5) Unusual events reportable by each entity are:~~

~~(a) Unusual events include one or more cases or suspect cases of a communicable disease, condition, or syndrome considered:~~

- (i) ~~[a]~~ Rare, unusual, or new to Utah;
- (ii) ~~[b]~~ Previously controlled or eradicated;
- (iii) ~~[c]~~ Caused by an unidentified or newly identified organism;

~~(i) due to exposure or infection that may indicate a bioterrorism event with potential transmission to the public; or~~

~~(v) Any other infection not explicitly identified in Subsection R386-702-3(2) that public health considers a public health hazard.~~

~~(6) Outbreaks, epidemics, or unusual occurrences of events reportable by each entity are as follows:~~

~~(a) Entities shall report two or more cases or suspect cases, with or without an identified organism, including:~~

- (i) ~~[G]~~gastrointestinal illnesses;
- (ii) ~~[R]~~respiratory illnesses;
- (iii) ~~[M]~~meningitis or encephalitis;
- (iv) ~~[I]~~infections caused by antimicrobial resistant organisms;
- (v) ~~[I]~~illnesses with suspected foodborne or waterborne transmission;
- (vi) ~~[I]~~illnesses with suspected ongoing transmission in any facility;
- (vii) ~~[I]~~infections that may indicate a bioterrorism event;

~~(viii) Any other infections not explicitly identified in Subsection R386-702-3(2) that public health considers a public health hazard.~~

~~(b) Entities shall report increases or shifts in pharmaceutical sales that may indicate changes in disease trends.~~

~~(7) Laboratory results reportable by electronic reporters are as follows:~~

~~(a) In addition to laboratory results set forth in Subsections R386-702-3(2) through R386-702-3(6), entities reporting electronically shall include the following laboratory results or laboratory results that provide presumptive evidence of the following communicable diseases:~~

- (i) ~~[I]~~influenza virus;
- (ii) ~~[N]~~norovirus infection;
- (iii) Pseudomonas aeruginosa, resistant to a carbapenem, or with demonstrated carbapenemase production;

~~(iv) Staphylococcus aureus from a normally sterile site with methicillin testing performed, reported as either methicillin-susceptible Staphylococcus aureus (MSSA) or methicillin-resistant Staphylococcus aureus (MRSA); and~~

~~(v) Streptococcal disease, invasive due to all species.~~

~~(b) Entities reporting electronically shall include any laboratory results including positive, negative, equivocal, indeterminate, associated with the following tests or conditions:~~

- (i) CD4+ T-Lymphocyte tests, regardless of known HIV status;
- (ii) ~~[C]~~chlamydia;
- (iii) Clostridium difficile;
- (iv) novel coronavirus COVID-19 (SARS-CoV-2), including IgM and IgG serology;

~~(v) Cytomegalovirus (CMV), congenital (infants less than or equal to 12 months of age);~~

- (vi) ~~[G]~~gonorrhea;
- (vii) ~~[H]~~hepatitis A;
- (viii) ~~[H]~~hepatitis B, including viral loads;
- (ix) ~~[H]~~hepatitis C, including viral loads;
- (x) HIV, including viral loads and confirmatory tests;
- (xi) ~~[L]~~liver function tests, including ALT, AST, and bilirubin associated with a viral hepatitis case;
- (xii) Lyme disease;
- (xiii) ~~[R]~~respiratory syncytial virus (RSV);
- (xiv) ~~[S]~~syphilis;

(x~~i~~)v) [~~F~~]tuberculosis; and

(xvi) Zika virus.

(c) Entities reporting electronically shall report full panel antibiotic susceptibility test results, including minimum inhibitory concentration and results suppressed to the ordering clinician, are reportable when performed on ~~the following organisms:~~

~~(i) Pseudomonas aeruginosa, resistant to a carbapenem, or with demonstrated carbapenemase.~~

(d) The Department may, by authority granted through ~~Section 26-23b~~ Title 26, Chapter 23b, Detection of Public Health Emergencies Act, identify additional reporting criteria when deemed necessary for the management of outbreaks or identification of exposures.

(e) Non-positive laboratory results reported for the events identified in Subsection R386-702-3(7)(b) will be used for the following purposes as authorized in ~~Utah Health Code~~ Subsections 26-1-30(2)(c), 26-1-30(2)(d), and 26-1-30(2)(f):

(i) [~~F~~]to determine when a previously reported case becomes non-infectious;

(ii) [~~F~~]to identify newly acquired infections through identification of a seroconversion window; or

(iii) [~~F~~]to provide information critical for assignment of a case status.

(f) Information associated with a non-positive laboratory result will be kept by the Department for a period of 18 months.

(i) At the end of the 18 month period, if the result has not been appended to an existing case, personal identifiers will be stripped and expunged from the result.

(ii) The de-identified result will be added to a de-identified, aggregate dataset.

(iii) The dataset will be kept for use by public health to analyze trends associated with testing patterns and case distribution, and identify and establish prevention and intervention efforts for at-risk populations.

(8) Authorized ~~r~~[~~R~~]eporting of ~~s~~[~~S~~]yndromes and ~~c~~[~~C~~]onditions ~~are as follows:~~

(a) Reporting of encounters for the following syndromes and conditions is authorized by ~~Title 26, Chapter 23b, Detection of Public Health Emergencies Act~~ Chapter 26-23b, unless made mandatory by the declaration of a public health emergency:

(i) [~~R~~]respiratory illness, including ~~but not limited to~~:

(A) [~~U~~]pper or lower respiratory tract infections;~~;~~

(B) [~~D~~]difficulty breathing;~~;~~

(C) [~~A~~]adult respiratory distress syndrome;

(ii) [~~G~~]gastrointestinal illness, including ~~but not limited~~

~~to~~:

(A) [~~V~~]vomiting;~~;~~

(B) [~~D~~]diarrhea;~~;~~

(C) [~~A~~]abdominal pain;

(iii) [~~I~~]influenza-like constitutional symptoms or signs;

(iv) [~~N~~]neurologic symptoms or signs indicating the possibility of meningitis, encephalitis, or unexplained acute encephalopathy or delirium;

(v) [~~R~~]rash illness;

(vi) [~~H~~]hemorrhagic illness;

(vii) [~~B~~]botulism-like syndrome;

(viii) [~~L~~]ymphadenitis;

(ix) [~~S~~]sepsis or unexplained shock;

(x) [~~F~~]febrile illness (illness with fever, chills or rigors);

(xi) [~~N~~]nontraumatic coma or sudden death; and

(xii) [~~O~~]ther criteria specified by the Department as indicative of disease outbreaks or injurious exposures of uncertain origin.

(b) Reporting of encounters for syndromes and conditions not specified in Subsection R386-702-3(8)(a) is also authorized by Chapter 26-23b, unless made mandatory by the declaration of a public health emergency.

(c) Information included in the reporting of the events identified in Subsection R386-702-3(8)(a) and R386-702-3(8)(b) will be used for the following purposes:

(i) [~~F~~]to support early identification and ruling out of public health threats, disasters, outbreaks, suspected incidents, and acts of bioterrorism;

(ii) [~~F~~]to assist in characterizing population groups at greatest risk for disease or injury;

(iii) [~~F~~]to support assessment of the severity and magnitude of possible threats; or

(iv) [~~F~~]to satisfy syndromic surveillance objectives of the Federal Centers for Medicaid and Medicare Meaningful Use incentive program.

(9) Reporting ~~e~~[~~E~~]xceptions:

(a) A university or hospital that conducts research studies exempt from reporting AIDS and HIV infection under Section 26-6-3.5 shall seek written approval of reporting exemption from the Department institutional review board prior to the study commencement.

(b) The university or hospital shall submit the following to the HIV Epidemiologist within 30 days of Department institutional review board approval:

(i) [~~A~~]a summary of the research protocol, including funding sources and justification for requiring anonymity; and

(ii) [~~W~~]ritten approval from the Department institutional review board.

(c) The university or hospital shall submit a report that includes ~~each~~[~~all~~] of the indicators specified in Subsection 26-6-3.5(4)(a) to the HIV Epidemiologist annually during an ongoing research study.

(d) The university or hospital shall submit a final report that includes ~~each~~[~~all~~] of the indicators specified in Subsection 26-6-3.5(4)(a) to the HIV Epidemiologist within 30 days of the conclusion of the research study.

(e) Documents can be submitted to the HIV Epidemiologist by fax at (801) 538-9923 or by mail to 288 North 1460 West Salt Lake City, Utah 84116.

**R386-702-4. Entities Required to Report.**

(1) Section 26-6-6 lists those entities required to report cases or suspect cases of the reportable events set forth in Section R386-702-3. This includes:

(a) [~~H~~]health care providers, as defined in Section 78B-3-403;

(b) [~~H~~]health care facilities, as defined in Section 78B-3-403;

(c) [~~H~~]health care facilities operated by the federal government;

(d) [~~M~~]mental health facilities, as defined in Section 62A-15-602;

(e) [~~C~~]care facilities licensed through the Department of Human Services;

(f) [~~N~~]nursing care facilities and assisted living facilities, as defined in Section 26-21-2;

- (g) ~~[D]~~dispensaries;
- (h) ~~[C]~~clinics;
- (i) ~~[L]~~laboratories;
- (j) ~~[S]~~schools, as defined in Section 26-6-2;
- (k) ~~[C]~~childcare programs, as defined in Section 26-39-

102; and

(l) ~~[A]~~any individual with a knowledge of others who have a communicable disease.

(2) In addition, the following entities are required to report cases or suspect cases of the reportable events set forth in Section R386-702-3:

- (a) ~~[B]~~blood and plasma donation centers; and
- (b) ~~[C]~~correctional facilities.

(3) When more than one entity is involved in the processing of a clinical specimen (receiving, forwarding, or analyzing); or the diagnosis, treatment, or care of a case or suspect case; ~~each~~ ~~[aH]~~ entity ~~[ies]~~ involved ~~[are]~~ ~~[is]~~ required to report ~~[s]~~ even when diagnosis or testing is done outside of Utah.

(4) Health care entities may designate a single person or group of persons to report the events identified in Section R386-702-3 to public health on behalf of their health care providers or medical laboratories, as long as reporting complies with ~~[aH]~~ requirements in this rule.

#### **R386-702-5. Mandatory Submission of Clinical Material.**

(1) Laboratories shall submit clinical material from ~~[aH]~~ cases identified with organisms listed in Subsection R386-702-5(3) to the Utah Department of Health, Utah Public Health Laboratory (UPHL) within three working days of identification.

(a) Clinical material is defined as:

(i) A clinical isolate containing the organism for which submission of material is required; or

(ii) If an isolate is not available, material containing the organism for which submission of material is required, in the following order of preference:

- (A) a patient specimen ~~[s]~~;
- (B) nucleic acid ~~[s]~~; or
- (C) other laboratory material.

(2) Laboratories submitting clinical material from cases identified with organisms designated by UPHL as potential bioterrorism agents shall first notify UPHL via telephone immediately ~~[r]~~

~~\_\_\_\_\_ (a) UPHL can be contacted~~ during business hours at (801) 965-2400, or after hours at (801) 560-6586 ~~[r]~~ ~~[of all bioterrorism agents that are being submitted]~~.

(3) Organisms mandated for standard clinical submission include:

(a) ~~[A]~~antibiotic resistant organisms from any clinical specimen that meet the following criteria:

(i) ~~[R]~~resistant to a ~~[carbapenem]~~ ~~[carbapenem]~~ in:

- (A) Acinetobacter species ~~[s]~~;
- (B) Enterobacter species ~~[s]~~;
- (C) Escherichia coli ~~[s]~~ ~~[r]~~;
- (D) Klebsiella species ~~[s]~~ ~~[r]~~;
- (E) Pseudomonas aeruginosa ~~[s]~~;
- (ii) ~~[R]~~resistant to vancomycin in ~~[r]~~

~~\_\_\_\_\_ (A) Staphylococcus aureus (VRSA) ~~[s]~~;~~

(iii) ~~[D]~~demonstrated carbapenemase production in:

- (A) Acinetobacter species ~~[s]~~;
- (B) Enterobacter species ~~[s]~~;
- (C) Escherichia coli ~~[s]~~;
- (D) Klebsiella species ~~[s]~~;

(E) ~~[A]~~any other Enterobacteriaceae species ~~[s]~~ or

(F) Pseudomonas aeruginosa ~~[r]~~;

(b) Campylobacter species;

(c) Candida auris or Candida haemulonii from any body

site;

(d) Corynebacterium diphtheriae;

(e) Shiga toxin-producing Escherichia coli (STEC), including enrichment ~~[and]~~ or MacConkey broths that tested positive by any method for Shiga toxin;

(f) Haemophilus influenzae, from normally sterile sites;

(g) ~~[H]~~influenza A virus, unsubtypeable;

(h) ~~[H]~~influenza virus (hospitalized cases only);

(i) Legionella species;

(j) Listeria monocytogenes;

(k) ~~[M]~~measles (rubeola) virus;

(l) Mycobacterium tuberculosis complex;

(m) Neisseria meningitidis, from normally sterile sites;

(n) Salmonella species;

(o) Shigella species;

(p) Vibrio species;

(q) West Nile virus;

(r) Yersinia species;

(s) Zika virus; and

(t) ~~[A]~~any organism implicated in an outbreak when instructed by authorized local or state health department personnel.

(4) Organisms mandated for bioterrorism clinical submission include:

(a) Bacillus anthracis;

(b) Brucella species;

(c) Clostridium botulinum;

(d) Francisella tularensis; and

(e) Yersinia pestis.

(5) Submission of clinical material does not replace the requirement for laboratories to report the event to public health as defined in Sections R386-702-6 and R386-702-7.

(6) For additional information on this process, contact UPHL at (801) 965-2400.

#### **R386-702-6. Reporting Criteria.**

(1) Manual ~~[R]~~reporting criteria is as follows:

(a) Reporting ~~[T]~~timeframes are as follows:

(i) Entities shall report immediately reportable events by telephone as soon as possible, but no later than 24 hours after identification. Events designated as immediately reportable by the Department include cases and suspect cases of:

(A) ~~[A]~~anthrax or anthrax-like illness;

(B) ~~[B]~~botulism, excluding infant botulism;

(C) ~~[C]~~cholera;

~~\_\_\_\_\_ (D) novel coronavirus disease including: Middle East Respiratory Syndrome (MERS), severe acute respiratory syndrome (SARS), and COVID-19 (SARS-CoV-2);~~

~~(E) ~~[D]~~ diphtheria;~~

~~(F) ~~[E]~~ Haemophilus influenzae, invasive disease;~~

~~(G) ~~[F]~~ hepatitis A;~~

~~(H) ~~[G]~~ influenza infection suspected or confirmed to be caused by a non-seasonal influenza strain;~~

~~(I) ~~[H]~~ measles;~~

~~(J) ~~[I]~~ meningococcal disease, invasive;~~

~~\_\_\_\_\_ (J) Middle East Respiratory Syndrome (MERS);~~

~~(K) ~~[P]~~ plague;~~

~~(L) ~~[P]~~ poliovirus, paralytic and nonparalytic;~~

~~(M) ~~[R]~~ rabies, human and animal;~~

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(N) [R]rubella, excluding congenital syndrome;  
[O] Severe acute respiratory syndrome (SARS);  
(O[P]) [S]smallpox;  
(P[Q]) Staphylococcus aureus from any clinical specimen that is resistant to vancomycin;  
(Q[R]) [F]transmissible spongiform encephalopathies (prion diseases), including Creutzfeldt-Jakob disease;  
(R[S]) [F]tuberculosis;  
(S[F]) [F]tularemia;  
(T[U]) [F]typhoid, cases and carriers;  
(U[V]) [V]viral hemorrhagic fevers;  
(V[W]) [Y]yellow fever; or  
(W[X]) [A]any event described in Subsections R386-702-3(5) or R386-702-3(6).

(ii) Entities shall report [aH]events in Subsections R386-702-3(2) through R386-702-3(6) not required to be reported immediately within three working days from the time of identification.

(b) Methods for [R]reporting are as follows:

(i) Entities reporting manually shall send reports to either a local health department or the Department by phone, secured fax, secured email, or mail.

(ii) Contact information for the Department is as follows:

- (A) [P]phone: (801) 538-6191 during business hours, or 888-EPI-UTAH (888-374-8824) after hours;
- (B) [S]secured fax: (801) 538-9923;
- (C) [S]secured email: reporting@utah.gov (contact the Department at (801) 538-6191 for information on this option); and
- (D) [M]mail: 288 North 1460 West Salt Lake City, Utah 84116.

(iii) A confidential morbidity report form is available at: <http://health.utah.gov/epi/reporting/>.

(iv) The Department incorporates by reference version 2.[+]2 of the Utah Reporting Specifications for Communicable Diseases, ~~that~~[which] identifies individual laboratory tests that shall be reported to the Department by manual reporting entities.

(2) Electronic [R]reporting criteria is as follows:

(a) Reporting [F]timeframes are as follows:

(i) [A]Entities that report electronically shall report laboratory results within 24 hours of finalization.

(A) Entities can choose to report in real-time (as each report is released) or batch reports.

(B) Entities reporting electronically shall report preliminary positive results for the immediately reportable events specified in Subsection R386-702-6(1)(a)(i).

(b) Methods for [R]reporting are as follows:

(i) [A]Laboratories that identify cases or suspect cases shall report to the Department through electronic laboratory reporting, in a manner approved by the Department. Reportable events shall be identified by automated computer algorithms.

(A) Laboratories may substitute electronic reporting if electronic laboratory reporting is not available, with permission from the Department, and in a manner approved by the Department.

(B) Hospitals reporting electronically shall use HL7 2.5.1 message structure, and standard LOINC and SNOMED terminology in accordance with Meaningful Use regulations.

(C) Laboratories reporting electronically shall use HL7 2.3.1 or 2.5.1 message structure, and appropriate LOINC codes designating the test performed.

(D) Entities reporting electronically shall submit [aH]local vocabulary codes with translations to the Division of Disease Control and Prevention Informatics Program, if applicable.

(E) The Department incorporates by reference version 1.[2]3 of the Utah Electronic Laboratory Reporting Specifications for Communicable Diseases, ~~that~~[which] identifies individual laboratory tests that shall be reported to the Department by electronic reporting entities.

(F) For additional information on this process, refer to <https://health.utah.gov/phaccess/public/elr/> or contact the Division of Disease Control and Prevention Informatics Program by phone (801-538-6191) or email (edx@utah.gov).

(ii) Electronic case reporting is an authorized method of reporting to the Department. For additional information on this process, contact the Division of Disease Control and Prevention Informatics Program by phone (801-538-6191) or email (edx@utah.gov).

(A) Entities reporting via electronic case reporting may send ~~any~~[aH] clinical information for an encounter that meets criteria for reporting to public health.

(3) Syndromic [R]reporting criteria is as follows:

[a] Reporting Timeframes

~~(i)~~ Entities reporting syndromes or conditions identified in Subsection R386-702-3(8) shall report as soon as practicable using a schedule approved by the Department.

[b] Methods for Reporting

~~(i)~~ For information on reporting syndromic data, refer to <https://health.utah.gov/phaccess/public/SS/> or contact the Division of Disease Control and Prevention Informatics Program by phone (801-538-6191) or email (edx@utah.gov).

**R386-702-7. Required Information.**

(1) Entities shall include ~~as much of~~ the following information ~~as is known~~ when reporting events specified in Subsections R386-702-3(2) through R386-702-3(6) to public health:

(a) Patient information:

- (i) [F]full name;
- (ii) [D]date of birth;
- (iii) [A]address, including street address, city, state, and zip code;

(iv) [F]telephone number;

(v) [G]gender;

(vi) [R]race and ethnicity;

(vii) [D]date of onset;

(viii) [H]hospitalization status and date of admission; and

(ix) [P]pregnancy status and estimated due date.

(b) Diagnostic information:

(i) [N]name of the diagnostic facility;

(ii) [A]address, including street address, city, state, and zip code; of the diagnostic facility;

(iii) [F]telephone number of the diagnostic facility;

(iv) [F]full name of the ordering or diagnosing health care provider;

(v) [A]address, including street address, city, state, and zip code; of the ordering or diagnosing health care provider; and

(vi) [F]telephone number of the ordering or diagnosing health care provider.

(c) Reporter information:

(i) [F]full name of the person reporting;

(ii) [N]name of the facility reporting; and

(iii) [F]telephone number of the person or facility reporting.

(d) Laboratory testing information:

(i) [N]name of the laboratory performing the test;

(ii) [F]the laboratory's name for, or description of, the test;



- (iii) ~~[S]~~specimen source;
- (iv) ~~[S]~~specimen collection date;
- (v) ~~[F]~~testing results;
- (vi) ~~laboratory test date;~~

(vii) ~~[F]~~test reference range; and  
 (viii) ~~[F]~~test status including ~~(e.g.,)~~preliminary, final, amended, ~~and/~~or corrected~~).~~

(2) Entities shall submit reports that are clearly legible and do not contain any internal codes or abbreviations to the Department.

(3) Entities submitting or forwarding a specimen for testing using a laboratory test identified in the Utah Electronic Laboratory Reporting Specifications for Communicable Diseases shall include the patient's full name, date of birth, gender, race, ethnicity, address, and telephone number, so that the performing laboratory can report results to the appropriate public health agency.

(a) If the patient's address is not known by the submitting or forwarding entity, the submitting or forwarding entity shall provide the performing laboratory with the name and address of the facility where the specimen originated.

(4) Entities shall reference <http://health.utah.gov/epi/reporting>, or contact the Department at (801) 538-6191, for additional reporting specifications, including technical documents, reporting forms, and protocols.

(5) Full reporting of ~~all~~relevant patient information is authorized when reporting events listed in Subsection R386-702-3(8) to public health.

(a) Entities shall include in reports at least the following information, if known:

- (i) ~~[N]~~name of the facility;
- (ii) ~~[A]~~a patient identifier;
- (iii) ~~[D]~~date of visit;
- (iv) ~~[F]~~time of visit;
- (v) ~~[P]~~patient's age;
- (vi) ~~[P]~~patient's gender;
- (vii) ~~[Z]~~zip code of patient's residence;
- (viii) ~~[C]~~chief complaint(s), reason for visit, ~~and/~~or diagnosis; and

(ix) ~~[W]~~whether the patient was admitted to the hospital.

**R386-702-8. Confidentiality of Reports.**

(1) ~~[All]~~Reports required by this rule are confidential and are not open to public inspection. ~~[All]~~Information collected pursuant to this rule shall not be released or made public, except as provided by Section 26-6-27. Penalties for violation of confidentiality are prescribed in Section 26-6-29.

(2) Nothing in this rule precludes the discussion of case information with an attending clinician or public health workers.

~~(3) Good Samaritans]~~

~~(3)~~(a) The Department or local health department shall disclose communicable disease-related information regarding the person who was assisted to the medical provider of a Good Samaritan when that medical provider submits a request to the Department or local health department.

(a) The request must include:

(i) ~~[I]~~information regarding the occurrence of the accident, fire, or other life-threatening emergency;

(ii) ~~[A]~~a description of the exposure risk to the Good Samaritan; and

(iii) ~~[C]~~contact information for the Good Samaritan and their medical provider.

(b) The Department or local health department will ensure that the disclosed information:

(i) ~~[I]~~includes enough detail to allow for appropriate education and follow-up to the Good Samaritan; and

(ii) ~~[E]~~ensures confidentiality is maintained for the person who was aided.

(c) No identifying information will be shared with the Good Samaritan or their medical provider regarding the person who was assisted. The Good Samaritan shall receive written information warning them that information regarding the person who was assisted is protected by state law.

**R386-702-9. Non-Compliance with Reporting Regulations.**

(1) Any person who violates any provision of Section R386-702 may be assessed a penalty as provided in Section 26-23-6.

~~(2)~~(a) Willful non-compliance may result in the Department working with other agencies to incur penalties ~~that~~~~which~~ may include loss of accreditation or licensure.

~~(2)~~(3) Records maintained by reporting entities are subject to review by Department personnel to assure the completeness and accuracy of reporting.

~~(2)~~(4) If public health conducts a surveillance project, such as assessing the completeness of case finding or assessing another measure of data quality, the Department may, at its discretion, waive any penalties for participating entities if cases are found that were not originally reported for whatever reason.

**R386-702-10. Information Necessary for Public Health Investigation and Surveillance.**

(1) Reporting entities shall provide the Department or local health department with any records or other materials requested by public health that are necessary to conduct a thorough investigation.

(a) ~~[This includes, but is not limited to,]~~Subsection (1) includes medical records, additional laboratory testing results, treatment and vaccination history, clinical material, or contact information for cases, suspect cases, or persons potentially exposed.

(b) The Department or local health department shall be granted on-site access to a facility, when such access is critical to a public health investigation.

**R386-702-11. General Measures for the Control of Communicable Diseases.**

(1) The local health department shall maintain ~~all~~ reportable disease records as needed to enforce Chapter 6 of the Health Code and this rule, or as requested by the Utah Department of Health.

(2) General ~~c~~control ~~m~~measures for ~~r~~reportable ~~d~~diseases are as follows:

(a) The local health department shall, when an unusual or rare disease occurs in any part of the state or when any disease becomes so prevalent as to endanger the state as a whole, contact the Bureau of Epidemiology, Utah Department of Health for assistance, and shall cooperate with the representatives of the Utah Department of Health.

(b) The local health department shall investigate and control the causes of epidemic, infectious, communicable, and other disease affecting the public health. The local health department shall also provide for the detection, reporting, prevention, and control of communicable, infectious, and acute diseases that are dangerous or important or that may affect the public health. The local health department may require physical examination and measures to be performed as necessary to protect the health of others.

(c) If, in the opinion of the local health officer it is necessary or advisable to protect the public's health that any person

shall be kept from contact with the public, the local health officer shall establish, maintain and enforce involuntary treatment, isolation and quarantine as provided by Section 26-6-4. Control measures shall be specific to the known or suspected disease agent. Guidance is available from the Bureau of Epidemiology, Utah Department of Health or official reference listed in R386-702-18.

~~[(3) Prevention of the Spread of Disease From a Case.]~~

~~(d)~~ The local health department shall take action and measures as may be necessary within the provisions of Section 26-6-4; Title 26, Chapter 6b; and this rule, to prevent the spread of any communicable disease, infectious agent, or any other condition ~~that~~<sup>which</sup> pose[s] a public health hazard. Action shall be initiated upon discovery of a case or upon receipt of notification or report of any disease.

~~[(4) Prevention of the Spread of Disease or Other Public Health Hazard.]~~

~~(e)~~ A case;<sup>;</sup> suspected case;<sup>;</sup> carrier;<sup>;</sup> contact;<sup>;</sup> other person;<sup>;</sup> or entity, including a ~~(e.g.)~~ facility, hotel, or other organization<sup>;</sup>, shall, upon request of a public health authority, promptly cooperate during:

~~(i)~~ ~~(a)~~ ~~[A]~~ an investigation of the circumstances or cause of a case, suspected case, outbreak, or suspected outbreak.

~~(ii)~~ ~~(b)~~ ~~[T]~~ the carrying out of measures for prevention, suppression, and control of a public health hazard, including~~[-but not limited to,]~~ procedures of restriction, isolation, and quarantine.

(5) Control measures for public food handlers and places where food or drink products are handled or processed are as follows: [Public Food Handlers.]

A person known to be infected with a communicable disease that can be transmitted by food or drink products, or who is suspected of being infected with such a disease, may not engage in the commercial handling of food or drink products, or be employed on any premises handling those types of products, unless those products are packaged off-site and remain in a closed container until purchased for consumption, until the person is determined by the local health department to be free of communicable disease, or incapable of transmitting the infection.

~~[(6) Communicable Diseases in Places Where Food or Drink Products are Handled or Processed.]~~

If a case, carrier, or suspected case of a disease that can be conveyed by food or drink products is found at any place where food or drink products are handled or offered for sale, or if a disease is found or suspected to have been transmitted by these food or drink products, the local health department may immediately prohibit the sale, or removal of drink and ~~all~~ other food products from the premises. Sale or distribution of food or drink products from the premises may be resumed when measures have been taken to eliminate the threat to health from the product and its processing as prescribed by R392-100.

~~[(7) Request for State Assistance.]~~

If a local health department finds it is not able to completely comply with this rule, the local health officer or his representative shall request the assistance of the Utah Department of Health. In such circumstances, the local health department shall provide ~~all~~ required information to the Bureau of Epidemiology. If the local health officer fails to comply with the provisions of this rule, the Utah Department of Health shall take action necessary to enforce this rule.

~~[(8) Approved Laboratories.]~~

Laboratory analyses that are necessary to identify the causative agents of reportable diseases or to determine adequacy of treatment of patients with a disease shall be ordered by the physician or other health care provider to be performed in or referred to a

laboratory holding a valid certificate under the Clinical Laboratory Improvement Amendments of 1988.

**R386-702-12. Special Measures for Control of Rabies.**

(1) ~~Rationale of [T]reatment is as follows: [-]~~

A physician must evaluate individually each exposure to possible rabies infection. The physician shall also consult with local or state public health officials if questions arise about the need for rabies prophylaxis.

(2) ~~Management of [B]biting [A]animals is as follows: [-]~~

(a) A healthy dog, cat, or ferret that bites a person shall be confined and observed at least daily for ten days from the date of bite, regardless of vaccination status, as specified by local animal control ordinances. It is recommended that rabies vaccine not be administered during the observation period. Such animals shall be evaluated by a veterinarian at the first sign of illness during confinement. A veterinarian or animal control officer shall immediately report any illness in the animal to the local health department. If signs suggestive of rabies develop, a veterinarian or animal control officer shall direct that the animal be euthanized, its head removed, and the head shipped under refrigeration, not frozen, for examination of the brain by a laboratory approved by the Utah Department of Health.

(b) If the dog, cat, or ferret shows no signs of rabies or illness during the ten day period, the veterinarian or animal control officer shall direct that the unvaccinated animal be vaccinated against rabies at the owner's expense before release to the owner. If a veterinarian is not available, the animal may be released, but the owner shall have the animal vaccinated within 72 hours of release. If the dog, cat, or ferret was appropriately vaccinated against rabies before the incident, the animal may be released from confinement after the 10-day observation period with no further restrictions.

(c) Any stray or unwanted dog, cat, or ferret that bites a person may be euthanized immediately by a veterinarian or animal control officer, if permitted by local ordinance, and the head submitted, as described in R386-702-12(2)(a), for rabies examination. If the brain is negative by fluorescent-antibody examination for rabies, one can assume that the saliva contained no virus, and the person bitten need not be treated.

(d) Wild animals include raccoons, skunks, coyotes, foxes, bats, the offspring of wild animals crossbred to domestic dogs and cats, and any carnivorous animal other than a domestic dog, cat, or ferret.

(e) Signs of rabies in wild animals cannot be interpreted reliably. If a wild animal bites or scratches a person, the person or attending medical personnel shall notify an animal control or law enforcement officer. A veterinarian, animal control officer or representative of the Division of Wildlife Resources shall kill the animal at once, without unnecessary damage to the head, and submit the brain, as described in R386-702-12(2)(a), for examination for evidence of rabies. If the brain is negative by fluorescent-antibody examination for rabies, one can assume that the saliva contained no virus, and the person bitten need not be treated.

(f) Rabbits, opossums, squirrels, chipmunks, rats, and mice are rarely infected and their bites rarely, if ever, call for rabies prophylaxis or testing. Unusual exposures to any animal should be reported to the local health department or the Bureau of Epidemiology, Utah Department of Health.

(g) When rare, valuable, captive wild animals maintained in zoological parks approved by the United States Department of Agriculture or research institutions, as defined by Section 26-26-1, bite or scratch a human, the Bureau of Epidemiology, Utah

Department of Health shall be notified. The provisions of subsection R386-702-12(2)(e) may be waived by the Bureau of Epidemiology, Utah Department of Health if zoological park operators or research institution managers can demonstrate that the following rabies control measures are established:

(i) Employees who work with the animal have received preexposure rabies immunization.

(ii) The person bitten by the animal voluntarily agrees to accept postexposure rabies immunization provided by the zoological park or research facility.

(iii) The director of the zoological park or research facility shall direct that the biting animal be held in complete quarantine for a minimum of four months for dogs and cats, and six months for ferrets. Quarantine requires that the animal be prohibited from direct contact with other animals or humans.

(h) Any animal bitten or scratched by a wild, carnivorous animal or a bat that is not available for testing shall be regarded as having been exposed to rabies. The animal shall be placed in a strict quarantine for four months for dogs and cats, or six months for ferrets.

(i) For maximum protection of the public health, unvaccinated dogs, cats, and ferrets bitten or scratched by a confirmed or suspected rabid animal shall be euthanized immediately by a veterinarian or animal control officer. If the owner is unwilling to have the animal euthanized, the local health officer shall order that the animal be held in strict isolation in a municipal or county animal shelter or a veterinary medical facility approved by the local health department, at the owner's expense, for at least four months for dogs and cats, and six months for ferrets. The animal shall be vaccinated one month before being released. If any illness suggestive of rabies develops in the animal, the veterinarian or animal control officer shall immediately report the illness to the local health department and the veterinarian or animal control officer shall direct that the animal be euthanized and the head shall be handled as described in subsection R386-702-12(2)(a).

(j) Dogs, cats, and ferrets that are currently vaccinated and are bitten by rabid animals, shall be revaccinated immediately by a veterinarian and confined and observed by the animal's owner for 45 days. If any illness suggestive of rabies develops in the animal, the owner shall report immediately to the local health department and the animal shall be euthanized by a veterinarian or animal control officer and the head shall be handled as described in subsection R386-702-12(2)(a).

(k) Livestock exposed to a rabid animal and currently vaccinated with a vaccine approved by the United States Department of Agriculture for that species shall be revaccinated immediately by a veterinarian and observed by the owner for 45 days. Unvaccinated livestock shall be slaughtered immediately. If the owner is unwilling to have the animal slaughtered, the animal shall be kept under close observation by the owner for six months.

(l) Unvaccinated animals other than dogs, cats, ferrets, and livestock bitten by a confirmed or suspected rabid animal shall be euthanized immediately by a veterinarian or animal control officer.

(3) Testing [F]ees at the Utah Public Health Laboratory (UPHL) are as follows: [-]

(a) Animals being submitted to UPHL for rabies testing must follow criteria defined in The Compendium of Animal Rabies Prevention and Control to be eligible for testing without a fee. Testing of animals that fit this criteria will be eligible for a waived fee for testing. Testing of animals that do not meet this criteria will incur a testing fee as set forth by UPHL.

(b) The following situations will not incur a rabies testing fee if testing is ordered for them through UPHL:

(i) Any bat in an instance where a person or animal has had an exposure, or reasonable probability of exposure, including ~~[-but not limited to:-]~~ known bat bites, exposure to bat saliva, a bat found in a room with a sleeping person or unattended child, or a bat found near a child or mentally impaired or intoxicated person.

(ii) Dogs, cats, or ferrets, regardless of rabies vaccination status, if signs suggestive of rabies are documented in them.

(iii) Wild mammals and hybrids that expose persons, pets, or livestock, including ~~[-e.g., -]~~ skunks, foxes, coyotes, and raccoons, [F] may be tested.

(iv) Livestock may be tested if signs suggestive of rabies are documented.

(v) UDOH Bureau of Epidemiology staff are available to discuss additional situations that may warrant testing at (801) 538-6191.

(c) The following situations will incur a \$95 testing fee if testing is ordered for them through UPHL:

(i) Any ~~stray -]dog, cat, or ferret,~~ with unknown or undocumented vaccination history that exposes a person, if signs suggestive of rabies are not documented, or if the animal has not been confined and observed for at least 10 days.

(ii) Dogs, cats, and ferrets: currently vaccinated animals that expose a person, if signs suggestive of rabies are not documented, or animals have not been confined and observed for at least 10 days.

(iii) Regardless of rabies vaccination status, a healthy dog, cat, or ferret that has not exposed a person.

(iv) Small rodents ~~[-e.g., -]~~ including rats, mice, squirrels, chipmunks, voles, or moles; [F] and lagomorphs ~~[-]~~ including rabbits and hares [F].

(v) Incomplete paperwork accompanying the sample will also result in a fee for testing; a thorough description of the situation must be included with each sample submission.

(vi) UDOH Bureau of Epidemiology staff are available to discuss additional situations that may not warrant testing at (801) 538-6191.

(d) If the submitting party feels they are charged inappropriately for rabies testing, they may send a letter describing the situation and requesting a waiver for fees to the: Utah Department of Health, Bureau of Epidemiology, P.O. Box 142104, Salt Lake City, UT 84114, attention: Zoonotic Diseases Epidemiologist. Information may be submitted electronically via email to: epi@utah.gov, with a note in the subject line "Attention: Zoonotic Diseases Epidemiologist".

(i) The submitting party has 30 days from receipt of the testing fee invoice to file an appeal. The letter must include copies of the original paperwork that was submitted, and a copy of the invoice received, for a waiver to be considered.

(ii) UDOH and UPHL have 30 days to review information after receipt of an appeal request to make an official decision and notify the submitter.

(iii) UDOH Bureau of Epidemiology staff are available to discuss questions about testing fees and the appeal process at (801) 538-6191.

(4) Measures for ~~[-S]~~ standardized ~~[-R]~~ rabies ~~[-C]~~ control ~~[-P]~~ practices are as follows: [-]

(a) Humans requiring either pre- or post-exposure rabies prophylaxis shall be treated in accordance with the recommendations of the U.S. Public Health Service Immunization Practices Advisory Committee, as adopted and incorporated by reference in R386-702-

18(2). A copy of the recommendations shall be made available to licensed medical personnel, upon request to the Bureau of Epidemiology, Utah Department of Health.

(b) A physician or other health care provider that administers rabies vaccine shall immediately report ~~[all]~~ serious systemic neuromuscular or anaphylactic reactions to rabies vaccine through the Vaccine Adverse Event Reporting System (VAERS).

(c) The Compendium of Animal Rabies Prevention and Control, as adopted and incorporated by reference in R386-702-18(5), is the reference document for animal vaccine use.

(d) A county, city, town, or other political subdivision that requires licensure of animals shall also require rabies vaccination as a prerequisite to obtaining a license.

(e) Animal rabies vaccinations are valid only if performed by or under the direction of a licensed veterinarian in accordance with the Compendium of Animal Rabies Prevention and Control.

(f) ~~[All]~~ Agencies and veterinarians administering vaccine shall document each vaccination on the National Association of State Public Health Veterinarians (NASPHV) form number 51, Rabies Vaccination Certificate, ~~that~~ ~~[which]~~ can be obtained from vaccine manufacturers. The agency or veterinarian shall provide a copy of the report to the animal's owner. Computer-generated forms containing the same information are also acceptable.

(g) Animal rabies vaccines may be sold or otherwise provided only to licensed veterinarians or veterinary biologic supply firms. Animal rabies vaccine may be purchased by the Utah Department of Health and the Utah Department of Agriculture.

(5) Measures to ~~[P]~~ prevent or ~~[C]~~ control ~~[R]~~ rabies ~~[O]~~ outbreaks are as follows: ~~[-]~~

(a) The most important single factor in preventing human rabies is the maintenance of high levels of immunity in the pet dog, cat, and ferret populations through vaccination. Vaccination requirements include:

(i) any ~~[All]~~ dog[s], cat[s], and ferret[s] in Utah should be immunized against rabies by a licensed veterinarian; and

(ii) ~~[L]~~ local governments should establish effective programs to ensure vaccination of any ~~[all]~~ dogs, cats, and ferrets and to remove strays and unwanted animals.

(b) If the Utah Department of Health determines that a rabies outbreak is present in an area of the state, the Utah Department of Health may require that:

(i) any ~~[all]~~ dog[s], cat[s], and ferret[s] in that area and adjacent areas be vaccinated or revaccinated against rabies as appropriate for each animal's age;

(ii) any such animal be kept under the control of its owner at all times until the Utah Department of Health declares the outbreak to be resolved;

(iii) an owner who does not have an animal vaccinated or revaccinated surrender the animal for confinement and possible destruction; and

(iv) such animals found at-large be confined and possibly destroyed.

**R386-702-13. Special Measures for Control of Typhoid.**

~~[(4)]~~ Because typhoid control measures depend largely on sanitary precautions and other health measures designed to protect the public, the local health department shall investigate each case of typhoid and strictly manage the infected individual according to the following ~~[outline]~~:

~~[(2)]~~ ~~[Cases]~~ Standard precautions are required for cases during hospitalization. Use contact precautions for diapered or incontinent patients for the duration of illness. Hospital care is

desirable during acute illness. Release of the patient from supervision by the local health department shall be based on three or more negative cultures of feces, ~~[(4)]~~ and of urine in patients with schistosomiasis, ~~[3]~~ taken at least 24 hours apart. Cultures must have been taken at least 48 hours after antibiotic therapy has ended and not earlier than one month after onset of illness as specified in R386-702-13(6). If any of these cultures is positive, repeat cultures at intervals of one month during the 12-month period following onset until at least three consecutive negative cultures are obtained as specified in R386-702-13(6). The patient shall be restricted from food handling, child care, and from providing patient care during the period of supervision by the local health department.

~~[(3)]~~ ~~[Contacts]~~ Administration of typhoid vaccine is recommended for ~~[all]~~ household members of known typhoid carriers. Household and close contacts of a carrier shall be restricted from food handling, child care, and patient care until two consecutive negative stool specimens, taken at least 24 hours apart, are submitted, or when approval is granted by the local health officer according to local jurisdiction.

~~[(4)]~~ ~~[Carriers]~~ If a laboratory or physician identifies a carrier of typhoid, the attending physician shall immediately report the details of the case by telephone to the local health department or the Bureau of Epidemiology, Utah Department of Health using the process described in R386-702-6. Each infected individual shall submit to the supervision of the local health department. Carriers are prohibited from food handling, child care, and patient care until released in accordance with R386-702-13(4)(a) or R386-702-13(4)(b). ~~[All]~~ Reports and orders of supervision shall be kept confidential and may be released only as allowed by Subsection 26-6-27(2)(c).

(a) ~~[Convalescent Carriers]~~ Any person who harbors typhoid bacilli for three but less than 12 months after onset is defined as a convalescent carrier. Release from occupational and food handling restrictions may be granted at any time from three to 12 months after onset, as specified in R386-702-13(6).

(b) ~~[Chronic Carriers]~~ Any person who continues to excrete typhoid bacilli for more than 12 months after onset of typhoid is a chronic carrier. Any person who gives no history of having had typhoid or who had the disease more than one year previously, and whose feces or urine are found to contain typhoid bacilli is also a chronic carrier.

(c) ~~[Other Carriers]~~ If typhoid bacilli are isolated from surgically removed tissues, organs, including the gallbladder or kidney, or from draining lesions such as osteomyelitis, the attending physician shall report the case to the local health department or the Bureau of Epidemiology, Utah Department of Health. If the person continues to excrete typhoid bacilli for more than 12 months, ~~[he]~~ the person is a chronic carrier and may be released after satisfying the criteria for chronic carriers in R386-702-13(6).

(5) ~~[Carrier Restrictions and Supervision]~~ The local health department shall report ~~[all]~~ typhoid carriers to the Bureau of Epidemiology, and shall:

(a) ~~[R]~~ require the necessary laboratory tests for release;

(b) ~~[H]~~ issue written instructions to the carrier; and

(c) ~~[S]~~ supervise the carrier.

(6) Requirements for Release of Convalescent and Chronic Carriers: The local health officer or his representative may release a convalescent or chronic carrier from occupational and food handling restrictions only if at least one of the following conditions is satisfied:

(a) ~~[F]~~ for carriers without schistosomiasis, three consecutive negative cultures obtained from fecal specimens authenticated by the attending physician, hospital personnel,

laboratory personnel, or local health department staff taken at least one month apart and at least 48 hours after antibiotic therapy has stopped;

(b) for carriers with schistosomiasis, three consecutive negative cultures obtained from both fecal and urine specimens authenticated by the attending physician, hospital personnel, laboratory personnel, or local health department staff taken at least one month apart and at least 48 hours after antibiotic therapy has stopped;

(c) the local health officer or his representative determine that additional treatment such as cholecystectomy or nephrectomy has terminated the carrier state; or

(d) the local health officer or his representative determines the carrier no longer presents a risk to public health according to the evaluation of other factors.

**R386-702-14. Special Measures for the Control of Ophthalmia Neonatorum.**

Every physician or midwife practicing obstetrics or midwifery shall, within three hours of the birth of a child, instill or cause to be instilled in each eye of such newborn one percent silver nitrate solution contained in wax ampules, or tetracycline ophthalmic preparations or erythromycin ophthalmic preparations, as these are the only antibiotics of currently proven efficacy in preventing development of ophthalmia neonatorum. The value of irrigation of the eyes with normal saline or distilled water is unknown and not recommended.

**R386-702-15. Special Measures for the Control of HIV/AIDS.**

~~(1) Partner identification and notification:~~

~~(a)~~ If an individual is tested and found to have an HIV infection, the Department ~~and~~ or local health department shall provide partner services, linkage-to-care activities, and promote retention to HIV care.

~~(1)~~ (2) Definitions:

(a) "Partner" is defined as any individual, including a spouse, who has shared needles, syringes, or drug paraphernalia or who has had sexual contact with an HIV infected individual.

(b) "Spouse" is defined as any individual who is the marriage partner of that person at any time within the ten-year period prior to the diagnosis of HIV infection.

(c) "Linkage to care" is defined by a reported CD4+ T-Lymphocyte test ~~and~~ or HIV viral load determination within three months of HIV positive diagnosis.

(d) "Retention to care" is defined by a reported CD4+ T-Lymphocyte test or HIV viral load determination once within a 12-month period.

(3) Partner services include:

(a) ~~(C)~~ confidential partner notification within 30 days of receiving a positive HIV result or when relevant additional information is found to aid in an investigation or case management;

(b) ~~(P)~~ prevention counseling;

(c) ~~(F)~~ testing for HIV;

(d) ~~(P)~~ providing recommendations for testing for other sexually transmitted diseases;

(e) ~~(P)~~ providing recommendations for hepatitis screening and vaccination;

(f) ~~(F)~~ treatment or linkage to medical care on an ongoing basis, as needed; and

(g) ~~(L)~~ linkage or referral to other prevention services and support.

(4) Re-engagement to care includes:

(a) ~~(L)~~ linkage to medical care, on an ongoing basis, as needed;

(b) ~~(L)~~ linkage or referral to other prevention services and support;

(c) ~~(C)~~ confidential partner notification, as needed;

(d) ~~(P)~~ prevention counseling;

(e) ~~(P)~~ providing recommendations for testing for other sexually transmitted diseases;

(f) ~~(P)~~ providing recommendations for hepatitis screening and vaccination;

(g) ~~(M)~~ medication adherence counseling; and

(h) ~~(R)~~ risk reduction counseling.

**R386-702-16. Special Measures to Prevent Perinatal and Person-to-Person Transmission of Hepatitis B Infection.**

(1) A licensed healthcare provider who provides prenatal care shall routinely test each pregnant woman for hepatitis B surface antigen (HBsAg) at an early prenatal care visit. The provisions of this section do not apply if the pregnant woman, after being informed of the possible consequences, objects to the test on the basis of religious or personal beliefs.

(2) The licensed healthcare provider who provides prenatal care shall repeat the HBsAg test during late pregnancy for those women who tested negative for HBsAg during early pregnancy, but who are at high risk based on:

(a) evidence of clinical hepatitis during pregnancy;

(b) injection drug use;

(c) occurrence during pregnancy or a history of a sexually transmitted disease;

(d) occurrence of hepatitis B in a household or close family contact; or

(e) the judgment of the healthcare provider.

(3) In addition to other reporting required by this rule, each positive HBsAg result detected in a pregnant woman shall be reported to the local health department or the Department, as specified in Section 26-6-6. That report shall indicate that the woman was pregnant at time of testing if that information is available to the reporting entity.

(4) A licensed healthcare provider who provides prenatal care shall document a woman's HBsAg test results, or the basis of the objection to the test, in the medical record for that patient.

(5) Every hospital and birthing facility shall develop a policy to assure that:

(a) when a pregnant woman is admitted for delivery, or for monitoring of pregnancy status, the result from a test for HBsAg performed on that woman during that pregnancy is available for review and documented in the hospital record;

(b) when a pregnant woman is admitted for delivery, if the woman's test result is not available to the hospital or birthing facility, the mother is tested for HBsAg as soon as possible, but before discharge from the hospital or birthing facility;

(c) if a pregnant woman who has not had prenatal care during that pregnancy is admitted for monitoring of pregnancy status only, and if the woman's test result is not available to the hospital or birthing facility, the mother is tested for HBsAg status before discharge from the hospital or birthing facility;

(d) positive HBsAg results identified by testing performed or documented during the hospital stay are reported as specified in this rule;

(e) infants born to HBsAg positive mothers receive hepatitis B immune globulin (HBIG) and hepatitis B vaccine, administered at separate injection sites, within 12 hours of birth;

(f) infants born to mothers whose HBsAg status is unknown receive hepatitis B vaccine within 12 hours of birth, and if the infant is born preterm with birth weight less than 2,000 grams, that infant also receives HBIG within 12 hours; ~~and~~

(g) if at the time of birth the mother's HBsAg status is unknown and the HBsAg test result is later determined to be positive, that infant receives HBIG as soon as possible but within 7 days of birth; ~~and~~ ~~[-]~~

(h) hepatitis B immune globulin (HBIG) administration and birth dose hepatitis B vaccine status of infants born to mothers who are HBsAg-positive are reported within 24 hours of delivery to the local health department and Utah Department of Health Immunization Program at (801) 538-9450.

(6) Local health departments shall perform the following activities or assure that they are performed:

(a) ~~All~~ ~~F~~emales between the ages of 12 and 50 years at the time an HBsAg positive test result is reported will be screened for pregnancy status within one week of receipt of that lab result.

(b) Infants born to HBsAg positive mothers complete the hepatitis B vaccine series as specified in ~~in~~ ~~the~~ most current version of "The Red Book" as cited in R386-702-13 (4).

(c) Children born to HBsAg positive mothers are tested for HBsAg and antibody against hepatitis B surface antigen (anti-HBs) at 9 to 12 months of age (testing is done at least one month after the final dose of hepatitis B vaccine series is administered, and no earlier than 9 months of age) to monitor the success of therapy and identify cases of perinatal hepatitis B infection. ~~[-]~~

~~(i)~~ Children who test negative for HBsAg and do not demonstrate serological evidence of immunity against hepatitis B when tested as described in (c) receive three additional vaccine doses and are retested as specified in the most current version of "The Red Book" as cited in R386-702-18 (4).

(d) HBsAg positive mothers are advised regarding how to reduce their risk of transmitting hepatitis B to others.

(e) Household members and sex partners of HBsAg positive mothers are evaluated to determine susceptibility to hepatitis B infection and if determined to be susceptible, are offered or advised to obtain vaccination against hepatitis B. ~~[-]~~

~~(i)~~ ~~All~~ ~~identified~~ acute hepatitis B cases shall be investigated by the local health department, and identified household and sexual contacts shall be advised to obtain vaccination against hepatitis B.

(7) The provisions of subsections (5) and (6) do not apply if the pregnant woman or the child's guardian, after being informed of the possible consequences, objects to any of the required procedures on the basis of religious or moral beliefs. The hospital or birthing facility shall document the basis of the objection.

(8) Prevention of transmission by individuals with chronic hepatitis B infection.

(a) The Department defines a chronic hepatitis B case as a person that is HBsAg positive, total antibody against hepatitis B core antigen (anti-HBc) positive (if performed) and IgM anti-HBc negative.

(b) An individual with chronic hepatitis B infection shall be advised regarding how to reduce the risk that the individual will transmit hepatitis B to others.

(c) Household members and sex partners of individuals with chronic hepatitis B infection shall be evaluated to determine susceptibility to hepatitis B infection, and if determined to be susceptible, shall be offered or advised to obtain vaccination against Hepatitis B.

**R386-702-17. Public Health Emergency.**

(1) Declaration of Emergency: With the Governor's and Executive Director's or in the absence of the Executive Director, his designee's, concurrence, the Department or a local health department may declare a public health emergency by issuing an order mandating reporting emergency illnesses or health conditions specified in sections R386-702-3 for a reasonable time.

(2) For purposes of an order issued under this section and for the duration of the public health emergency, the following definitions apply.

(a) "E[~~e~~]mergency center" means:

(i) a health care facility licensed under the provisions of Chapter 26-21 that operates an emergency department; or

(ii) a clinic that provides emergency or urgent health care to an average of 20 or more persons daily.

(b) "E[~~e~~]ncounter" means an instance of an individual presenting at the emergency center who satisfies the criteria in section R386-702-3(2) ~~[-]~~ ~~and~~

(c) "D[~~d~~]iagnostic information" means an emergency center's records of individuals who present for emergency or urgent treatment, including the reason for the visit, chief complaint, results of diagnostic tests, presenting diagnosis, and final diagnosis, including diagnostic codes.

(3) ~~Reporting Encounters.~~ The Department shall designate the fewest number of emergency centers as is practicable to obtain the necessary data to respond to the emergency.

(a) Designated emergency centers shall report using the process described in R386-702-6.

(b) An emergency center designated by the Department shall report the encounters to the Department by:

(i) allowing Department representatives or agents, including local health department representatives, to review its diagnostic information to identify encounters during the previous day; ~~[-]~~

(ii) reviewing its diagnostic information on encounters during the previous day and reporting all encounters by 9:00 a.m. the following day ~~[-]~~ ~~[-]~~

(iii) identifying encounters and submitting that information electronically to the Department, using a computerized analysis method, and reporting mechanism and schedule approved by the Department; or

(iv) by other arrangement approved by the Department.

(4) For purposes of epidemiological and statistical analysis, the emergency center shall report on encounters during the public health emergency that do not meet the definition for a reportable emergency illness or health condition. The report shall be made using the process described in R386-702-6 and shall include the following information for each such encounter:

(a) facility name;

(b) date of visit;

(c) time of visit;

(d) patient's age;

(e) patient's sex; ~~and~~

(f) patient's zip code for patient's residence.

(5) If either the Department or a local health department collects identifying health information on an individual who is the subject of a report made mandatory under this section, it shall destroy that identifying information upon the earlier of its determination that the information is no longer necessary to carry out an investigation under this section or 180 days after the information was collected.

However, the Department and local health departments shall retain identifiable information gathered under other sections of this rule or other legal authority.

(6) Reporting on encounters during the public health emergency does not relieve a reporting entity of its responsibility to report under other sections of this rule or other legal authority.

**R386-702-18. Official References.**

[~~All~~] Treatment and management of individuals and animals who have or are suspected of having a communicable or infectious disease that must be reported pursuant to this rule shall comply with the following documents, ~~that~~ ~~which~~ are adopted and incorporated by reference:

(1) American Public Health Association. "Control of Communicable Diseases Manual". 20th ed., Heymann, David L., editor, 2015.

(2) Centers for Disease Control and Prevention. "Human Rabies Prevention---United States, 2008: Recommendations of the Advisory Committee on Immunization Practices." Morbidity and Mortality Weekly Report. 57 (RR03) (2008):1-26, 28.

(3) National Association of State Public Health Veterinarians Committee. "Compendium of Animal Rabies Prevention and Control, 2016." Nasphv.org. National Association of State Public Health Veterinarians, 18 October 2016. Web. <http://nasphv.org/Documents/NASPHVRabiesCompendium.pdf>

(4) American Academy of Pediatrics. "Red Book: 2018-2021 Report of the Committee on Infectious Diseases" 30th Edition. Elk Grove Village, IL, American Academy of Pediatrics; 2018.

(5) National Association of State Public Health Veterinarians Animal Contact Compendium Committee 2017. "Compendium of Measures to Prevent Disease Associated with Animals in Public Settings, 2017." Journal of the American Veterinary Medicine Association 243 (2017): 1269-292.

**KEY: communicable diseases, quarantines, rabies, rules and procedures**

**Date of Enactment or Last Substantive Amendment:** [~~November 1, 2019~~]**2020**

**Notice of Continuation:** April 15, 2016

**Authorizing, and Implemented or Interpreted Law:** 26-1-30; 26-6-3; 26-23b

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R414-1-12	Filing No. 52948

**Agency Information**

<b>1. Department:</b>	Health
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy
<b>Building:</b>	Cannon Health Building
<b>Street address:</b>	288 N 1460 W
<b>Mailing address:</b>	PO Box 143102
<b>City, state, zip:</b>	Salt Lake City, UT 84114-3102
<b>Contact person(s):</b>	

Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov

Please address questions regarding information on this notice to the agency.

**General Information**

<b>2. Rule or section catchline:</b>
R414-1-12. Utilization Review
<b>3. Purpose of the new rule or reason for the change:</b>
The purpose of this change is to clarify utilization review policy and to implement a contract provision to obtain utilization review through a state procurement process.
<b>4. Summary of the new rule or change:</b>
This amendment clarifies that utilization review must be in accordance with the Utah Medicaid Hospital Services Provider Manual and an evidence-based criteria tool approved by the Department of Health (Department). It also includes a provision for review to be obtained via contract and procurement, lists exceptions to the criteria tool, and makes other technical changes.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There is no impact to the state budget as utilization review falls within appropriations set forth by the Legislature.
<b>B) Local governments:</b>
There is no impact on local governments because they neither fund nor provide utilization review under the Medicaid program.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
There is no impact to small businesses as utilization review falls within appropriations set forth by the Legislature.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
There is no impact on non-small businesses as utilization review fall within appropriations set forth by the Legislature.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):

There is no impact on Medicaid providers and Medicaid members as utilization review falls within appropriations set forth by the Legislature.

**F) Compliance costs for affected persons:**

There are no compliance costs to a single Medicaid provider or to a Medicaid member as utilization review falls within appropriations set forth by the Legislature.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

**Regulatory Impact Table**

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

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

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

Businesses will see neither revenue nor cost as utilization review falls within appropriations set forth by the Legislature.

**B) Name and title of department head commenting on the fiscal impacts:**

Joseph K. Miner, MD, Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Section 26-1-5	Section 26-18-3	Section 26-34-2
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2020

**10. This rule change MAY become effective on:** 09/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Joseph K. Miner, MD, Executive Director	<b>Date:</b>	07/12/2020
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**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

**R414-1. Utah Medicaid Program.**

**R414-1-12. Utilization Review.**

(1) The Department shall conduct[s] hospital utilization reviews as outlined in the Hospital Services Utah Medicaid Provider Manual. The Department shall use the Hospital Services Utah Medicaid Provider Manual in effect at the time the service is rendered.

(2) The Department shall determine medical necessity and appropriateness of inpatient admissions [during]through utilization reviews. Utilization reviews shall use an evidence-based criteria tool



determined by the Department through the state's procurement process.  
[by use of InterQual Criteria, published by McKesson Corporation.]

(3) The Department shall seek a contract implemented through a competitive solicitation process in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

(~~3~~4) The standards in the evidence-based criteria [InterQual Criteria shall] may not apply to services in which a determination has been made to utilize the following criteria:

(a) criteria customized by the Department [~~or that are~~];

(~~a~~)b) criteria excluded as a Medicaid benefit by rule or contract; or

[~~—~~(b) provided in an intensive physical rehabilitation center as described in Rule R414-2B; or]

(c) criteria for organ transplant services as described in Rule R414-10A.

(5) [In these exceptions, or where InterQual is silent, t]The Department shall approve or deny services based upon [appropriate] administrative rules or its own criteria [as incorporated] set forth in the Medicaid provider manuals when the exceptions in Subsection R414-1-12(4) exist.

**KEY: Medicaid**

Date of Enactment or Last Substantive Amendment: [May 8, 2018]2020

Notice of Continuation: February 15, 2017

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3; 26-34-2

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	R414-1C	Filing No. 52936

**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R414-1C. Coronavirus Public Health Emergency Period

**3. Purpose of the new rule or reason for the change:**

The purpose of this new rule is to ensure that administrative rules under Medicaid and the Children's Health Insurance Program (CHIP) do not conflict with provisions set forth by the U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS), the Governor, or the State Legislature during the Coronavirus (COVID-19) public health emergency period.

**4. Summary of the new rule or change:**

This new rule suspends or revises Medicaid and CHIP rules that conflict with emergency waivers, state plan amendments, Governor executive orders, or actions set forth by the Legislature during the COVID-19 public health emergency period. (EDITOR'S NOTE: There is a corresponding emergency (120-day) change to Rule R414-1C that is effective as of 06/24/2020 and was published under Filing No. 52878 in the July 15, 2020, issue of the Bulletin.)

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**

There is no impact to the state budget as this rule only ensures state compliance with provisions set forth during the COVID-19 public health emergency period. It neither affects member services nor provider reimbursement.

**B) Local governments:**

There is no impact on local governments as this rule only ensures state compliance with provisions set forth during the COVID-19 public health emergency period. It neither affects member services nor provider reimbursement.

**C) Small businesses** ("small business" means a business employing 1-49 persons):

There is no impact on small businesses as this rule only ensures state compliance with provisions set forth during the COVID-19 public health emergency period. It neither affects member services nor provider reimbursement.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):

There is no impact on non-small businesses as this rule only ensures state compliance with provisions set forth during the COVID-19 public health emergency period. It neither affects member services nor provider reimbursement.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There is no impact on Medicaid providers and Medicaid members as this rule only ensures state compliance with provisions set forth during the COVID-19 public health emergency period. It neither affects member services nor provider reimbursement.

**F) Compliance costs for affected persons:**

There are no compliance costs to a single Medicaid provider or to a Medicaid member as this rule only ensures state compliance with provisions set forth during the COVID-19 public health emergency period.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

**Regulatory Impact Table**

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

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

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

Businesses will see neither revenue nor costs as this rule only ensures COVID-19 emergency compliance.

**B) Name and title of department head commenting on the fiscal impacts:**

Joseph K. Miner, MD, Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Section 26-1-5	Section 26-18-3	Section 63G-3-304
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2020

**10. This rule change MAY become effective on:** 09/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Joseph K. Miner, MD, Executive Director	<b>Date:</b>	07/12/2020
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**R414. Health, Health Care Financing Coverage and Reimbursement Policy.**

**R414-1C. Coronavirus Public Health Emergency Period.**

**R414-1C-1. Introduction and Authority.**

(1) This rule is to ensure that any administrative rule does not conflict with measures taken by the state or the United States Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS) pertaining to the Coronavirus (COVID-19) public health emergency.

(2) This rule is authorized by Section 63G-3-304 and Section 1135 of the Social Security Act.

**R414-1C-2. Policy During the COVID-19 Emergency Period.**

(1) The Division of Medicaid and Health Financing (DMHF) suspends any of its administrative rules under R382, R410, and R414 that conflict with:

(a) emergency waivers or state plan amendments approved by CMS during the declared COVID-19 emergency period;

(b) an executive order set forth by the Governor during the declared COVID-19 emergency period; or

(c) an action set forth by the Legislature during the declared COVID-19 emergency period.

(2) This rule shall remain in effect through the declared COVID-19 emergency period.

**KEY: Medicaid**

**Date of Enactment or Last Substantive Amendment: 2020**

**Authorizing, and Implemented or Interpreted Law: 26-18-3; 26-1-5; 63G-3-304**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R414-2A-7	Filing No. 52949

**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R414-2A-7. Limitations
<b>3. Purpose of the new rule or reason for the change:</b>
The purpose of this change is to clarify Medicaid policy for inpatient detoxification services.
<b>4. Summary of the new rule or change:</b>
This amendment clarifies that policy for inpatient detoxification is based on the Department of Health's evidence-based criteria tool, and in accordance with

Section R414-1-12. (EDITOR'S NOTE: The proposed amendment to Section R414-1-12 is under Filing No. 52948 in this issue, August 1, 2020, of the Bulletin.)

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>								
<b>A) State budget:</b>								
There is no impact to the state budget as inpatient detoxification falls within appropriations set forth by the Legislature.								
<b>B) Local governments:</b>								
There is no impact on local governments because they neither fund nor provide inpatient detoxification under the Medicaid program.								
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):								
There is no impact on small businesses as inpatient detoxification fall within appropriations set forth by the Legislature.								
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):								
There is no impact on non-small businesses as inpatient detoxification falls within appropriations set forth by the Legislature								
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):								
There is no impact on Medicaid providers and Medicaid members as inpatient detoxification falls within appropriations set forth by the Legislature.								
<b>F) Compliance costs for affected persons:</b>								
There are no compliance costs to a single Medicaid provider or to a Medicaid member as inpatient detoxification falls within appropriations set forth by the Legislature.								
<b>G) Regulatory Impact Summary Table</b> (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)								
<b>Regulatory Impact Table</b>								
<table border="1"> <thead> <tr> <th>Fiscal Cost</th> <th>FY2021</th> <th>FY2022</th> <th>FY2023</th> </tr> </thead> <tbody> <tr> <td>State Government</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> </tbody> </table>	Fiscal Cost	FY2021	FY2022	FY2023	State Government	\$0	\$0	\$0
Fiscal Cost	FY2021	FY2022	FY2023					
State Government	\$0	\$0	\$0					

NOTICES OF PROPOSED RULES

Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Health, Joseph K. Miner, MD, has reviewed and approved this fiscal analysis.			
<b>6. A) Comments by the department head on the fiscal impact this rule may have on businesses:</b>			
Businesses will see neither revenue nor cost as inpatient detoxification falls within appropriations set forth by the Legislature.			
<b>B) Name and title of department head commenting on the fiscal impacts:</b>			
Joseph K. Miner, MD, Executive Director			

**Citation Information**

<b>7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):</b>		
Section 26-1-5	Section 26-18-3	Section 26-18-3.5

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	08/31/2020
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<b>10. This rule change MAY become effective on:</b>	09/07/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Joseph K. Miner, MD, Executive Director	<b>Date:</b>	07/12/2020
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**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

**R414-2A. Inpatient Hospital Services.**

**R414-2A-7. Limitations.**

Inpatient hospital care is limited to medical treatment of symptoms that lead to medical stabilization of the member. This medical stabilization care is irrespective of any underlying psychiatric diagnosis.

(1) Detoxification for a substance use disorder in a hospital ~~[is limited to medical detoxification for acute symptoms of withdrawal when the member is in danger of experiencing severe or life-threatening withdrawal]~~ shall meet the criteria in the Department's evidence-based criteria tool for inpatient detoxification. The Department does not cover any lesser level of detoxification in an inpatient hospital. The standards for the evidence-based criteria tool shall be in accordance with Section R414-1-12.

(2) Abortion procedures require prior authorization. Refer to Rule R414-1B.

(3) Sterilization and hysterectomy procedures require prior authorization and must meet the requirements of 42 CFR 441, Subpart F.

(4) Organ transplant services are governed by Rule R414-10A.

(5) Take-home supplies, dressings, non-rental durable medical equipment, and drugs are included in the inpatient reimbursement.

(6) Coverage of sleep studies requires sleep center accreditation through one of the following nationally recognized accreditation organizations:

- (a) American Academy of Sleep Medicine (AASM);
- (b) Accreditation Commission for Health Care (ACHC); or
- (c) The Joint Commission (TJC).

(7) Hyperbaric oxygen therapy is limited to service in a facility in which the hyperbaric unit is accredited by the Undersea and Hyperbaric Medical Society. Hyperbaric oxygen therapy is therapy that places the member in an enclosed pressure chamber for medical treatment.

(8) Medicaid does not cover inpatient services solely for pain management. Pain management is adjunct to other Medicaid services.

(9) Inpatient rehabilitation services require prior authorization.

(10) Observation services are limited to cases where observation and evaluation is required to establish a diagnosis and determine the appropriateness of an inpatient admission or discharge. Observation is used to monitor the member's condition, complete diagnostic testing to establish a definitive diagnosis and formulate the treatment plan.

(a) Medicaid covers observation services with a physician's written order that outlines specific medically necessary reasons for the service, such as the member requires more evaluation to determine the severity of illness [~~e.g., through~~ laboratory, imaging, or other diagnostic test~~{}]~~, and an order to continue monitoring for clinical signs and symptoms to determine improving or declining health status.

(b) Outpatient procedures include an uneventful recovery period.

(i) Observation is used to monitor complications of outpatient procedures beyond an uneventful recovery period.

(c) Medicaid does not cover observation services for convenience of the hospital, member or family, or when awaiting transfer to another facility.

(d) When an ordered hospital inpatient admission improves to the point of discharge with a stay less than 24 hours, the admission is covered as inpatient when documentation supports the medical necessity.

(e) Inpatient admissions solely for observation or diagnostic evaluation do not qualify for reimbursement under the diagnosis-related group (DRG) system.

(11) Medicaid does not cover admission solely for the treatment of eating disorders.

(12) Medicaid does not cover non-physician psychosocial counseling outside of the DRG.

(13) An [~~individual~~]undocumented immigrant~~{}]~~ who does not meet United States residency requirements may only receive emergency services, including emergency labor and delivery, to treat an emergency medical condition.

(a) Medicaid does not cover prenatal and post-partum services for undocumented immigrants.

(b) Medicaid does not cover prescriptions for a member who is eligible to receive emergency services only.

(14) Inpatient hospital intensive physical rehabilitation services are not covered when the condition and prognosis meet the requirements of placement into a long-term facility, skilled nursing facility, or outpatient rehabilitation service.

(15) Admission for deconditioning [~~e.g., cardiac or pulmonary~~]that includes is not covered in an inpatient hospital intensive physical rehabilitation facility.

(16) Inpatient hospital intensive physical rehabilitation services for a member who has suffered a stroke or other cerebral

vascular accident may be provided only when admission and therapy is initiated within the first 60 days after onset of the incident.

**KEY: Medicaid**

**Date of Enactment or Last Substantive Amendment:** ~~September 17, 2019~~2020

**Notice of Continuation:** September 15, 2017

**Authorizing, and Implemented or Interpreted Law:** 26-1-5; 26-18-3; 26-18-3.5

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R414-303-13	Filing No. 52939

**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R414-303-13. Coronavirus (COVID-19) Testing Coverage
<b>3. Purpose of the new rule or reason for the change:</b>
The purpose of this change is to implement provisions for testing coverage during the Coronavirus (COVID-19) public health emergency period.
<b>4. Summary of the new rule or change:</b>
This amendment adds a section to the rule to provide COVID-19 testing for a new optional eligibility group that meets the definition of "uninsured individual" under federal law. These services are limited to in-vitro diagnostic testing and COVID-19 testing-related services. (EDITOR'S NOTE: There is a corresponding emergency (120-day) change to Section R414-303-13 that is effective as of 06/24/2020 and was published under Filing No. 52879 in the July 15, 2020, issue of the Bulletin.)

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**

There is a cost of about \$10,600,000 in federal funds to help uninsured individuals receive COVID-19 testing during the public health emergency period.

**B) Local governments:**

There is no impact on local governments because they neither fund Medicaid eligibility groups nor make eligibility determinations.

**C) Small businesses** ("small business" means a business employing 1-49 persons):

There is no impact on small businesses as this rule simply assists uninsured individuals to receive COVID-19 testing during the public health emergency period. It neither increases business revenue nor costs.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):

There is no impact on non-small businesses as this rule simply assists uninsured individuals to receive COVID-19 testing during the public health emergency period. It neither increases business revenue nor costs.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

More than 1,000 uninsured individuals are expected to sign up for COVID-19 testing coverage. These individuals may collectively see out-of-pocket savings up to \$10,600,000 during the COVID-19 public health emergency period.

**F) Compliance costs for affected persons:**

There are no compliance costs to a single Medicaid provider or to a Medicaid member as this rule simply assists uninsured individuals to receive COVID-19 testing during the public health emergency period.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$10,600,000	\$0	\$0
Local Governments	\$0	\$0	\$0

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$10,600,000</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$10,600,00	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$10,600,00</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

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

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

Businesses will see neither revenue nor costs as this rule simply assists uninsured individuals to receive COVID-19 testing during the public health emergency period.

**B) Name and title of department head commenting on the fiscal impacts:**

Joseph K. Miner, MD, Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Section 26-1-5	Section 26-18-3	Pub. L. No. 116-127
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it

receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2020

**10. This rule change MAY become effective on:** 09/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

#### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Joseph K. Miner, MD, Executive Director	<b>Date:</b>	07/12/2020
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#### R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

##### R414-303. Coverage Groups.

##### R414-303-13. Coronavirus (COVID-19) Testing Coverage.

(1) The Department provides coverage to individuals described in Subsection 6004(a)(3) of the Families First Coronavirus Response Act (FFCRA), Pub. L. No. 116 127. This coverage shall be referred to as COVID-19 Testing Coverage.

(2) This coverage may be effective no earlier than March 18, 2020, and extends through the end of the public health emergency period and any extensions as defined in Subsection 1135(g)(1)(B) of the Social Security Act.

(3) An individual must meet citizenship or alien status criteria as defined in Section R414-302-3.

(4) An individual must meet residency requirements as defined in Section R414-302-4.

(5) An individual must meet the definition of an uninsured individual as defined in Subsection 1902(ss) of the Social Security Act, and added through Section 6004 of FFCRA, Pub. L. No. 116 127.

(6) An individual receives a limited package of services related to COVID-19 as defined in Subsection 6004(a)(3)(A)(ii) under FFCRA, Pub. L. No. 116 127.

**KEY: MAGI-based, coverage groups, former foster care youth, presumptive eligibility**

**Date of Enactment or Last Substantive Amendment:** [January 4] 2020

**Notice of Continuation:** January 8, 2018

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

#### NOTICE OF PROPOSED RULE

**TYPE OF RULE:** Amendment

<b>Utah Admin. Code Ref (R no.):</b>	<b>R414-304-17</b>	<b>Filing No.</b>	<b>52940</b>
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#### Agency Information

<b>1. Department:</b>	Health	
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov

Please address questions regarding information on this notice to the agency.

#### General Information

##### 2. Rule or section catchline:

R414-304-17. Public Health Emergency Income Provisions

##### 3. Purpose of the new rule or reason for the change:

The purpose of this change is to allow certain income exclusions to help Medicaid members remain eligible during the Coronavirus (COVID-19) Pandemic.

##### 4. Summary of the new rule or change:

This amendment allows income exclusions for recovery rebates, employer payments of student loans, qualified charitable contributions, and federal pandemic employment payments. (EDITOR'S NOTE: There is a corresponding emergency (120-day) change to Section R414-304-17 that is effective as of 06/24/2020 and was published under Filing No. 52880 in the July 15, 2020, issue of the Bulletin.)

#### Fiscal Information

##### 5. Aggregate anticipated cost or savings to:

###### A) State budget:

There is no impact to the state budget as excluded incomes become newly available to members who qualify through the Coronavirus Aid, Relief, and Economic Security (CARES) Act. This change keeps the interaction between economic conditions and Medicaid enrollment the same as it was before CARES Act passage.

<b>B) Local governments:</b>			
There is no impact on local governments because they neither fund Medicaid eligibility groups nor make eligibility determinations.			
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):			
There is no impact on small businesses as excluded incomes become newly available to members who qualify through the CARES Act. This change keeps the interaction between economic conditions and Medicaid enrollment the same as it was before CARES Act passage.			
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):			
There is no impact on non-small businesses as excluded incomes become newly available to members who qualify through the CARES Act. This change keeps the interaction between economic conditions and Medicaid enrollment the same as it was before CARES Act passage.			
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):			
There is no impact on Medicaid providers and Medicaid members as excluded incomes become newly available to members who qualify through the CARES Act. This change keeps the interaction between economic conditions and Medicaid enrollment the same as it was before CARES Act passage.			
<b>F) Compliance costs for affected persons:</b>			
There are no compliance costs to a single Medicaid provider or to a Medicaid member as excluded incomes become newly available to members who qualify through the CARES Act. This change keeps the interaction between economic conditions and Medicaid enrollment the same as it was before CARES Act passage.			
<b>G) Regulatory Impact Summary Table</b> (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Health, Joseph K. Miner, MD, has reviewed and approved this fiscal analysis.			
<b>6. A) Comments by the department head on the fiscal impact this rule may have on businesses:</b>			
Businesses will see neither revenue nor costs as economic conditions and Medicaid enrollment will remain the same as before CARES Act passage.			
<b>B) Name and title of department head commenting on the fiscal impacts:</b>			
Joseph K. Miner, MD, Executive Director			

**Citation Information**

<b>7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):</b>		
Section 26-1-5	Section 26-18-3	Pub. L. No. 116-136

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members.)



Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2020

**10. This rule change MAY become effective on:** 09/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

#### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Joseph K. Miner, MD, Executive Director	<b>Date:</b>	07/12/2020
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#### R414. Health, Health Care Financing, Coverage and Reimbursement Policy.

##### R414-304. Income and Budgeting.

##### R414-304-17. Public Health Emergency Income Provisions.

The following treatment of certain income applies as defined in this section.

(1) The Department shall exclude from income the \$600 per week federal pandemic unemployment payments as defined in Section 2102 and 2104(b) of the Coronavirus Aid, Relief, and Economic Security (Cares) Act, Pub. L. No. 116 136, for programs established under Title XIX of the Social Security Act, 42 U.S.C. 1396 et seq.

(2) The Department shall exclude from income the recovery rebates for individuals as defined in Section 2201 of the Cares Act, for programs established under Title XIX of the Social Security Act, 42 U.S.C. 1396 et seq. These rebates are treated as a refundable tax credit and may be paid in advance or upon filing a 2020 tax return.

(3) The Department shall exclude from income certain employer payments of student loans as defined in Section 2206 of the Cares Act, Pub. L. No. 116 136 for coverage groups subject to the use of MAGI-based methodologies as defined in Section R414-304-5.

(a) Payments toward an employee's student loans may be paid directly to the employee or to the lender.

(b) This exclusion applies to payments made on or after the effective date of Pub. L. No. 116 136 and before January 1, 2021.

(4) The Department shall exclude the amount of qualified charitable contributions made by individuals during the taxable year as defined in Section 2204 of the Cares Act, Pub. L. No. 116 136, for coverage groups subject to the use of MAGI-based methodologies as defined in Section R414-304-5.

(a) Allowable taxable years begin in the year 2020.

(b) The excluded contributions must not exceed \$300.

**KEY: financial disclosures, income, budgeting**

**Date of Enactment or Last Substantive Amendment:** ~~March 28, 2017~~ 2020

**Notice of Continuation:** January 8, 2018

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

#### NOTICE OF PROPOSED RULE

**TYPE OF RULE:** Amendment

<b>Utah Admin. Code Ref (R no.):</b>	<b>R414-308-11</b>	<b>Filing No. 52941</b>
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#### Agency Information

<b>1. Department:</b>	Health	
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov

Please address questions regarding information on this notice to the agency.

#### General Information

##### 2. Rule or section catchline:

R414-308-11. Public Health Emergency Provisions

##### 3. Purpose of the new rule or reason for the change:

The purpose of this change is to implement provisions that comply with the Families First Coronavirus Response Act (FFCRA) during the Coronavirus (COVID-19) public health emergency period.

##### 4. Summary of the new rule or change:

This amendment includes a section that assures continued coverage through the public health emergency period, assures coverage through a beneficiary's death, and assures compliance with presumptive eligibility decisions related to the uninsured testing group. (EDITOR'S NOTE: There is a corresponding emergency (120-day) change to Section R414-308-11 that is effective as of 06/24/2020 and was published under Filing No. 52881 in the July 15, 2020, issue of the Bulletin.)

#### Fiscal Information

##### 5. Aggregate anticipated cost or savings to:

###### A) State budget:

There is an increase of about \$109,403,800 to the state budget to help Medicaid families receive coverage through the public health emergency period.

<b>B) Local governments:</b>			
There is no impact on local governments because they neither fund Medicaid eligibility groups nor make eligibility determinations.			
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):			
There is no impact on small businesses as this rule simply helps Medicaid families receive coverage through the public health emergency period.			
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):			
There is no impact on non-small businesses as this rule simply helps Medicaid families receive coverage through the public health emergency period.			
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):			
About 298,386 Medicaid families may collectively see out-of-pocket savings up to \$109,403,800 during the COVID-19 public health emergency period.			
<b>F) Compliance costs for affected persons:</b>			
There are no compliance costs to a single Medicaid provider or to a Medicaid member as this rule simply helps Medicaid families receive coverage through the public health emergency period.			
<b>G) Regulatory Impact Summary Table</b> (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$109,403,800	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$109,403,800</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$109,403,800	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$109,403,800</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

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

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

Businesses will see neither revenue nor costs as this rule simply helps Medicaid families receive coverage through the public health emergency period.

**B) Name and title of department head commenting on the fiscal impacts:**

Joseph K. Miner, MD, Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Section 26-1-5	Section 26-18-3	Pub. L. No. 116-127
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2020

**10. This rule change MAY become effective on:** 09/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Joseph K. Miner, MD, Executive Director	<b>Date:</b>	07/12/2020
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**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

**R414-308. Application, Eligibility Determinations, Improper Medical Assistance, and Suspension of Benefits.**

**R414-308-11. Public Health Emergency Provisions.**

(1) In accordance with the public health emergency declared by the Secretary of Health and Human Services on January 27, 2020, the Department shall comply with the provisions of the Families First Coronavirus Response Act (FFCRA), Pub. L. No. 116 127, Subsection 6008(b).

(a) The Department shall assure continued coverage through the duration of the emergency period for individuals who are eligible and enrolled on March 18, 2020, the date of enactment of Pub. L. No. 116 127, or who subsequently become eligible and enrolled in medical assistance during the emergency period and any extensions.

(b) In addition to terminating benefits when a beneficiary stops being a Utah resident or upon request by the beneficiary, coverage may only continue through the date of the beneficiary's death.

(2) During the public health emergency period, and any extensions, a hospital provider contracted to complete presumptive eligibility for Medicaid shall complete decisions for the uninsured testing group as defined in Section R414-303-13.

**KEY:** public assistance programs, applications, eligibility, Medicaid

**Date of Enactment or Last Substantive Amendment:** ~~January 4,~~ 2020

**Notice of Continuation:** January 8, 2018

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

<b>NOTICE OF PROPOSED RULE</b>		
<b>TYPE OF RULE:</b> Amendment		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R414-311-7</b>	<b>Filing No. 52942</b>

**Agency Information**

<b>1. Department:</b>	Health
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy
<b>Building:</b>	Cannon Health Building
<b>Street address:</b>	288 N 1460 W
<b>Mailing address:</b>	PO Box 143102

<b>City, state, zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R414-311-7. Public Health Emergency Provisions
<b>3. Purpose of the new rule or reason for the change:</b>
The purpose of this change is to incorporate coverage and income provisions for the Targeted Adult Medicaid (TAM) Program set forth during the Coronavirus (COVID-19) public health emergency period.
<b>4. Summary of the new rule or change:</b>
This amendment adds a section to the rule, which states that the TAM Program complies with provisions set forth in Section R414-304-17 and Section R414-308-11, in relation to the COVID-19 Pandemic. (EDITOR'S NOTE: There is a corresponding emergency (120-day) change to Section R414-311-7 that is effective as of 06/24/2020 and was published under Filing No. 52882 in the July 15, 2020, issue of the Bulletin. The proposed amendment to Section R414-304-17 is under Filing No. 52940 and the proposed amendment to Section R414-308-11 is under Filing No. 52941 in this issue, August 1, 2020, of the Bulletin.)

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There is an increase of about \$3,829,500 to the state budget to fund the needs of the TAM Program during the COVID-19 public health emergency period.
<b>B) Local governments:</b>
There is no impact on local governments because they neither fund Medicaid eligibility groups nor make eligibility determinations.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
There is no impact on small businesses as this rule simply assists the TAM Program during the COVID-19 public health emergency period. It neither increases business revenue nor costs.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):

NOTICES OF PROPOSED RULES

There is no impact on non-small businesses as this rule simply assists the TAM Program during the COVID-19 public health emergency period. It neither increases business revenue nor costs.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

About 6,075 TAM members may collectively see out-of-pocket savings up to \$3,829,500 during the COVID-19 public health emergency period.

**F) Compliance costs for affected persons:**

There are no compliance costs to a single Medicaid provider or to a Medicaid member as this rule simply assists the TAM Program during the COVID-19 public health emergency period.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

**Regulatory Impact Table**

<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$3,829,500	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$3,829,500</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$3,829,500	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$3,829,500</b>	<b>\$0</b>	<b>\$0</b>

<b>Net Benefits</b>	<b>Fiscal</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
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**H) Department head approval of regulatory impact analysis:**

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

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

Businesses will see neither revenue nor costs as this rule simply assists the TAM Program during the COVID-19 public health emergency period.

**B) Name and title of department head commenting on the fiscal impacts:**

Joseph K. Miner, MD, Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Section 26-1-5	Section 26-18-3	Pub. L. No. 116-136
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2020

**10. This rule change MAY become effective on:** 09/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Joseph K. Miner, MD, Executive Director	<b>Date:</b>	07/12/2020
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**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

**R414-311. Targeted Adult Medicaid.**

**R414-311-7. Public Health Emergency Provisions.**

The Targeted Adult Medicaid Program is in accordance with emergency provisions set forth in Section R414-304-17 and Section R414-308-11.

**KEY: Medicaid, Targeted Adult Medicaid, eligibility**  
**Date of Enactment or Last Substantive Amendment: [August 29, 2019]2020**  
**Authorizing, and Implemented or Interpreted Law: 26-18**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R414-312-7	Filing No. 52943

**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R414-312-7. Public Health Emergency Provisions
<b>3. Purpose of the new rule or reason for the change:</b>
The purpose of this change is to incorporate coverage and income provisions for adult Medicaid members set forth during the Coronavirus (COVID-19) public health emergency period.
<b>4. Summary of the new rule or change:</b>
This amendment adds a section to the rule, which states that the Adult Expansion Medicaid Program will be administered in accordance with the provisions set forth in Section R414-304-17 and Section R414-308-11, in relation to the COVID-19 Pandemic. (EDITOR'S NOTE: There is a corresponding emergency (120-day) change to Section R414-312-7 that is effective as of 06/24/2020 and was published under Filing No. 52883 in the July 15, 2020, issue of the Bulletin. The proposed amendment to Section

R414-304-17 is under Filing No. 52940 and the proposed amendment to Section R414-308-11 is under Filing No. 52941 in this issue, August 1, 2020, of the Bulletin.)

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>			
<b>A) State budget:</b>			
There is an increase of about \$14,779,900 to the state budget to fund the needs of the Adult Medicaid population during the COVID-19 public health emergency period.			
<b>B) Local governments:</b>			
There is no impact on local governments because they neither fund Medicaid eligibility groups nor make eligibility determinations.			
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>			
There is no impact on small businesses as this rule simply assists adult Medicaid members during the COVID-19 public health emergency period. It neither increases business revenue nor costs.			
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>			
There is no impact on non-small businesses as this rule simply assists adult Medicaid members during the COVID-19 public health emergency period. It neither increases business revenue nor costs.			
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b>):</b>			
About 54,156 adult Medicaid members may collectively see out-of-pocket savings up to \$14,779,900 during the COVID-19 public health emergency period.			
<b>F) Compliance costs for affected persons:</b>			
There are no compliance costs to a single Medicaid provider or to an adult Medicaid member as this rule simply assists Medicaid members during the COVID-19 public health emergency period.			
<b>G) Regulatory Impact Summary Table (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 will be included in narratives above.)</b>			
<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$14,779,900	\$0	\$0

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Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$14,779,900</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$14,779,900	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$14,779,900</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

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

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

Businesses will see neither revenue nor costs as this rule as this rule simply assists adult Medicaid members during the COVID-19 public health emergency period.

**B) Name and title of department head commenting on the fiscal impacts:**

Joseph K. Miner, MD, Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Section 26-1-5	Section 26-18-3	Pub. L. No. 116-136
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2020

**10. This rule change MAY become effective on:** 09/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Joseph K. Miner, MD, Executive Director	<b>Date:</b>	07/12/2020
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**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

**R414-312. Adult Expansion Medicaid.**

**R414-312-7. Public Health Emergency Provisions.**

The Adult Expansion Medicaid Program will be administered in accordance with the emergency provisions for Coronavirus (COVID-19) set forth in Section R414-304-17 and Section R414-308-11.

**KEY: Medicaid, adult expansion, eligibility**

**Date of Enactment or Last Substantive Amendment: [~~August 29, 2019~~]2020**

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

<b>NOTICE OF PROPOSED RULE</b>		
<b>TYPE OF RULE:</b> Amendment		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R414-320-17</b>	<b>Filing No. 52944</b>

**Agency Information**

<b>1. Department:</b>	Health
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy
<b>Building:</b>	Cannon Health Building
<b>Street address:</b>	288 N 1460 W
<b>Mailing address:</b>	PO Box 143102
<b>City, state, zip:</b>	Salt Lake City, UT 84114-3102

<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R414-320-17. Public Health Emergency Provisions
<b>3. Purpose of the new rule or reason for the change:</b>
The purpose of this change is to incorporate coverage and income provisions for Utah's Premium Partnership for Health Insurance Program (UPP) set forth during the Coronavirus (COVID-19) public health emergency period.
<b>4. Summary of the new rule or change:</b>
This amendment adds a section to the rule, which states that the UPP Program will comply with provisions set forth in Section R414-304-17 and Section R414-308-11, in relation to the COVID-19 Pandemic. (EDITOR'S NOTE: There is a corresponding emergency (120-day) change to Section R414-320-17 that is effective as of 06/24/2020 and was published under Filing No. 52886 in the July 15, 2020, issue of the Bulletin. The proposed amendment to Section R414-304-17 is under Filing No. 52940 and the proposed amendment to Section R414-308-11 is under Filing No. 52941 in this issue, August 1, 2020, of the Bulletin.)

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There is an increase of about \$107,400 to the state budget to fund the needs of the UPP Program during the COVID-19 public health emergency period.
<b>B) Local governments:</b>
There is no impact on local governments because they neither fund Medicaid eligibility groups nor make eligibility determinations.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
There is no impact on small businesses as this rule simply assists the UPP Program during the COVID-19 public health emergency period. It neither increases business revenue nor costs.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):

There is no impact on non-small businesses as this rule simply assists the UPP Program during the COVID-19 public health emergency period. It neither increases business revenue nor costs.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There is no impact on Medicaid providers and Medicaid members as this rule simply assists the UPP Program during the COVID-19 public health emergency period. It neither increases business revenue nor costs.

**F) Compliance costs for affected persons:**

There are no compliance costs to a single Medicaid provider or to a Medicaid member as this rule simply assists the UPP Program during the COVID-19 public health emergency period.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

**Regulatory Impact Table**

<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$107,400	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$107,400</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0

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<b>Total Fiscal Benefits</b>	\$0	\$0	\$0
<b>Net Fiscal Benefits</b>	\$0	\$0	\$0
<b>H) Department head approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Health, Joseph K. Miner, MD, has reviewed and approved this fiscal analysis.			
<b>6. A) Comments by the department head on the fiscal impact this rule may have on businesses:</b>			
Businesses will see neither revenue nor costs as this rule simply assists the UPP Program during the COVID-19 public health emergency period.			
<b>B) Name and title of department head commenting on the fiscal impacts:</b>			
Joseph K. Miner, MD, Executive Director			

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Section 26-1-5	Section 26-18-3	Pub. L. No. 116-136
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	08/31/2020
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<b>10. This rule change MAY become effective on:</b>	09/07/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Joseph K. Miner, MD, Executive Director	<b>Date:</b>	07/12/2020
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**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**  
**R414-320. Medicaid Health Insurance Flexibility and Accountability Demonstration Waiver.**  
**R414-320-17. Public Health Emergency Provisions.**  
Utah's Premium Partnership for Health Insurance (UPP) will be administered in accordance with the emergency provisions for Coronavirus (COVID-19) set forth in Section R414-304-17 and Section R414-308-11.

**KEY: CHIP, Medicaid, PCN, UPP**  
**Date of Enactment or Last Substantive Amendment: ~~June 28, 2016~~ 2020**  
**Notice of Continuation: February 1, 2016**  
**Authorizing, and Implemented or Interpreted Law: 26-18-3; 26-1-5**

**NOTICE OF PROPOSED RULE**

<b>TYPE OF RULE:</b> Amendment		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R414-502-3</b>	<b>Filing No. 52945</b>

**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R414-502-3. Approval of Level of Care
<b>3. Purpose of the new rule or reason for the change:</b>
The purpose of this change is to allow individuals with Coronavirus (COVID-19), or who experience active symptoms, to receive nursing facility level of care during the public health emergency period.



**4. Summary of the new rule or change:**  
 This amendment includes provisions to allow individuals infected by COVID-19 to receive nursing facility level of care. It also includes other admission criteria. (EDITOR'S NOTE: There is a corresponding emergency (120-day) change to Section R414-502-3 that is effective as of 06/24/2020 and was published under Filing No. 52884 in the July 15, 2020, issue of the Bulletin.)

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**  
 There is no impact to the state budget as nursing facility level of care falls within current appropriations.

**B) Local governments:**  
 There is no impact on local governments as nursing facility level of care falls within current appropriations.

**C) Small businesses** ("small business" means a business employing 1-49 persons):  
 There is no impact on small businesses as nursing facility level of care falls within current appropriations.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):  
 There is no impact on non-small businesses as nursing facility level of care falls within current appropriations.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):  
 There is no impact on Medicaid providers and Medicaid members as nursing facility level of care falls within current appropriations.

**F) Compliance costs for affected persons:**  
 There are no compliance costs to a single Medicaid provider or to a Medicaid member as nursing facility level of care falls within current appropriations.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0

Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Health, Joseph K. Miner, MD, has reviewed and approved this fiscal analysis.			
<b>6. A) Comments by the department head on the fiscal impact this rule may have on businesses:</b>			
Businesses will see neither revenue nor costs as nursing facility level of care falls within current appropriations.			
<b>B) Name and title of department head commenting on the fiscal impacts:</b>			
Joseph K. Miner, MD, Executive Director			

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Section 26-1-5	Section 26-18-3	Pub. L. No. 116-136
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	08/31/2020
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<b>10. This rule change MAY become effective on:</b>	09/07/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Joseph K. Miner, MD, Executive Director	<b>Date:</b>	07/12/2020
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**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

**R414-502. Nursing Facility Levels of Care.**

**R414-502-3. Approval of Level of Care.**

(1) The Department shall document that at least two of the following factors exist when it determines whether an applicant has mental or physical conditions that require the level of care provided in a nursing facility or equivalent care provided through a Medicaid Home and Community-Based Waiver program:

(a) ~~Due~~ due to diagnosed medical conditions, the applicant requires substantial physical assistance with daily living activities above the level of verbal prompting, supervising, or setting up;

(b) ~~the~~ the attending physician has determined that the applicant's level of dysfunction in orientation to person, place, or time requires nursing facility care; or equivalent care provided through a Medicaid Home and Community-Based Waiver program ; or

(c) ~~the~~ the medical condition and intensity of services indicate that the care needs of the applicant cannot be safely met in a less structured setting, or without the services and supports of a Medicaid Home and Community-Based Waiver program.

(2) The Department shall determine whether at least two of the factors described in Subsection R414-502-3(1) exist by reviewing the following clinical documentation:

(a) ~~a~~ a current history and physical examination completed by a physician;

(b) ~~a~~ a comprehensive resident assessment completed, coordinated and certified by a registered nurse;

(c) ~~a~~ a social services evaluation that meets the criteria in 42 CFR 456.370 and completed by a person licensed as a social worker, or higher degree of training and licensure;

(d) ~~a~~ a written plan of care established by a physician;

(e) ~~a~~ a physician's written certification that the applicant requires nursing facility placement; and

(f) ~~Documentation~~ documentation which indicates that all less restrictive alternatives or services to prevent or defer nursing facility care have been explored.

(3) If the Department finds that at least two of the factors described in Section R414-502-3(1) exist, the Department shall determine whether the applicant meets nursing facility level of care and is medically-approved for Medicaid reimbursement of nursing facility services or equivalent care provided through a Medicaid Home and Community-Based Waiver program. Meeting medical eligibility for nursing facility services does not guarantee Medicaid payment. Financial eligibility and other Home and Community-Based Waiver targeting criteria shall apply.

(4) During the Coronavirus (COVID-19) public health emergency period, an individual shall temporarily meet nursing facility level of care for a period of illness, when the individual:

- (a) is COVID-19 positive;
- (b) is experiencing active COVID-19 symptoms; or
- (c) is admitting directly from:
  - (i) a licensed assisted living facility;
  - (ii) a licensed intermediate care facility for people with intellectual disabilities; or
  - (iii) an acute care, inpatient hospital.

**KEY: Medicaid**

**Date of Enactment or Last Substantive Amendment:** ~~October 11, 2012~~ 2020

**Notice of Continuation:** May 31, 2019

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

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R414-510-2	Filing No. 52946

**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R414-510-2. Definitions
<b>3. Purpose of the new rule or reason for the change:</b>
The purpose of this change is to provide individuals concerned with the Coronavirus (COVID-19) Pandemic, additional breaks in stay at intermediate care facilities (ICFs), to help them qualify for services within the Community Supports Waiver (CSW).
<b>4. Summary of the new rule or change:</b>
This amendment adjusts the definition for "length of stay" to provide additional breaks in stay at ICFs for individuals concerned with COVID-19, who wish to qualify for CSW services. (EDITOR'S NOTE: There is a corresponding emergency (120-day) change to Section R414-510-2 that is effective as of 06/24/2020 and was published under Filing No. 52883 in the July 15, 2020, issue of the Bulletin.)

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There is no impact to the state budget as waiver services fall within appropriations set forth by the Legislature.
<b>B) Local governments:</b>
There is no impact on local governments because they neither fund nor provide waiver services under the Medicaid program.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
There is no impact on small businesses as waiver services fall within appropriations set forth by the Legislature.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
There is no impact on non-small businesses as waiver services fall within appropriations set forth by the Legislature.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):
There is no impact on Medicaid providers and Medicaid members as waiver services fall within appropriations set forth by the Legislature.
<b>F) Compliance costs for affected persons:</b>

There are no compliance costs to a single Medicaid provider or to a Medicaid member as waiver services fall within appropriations set forth by the Legislature.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

**Regulatory Impact Table**

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

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

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

Businesses will see neither revenue nor costs as waiver services fall within appropriations set forth by the Legislature.

<b>B) Name and title of department head commenting on the fiscal impacts:</b>
Joseph K. Miner, MD, Executive Director

**Citation Information**

<b>7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):</b>		
Section 26-1-5	Section 26-18-3	Pub. L. No. 116-136

**Public Notice Information**

<b>9. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)	
<b>A) Comments will be accepted until:</b>	08/31/2020

<b>10. This rule change MAY become effective on:</b>	09/07/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Joseph K. Miner, MD, Executive Director	<b>Date:</b>	07/12/2020
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**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

**R414-510. Intermediate Care Facility for Persons with Intellectual Disabilities Transition Program and Education.**

**R414-510-2. Definitions.**

(1) "Departments" means the Utah Department of Health and the Utah Department of Human Services.

(2) "Division of Services for People with Disabilities (DSPD)" means the entity within the Department of Human Services that has responsibility to plan and deliver an appropriate array of services and supports to persons with disabilities in accordance with Section 62a-5-102.

(3) "Guardian" means an individual, who is legally authorized to make decisions on an individual's behalf.

(4) "Interested individual" means an individual who meets eligibility requirements and expresses interest, either directly or through a guardian, in participating in the Transition Program.

(5) "Intermediate Care Facilities" means privately-owned intermediate care facilities for individuals with intellectual disabilities.

(6) "Length of stay" means the length of time an individual has continuously resided in ICFs in the state~~[-of Utah]~~. The Departments consider a continuous stay to include a stay in which an individual has a temporary break in stay of no more than 31 days. Breaks in stay due to inpatient hospitalization, admission to a nursing facility, or a temporary leave of absence, if due to health concerns related to Coronavirus (COVID-19), will not be considered a break in stay when evaluating Subsection R414-510-3(5).

(7) "Representative" means an individual, who is not a guardian, and does not have decision-making authority, but is identified as an individual who assists a potential Transition Program participant.

(8) "State staff" means employees of the Division of Medicaid and Health Financing or the Division of Services for People with Disabilities.

(9) "Transition Program" means the Intermediate Care Facility for Persons with Intellectual Disabilities Transition Program.

(10) "Waiver" means the Community Supports Waiver for Individuals with Intellectual Disabilities and Other Related Conditions (CSW).

**KEY: Medicaid**

**Date of Enactment or Last Substantive Amendment:** ~~July 15, 2019~~ 2020

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

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

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	R414-525	Filing No. 52947

**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 W	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R414-525. Interpretive Services Invoice Requirements
<b>3. Purpose of the new rule or reason for the change:</b>
The purpose of this new rule is to implement invoice procedures for providers of Medicaid interpretive services.
<b>4. Summary of the new rule or change:</b>
This new rule spells out invoice requirements for providers of Medicaid interpretive services. It also requires providers to execute a business associate agreement with the Department before providing these services, and to comply with other applicable policies and laws.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There is no impact to the state budget as Medicaid interpretive services fall within appropriations set forth by the Legislature.
<b>B) Local governments:</b>
There is no impact on local governments because they neither fund nor provide interpretive services to members under the Medicaid program.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
There is no impact on small businesses as Medicaid interpretive services fall within appropriations set forth by the Legislature.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
There is no impact on non-small businesses as Medicaid interpretive services fall within appropriations set forth by the Legislature.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):
There is no impact on Medicaid providers and Medicaid members as Medicaid interpretive services fall within appropriations set forth by the Legislature.
<b>F) Compliance costs for affected persons:</b>
There are no compliance costs to a single Medicaid provider or to a Medicaid member, as Medicaid interpretive services fall within appropriations set forth by the Legislature.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

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

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

Businesses will see neither revenue nor cost as Medicaid interpretive services fall within appropriations set forth by the Legislature.

**B) Name and title of department head commenting on the fiscal impacts:**

Joseph K. Miner, MD, Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Section 26-1-5	Section 26-18-3	Section 63G-3-201
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	08/31/2020
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<b>10. This rule change MAY become effective on:</b>	09/07/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Joseph K. Miner, MD, Executive Director	<b>Date:</b>	07/12/2020
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**R414. Health, Health Care Financing, Finance Policy. R414-525. Interpretive Services Invoice Requirements. R414-525-1. Introduction and Authority.**

(1) Medicaid utilizes statewide interpretive service contracts to provide interpretive services for qualifying Medicaid members.

(2) This rule is authorized under Section 26-1-5 and Section 26-18-3.

**R414-525-2. Medicaid Requirements.**

(1) A Medicaid interpretive service provider (ISP) shall submit invoices, via secure email, to the email address designated on the Department website.

(2) The service provider must use the invoice form prescribed by the Medicaid agency, and shall submit the form in its native file format.

(3) An ISP may only invoice Medicaid one time per month, except an ISP that submits both telephonic and in-person claims for payment shall submit two separate invoices, one for each type of service.

(4) An ISP shall submit an invoice no later than the last day of the month following the month the service is provided. For example,

if a service were provided on April 20, the invoice would be due no later than May 31.

(5) The Department shall deny an invoice that does not meet the time requirement set forth in Subsection R414-525-2(4).

(6) An ISP may not bill for more than one Medicaid member per invoice line. An interpreter in a group situation shall divide the time appropriately and avoid overlapping time periods.

(7) The Department may recoup monies previously paid to an ISP for one year after the date of service, when the service is invoiced without a corresponding Medicaid claim in the state system. The Department, however, may not recoup monies when an ISP declares on the original invoice that a member missed a scheduled appointment.

(8) An ISP must conform to applicable Medicaid policies and procedures as well as other applicable laws.

(9) An ISP shall execute a business associate agreement with the Department before providing medical interpreting services that may result in a Medicaid claim.

**KEY: Medicaid**

**Date of Enactment or Last Substantive Amendment: 2020**

**Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-18-3; 63G-3-201**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R432-270	Filing No. 52937

**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Family Health and Preparedness, Licensing	
<b>Room no.:</b>	100	
<b>Building:</b>	Highland	
<b>Street address:</b>	3760 S Highland Drive	
<b>City, state:</b>	Salt Lake City, UT 84106	
<b>Mailing address:</b>	PO Box 144103	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4103	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Kristi Grimes	801-273-2821	kristigrimes@utah.gov
Joel Hoffman	801-273-2804	jhoffman@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R432-270. Assisted Living Facilities

<p><b>3. Purpose of the new rule or reason for the change:</b></p> <p>The purpose of this amendment is to modify the rules regulating the staff training for licensed Assisted Living Facilities. The requirement that all caregivers in an assisted living level II facility be certified nurse aides (CNAs), was removed in August 2019. This amendment increases staff training requirements to ensure health and welfare of residents in all licensed assisted living facilities. It also defines a "vulnerable adult" and allows for respite care for these individuals through Adult Protective Services. The Health Facility Committee reviewed and approved this rule amendment on 02/19/2020.</p>
<p><b>4. Summary of the new rule or change:</b></p> <p>This amendment adds training and core competency requirements for all direct care staff in Assisted Living facilities. It also adds one-on-one training hours in dementia care for Level II facilities with secured units. A definition of "vulnerable adult" was added, along with respite services for individuals through Adult Protective Services.</p>

**Fiscal Information**

<p><b>5. Aggregate anticipated cost or savings to:</b></p>
<p><b>A) State budget:</b></p> <p>State government assisted living facility survey process was thoroughly reviewed. This change will not impact the current process. There will be no fiscal impact to the state budget.</p>
<p><b>B) Local governments:</b></p> <p>Local government city business licensing requirements were considered. This proposed rule amendment should not impact local governments' revenues or expenditures. Assisted living facilities are regulated by the state health department and not local governments. There will be no change in local business licensing or any other item(s) with which local government is involved.</p>
<p><b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):</p> <p>After conducting a thorough analysis, it was determined that this rule amendment should not impact costs for small business Licensed Assisted Living facilities. There are 87 small businesses, as determined by the Department's licensing data system. (North American Industry Classification System (NAICS) codes used – Homes for the Elderly 623312, reports 121 small businesses). The small business assisted living facilities will still need the same amount of staffing to operate. Costs for care staff will remain the same. Costs for staff training may increase for facilities that provide minimal training. As a whole, the industry reports no difference in costs for training due to this rule, as most facilities currently provide the proposed level of training.</p>

<p><b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):</p> <p>After conducting a thorough analysis, it was determined that this rule amendment should not impact costs for non-small business Licensed Assisted Living facilities. There are 149 non-small businesses, as determined by the Department's licensing data system. (NAICS codes used - Homes for the Elderly 623312, reports 26 non-small businesses). The non-small business assisted living facilities will still need the same amount of staffing to operate. Costs for care staff will remain the same. Costs for staff training may increase for facilities that provide minimal training. As a whole, the industry reports no difference in costs for training due to this rule, as most facilities currently provide the proposed level of training.</p>
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<p><b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b>):</p> <p>After conducting a thorough analysis, it was determined that this rule amendment will not result in a fiscal impact to affected persons because this amendment modifies health care facility requirements and therefore, would not add cost for persons, businesses, or local government entities.</p>
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<p><b>F) Compliance costs for affected persons:</b></p> <p>After conducting a thorough analysis, it was determined that this rule amendment will not result in a fiscal impact to affected persons because this amendment modifies health care facility requirements and therefore, would not add cost for persons, businesses, or local government entities.</p>
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**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			

NOTICES OF PROPOSED RULES

State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

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

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

After conducting a thorough analysis, it was determined that this amendment will not result in fiscal impact to businesses.

**B) Name and title of department head commenting on the fiscal impacts:**

Joseph K. Miner, MD, Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Title 26, Chapter 21		
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	08/31/2020
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<b>10. This rule change MAY become effective on:</b>	09/07/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Joseph K. Miner, MD, Executive Director	<b>Date:</b>	06/30/2020
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**R432. Health, Family Health and Preparedness, Licensing. R432-270. Assisted Living Facilities.**

**R432-270-1. Legal Authority.**

This rule is adopted pursuant to Title 26, Chapter 21.

**R432-270-2. Purpose.**

This rule establishes the licensing and operational standards for assisted living facilities Type I and Type II. Assisted living is intended to enable persons experiencing functional impairments to receive 24-hour personal and health-related services in a place of residence with sufficient structure to meet the care needs in a safe manner.

**R432-270-3. Definitions.**

- (1) The terms used in these rules are defined in Section R432-1-3.
- (2) In addition:
  - (a) "Assessment" means documentation of each resident's ability or current condition in the following areas:
    - (i) memory and daily decision making ability;
    - (ii) ability to communicate effectively with others;
    - (iii) physical functioning and ability to perform activities of daily living;
    - (iv) continence;
    - (v) mood and behavior patterns;
    - (vi) weight loss;
    - (vii) medication use and the ability to self-medicate;
    - (viii) special treatments and procedures;
    - (ix) disease diagnoses that have a relationship to current activities of daily living status, behavior status, medical treatments, or risk of death;
    - (x) leisure patterns and interests;
    - (xi) assistive devices; and
    - (xii) prosthetics.
  - (b) "Activities of daily living (ADL)":
    - (i) means those personal functional activities required for an individual for continued well-being, including:
      - (A) personal grooming, including oral hygiene and denture care;
      - (B) dressing;
      - (C) bathing;
      - (D) toileting and toilet hygiene;
      - (E) eating<sup>[7]</sup> and nutrition;
      - (F) administration of medication; and
      - (G) transferring, ambulation and mobility.
    - (ii) [a]Are divided into the following levels:



(A) "Independent" means the resident can perform the ADL without help.

(B) "Assistance" means the resident can perform some part of an ADL, but cannot do it entirely alone.

(C) "Dependent" means the resident cannot perform any part of an ADL; it must be done entirely by someone else.

(c) Certification in Cardiopulmonary Resuscitation (CPR) refers to certification issued after completion of a course that is consistent with the most current version of the American Heart Association Guidelines for Health Care Provider CPR.

(d) "Core competencies" mean:

(i) communication;

(ii) person centered care principles and practices;

(iii) observation;

(iv) crisis prevention and intervention;

(v) safety;

(vi) professionalism and ethics;

(vii) empowerment and advocacy;

(viii) health and wellness;

(ix) community living skills and supports;

(x) cultural competency and community inclusion;

(xi) dementia care competencies; and

(xii) training and self-development.

(~~[d]~~[e]) "Home-like" as used in statute and this rule means a place of residence, which creates an atmosphere supportive of the resident's preferred lifestyle. Home-like is also supported by the use of residential building materials and furnishings.

(~~[e]~~[f]) "Hospice patient" means an individual who is admitted to a hospice program or agency.

(~~[f]~~[g]) "Legal representative" means an individual who is legally authorized to make health care decisions on behalf of another individual.

(~~[g]~~[h]) "Monitoring device":

(i) means a video surveillance camera or a microphone or other device that captures audio; and

(ii) does not include:

(A) a device that is specifically intended to intercept wire, electronic, or oral communication without notice to or the consent of a party to the communication; or

(B) a device that is connected to the Internet or that is set up to transmit data via an electronic communication.

(~~[h]~~[i]) "Licensed health care professional" means a registered nurse, physician assistant, advanced practice registered nurse, or physician licensed by the Utah Department of Commerce who has education and experience to assess and evaluate the health care needs of the resident.

(~~[i]~~[j]) "Responsible person" means an individual who:

(i) is designated in writing by a resident to receive communication on behalf of the resident; or

(ii) a legal representative.

(~~[j]~~[k]) "Self-direct medication administration" means the resident can:

(i) recognize medications offered by color or shape; and

(ii) question differences in the usual routine of medications.

(~~[k]~~[l]) "Service Plan" means a written plan of care for services ~~that~~which meets the requirements of Section R432-270-13.

(~~[l]~~[m]) "Services" means activities, which help the residents develop skills to increase or maintain their level of psycho-social and physical functioning, or, which assist them in activities of daily living.

(~~[m]~~[n]) "Significant change" means a major change in a resident's status that is self-limiting or impacts on more than one area of the resident's health status.

(~~[n]~~[o]) "Significant assistance" means the resident is unable to perform any part of an ADL and is dependent upon staff or others to accomplish the ADL as defined in Subsection R432-270-3(2)(b).

(~~[o]~~[p]) "Social care" means:

(i) providing opportunities for social interaction in the facility or in the community; or

(ii) providing services to promote independence or a sense of self-direction.

(~~[p]~~[q]) "Unit" means an individual living space, including living and sleeping space, bathroom, and optional kitchen area.

(r) "Vulnerable adult" means an elder adult, or a dependent adult who has a mental or physical impairment that substantially affects the person's ability to:

(i) provide personal protection;

(ii) provide necessities such as food, shelter, clothing, or mental or other health care;

(iii) obtain services necessary for health, safety, or welfare;

(iv) carry out the activities of daily living;

(v) manage their own financial resources; or

(vi) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

#### **R432-270-4. Licensing.**

(1) A person ~~who~~that offers or provides care to two or more unrelated individuals in a residential facility must be minimally licensed as an assisted living facility if:

(a) the individuals stay in the facility for more than 24 hours; and

(b) the facility provides or arranges for the provision of assistance with one or more activity of daily living for any of the individuals.

(2) An assisted living facility ~~may~~shall be licensed as a Type I facility if:

~~(a)~~ the individuals under care are capable of achieving mobility sufficient to exit the facility without the assistance of another person.

(3) An assisted living facility ~~must~~shall be licensed as a Type II facility if the individuals under care are capable of achieving mobility sufficient to exit the facility only with the limited assistance of one person~~;~~.

(4) A Type I assisted living facility shall provide social care to the individuals under care.

(5) A Type II assisted living facility shall provide care in a home-like setting that provides an array of coordinated supportive personal and health care services available 24 hours per day to residents who need any of these services as required by department rule.

(6) Type I and II assisted living facilities ~~must~~shall provide each resident with a separate living unit. Two residents may share a unit upon written request of both residents.

(7) An individual may continue to remain in an assisted living facility provided:

(a) the facility construction can meet the individual's needs;

(b) the individual's physical and mental needs are appropriate to the assisted living criteria; and

(c) the facility provides adequate staffing to meet the individual's needs.

(8) Assisted living facilities ~~may~~shall be licensed as large, small or limited capacity facilities.

(a) A large assisted living facility houses 17 or more residents.

(b) A small assisted living facility houses six to 16 residents.

(c) A limited capacity assisted living facility houses two to five residents.

**R432-270-5. Licensee.**

- (1) The licensee ~~[must]~~shall:
  - (a) ensure compliance with all federal, state, and local laws;
  - (b) assume responsibility for the overall organization, management, operation, and control of the facility;
  - (c) establish policies and procedures for the welfare of residents, the protection of their rights, and the general operation of the facility;
  - (d) implement a policy ~~that [which]~~ensures ~~[that]~~the facility does not discriminate on the basis of race, color, sex, religion, ancestry, or national origin in accordance with state and federal law;
  - (e) secure and update contracts for required services not provided directly by the facility;
  - (f) respond to requests for reports from the Department; and
  - (g) appoint, in writing, a qualified administrator who shall assume full responsibility for the day-to-day operation and management of the facility. The licensee and administrator may be the same person.
- (2) The licensee shall implement a quality assurance program to include a Quality Assurance Committee. The committee ~~[must]~~shall:
  - (a) consist of at least the facility administrator and a health care professional~~[-]~~; and
  - (b) meet at least quarterly to identify and act on quality issues.
- (3) If the licensee is a corporation or an association, it shall maintain an active and functioning governing body to fulfill licensee duties and to ensure accountability.

**R432-270-6. Administrator Qualifications.**

- (1) The administrator shall have the following qualifications:
  - (a) be 21 years of age or older;
  - (b) have knowledge of applicable laws and rules;
  - (c) have the ability to deliver, or direct the delivery of, appropriate care to residents;
  - (d) successfully complete the criminal background screening process defined in Rule R432-35; and
  - (e) for ~~[all]~~Type II facilities, complete a Department approved national certification program within six months of hire.
- (2) In addition to Subsection R432-270-6(1) the administrator of a Type I facility shall have an associate degree or two years experience in a health care facility.
- (3) In addition to Subsection R432-270-6(1) the administrator of a Type II small or limited-capacity assisted living facility shall have one or more of the following:
  - (a) an associate degree in a health care field;
  - (b) two years or more management experience in a health care field; or
  - (c) one year~~[-s]~~ experience in a health care field as a licensed health care professional.
- (4) In addition to Subsection R432-270-6(1) the administrator of a Type II large assisted living facility ~~[must]~~shall have one or more of the following:
  - (a) a State of Utah health facility administrator license;
  - (b) a bachelor's degree in a health care field, to include management training or one or more years of management experience;
  - (c) a bachelor's degree in any field, to include management training or one or more years of management experience and one year or more experience in a health care field; or
  - (d) an associate~~[s]~~ degree and four years or more management experience in a health care field.

**R432-270-7. Administrator Duties.**

- (1) The administrator ~~[must]~~shall:

- (a) be on the premises a sufficient number of hours in the business day, and at other times as necessary, to manage and administer the facility;
- (b) designate, in writing, a competent employee, 21 years of age or older, to act as administrator when the administrator is unavailable for immediate contact. It is not the intent of this subsection to permit a de facto administrator to replace the designated administrator.
- (2) The administrator is responsible for the following:
  - (a) recruit, employ, and train the number of licensed and unlicensed staff needed to provide services;
  - (b) verify ~~[all]~~required licenses and permits of staff and consultants at the time of hire or the effective date of contract;
  - (c) maintain facility staffing records for the preceding 12 months;
  - (d) admit and retain only those residents who meet admissions criteria and whose needs can be met by the facility;
  - (e) review at least quarterly every injury, accident, and incident to a resident or employee and document appropriate corrective action;
  - (f) maintain a log indicating any significant change in a resident's condition and the facility's action or response;
  - (g) complete an investigation whenever there is reason to believe ~~[that]~~a resident has been subject to abuse, neglect, or exploitation;
  - (h) report all suspected abuse, neglect, or exploitation in accordance with Section 62A-3-305, and document appropriate action if the alleged violation is verified~~[-]~~;
  - (i) notify the resident's responsible person within 24 hours of significant changes or deterioration of the resident's health, and ensure the resident's transfer to an appropriate health care facility if the resident requires services beyond the scope of the facility's license;
  - (j) conduct and document regular inspections of the facility to ensure it is safe from potential hazards;
  - (k) complete, submit, and file ~~[all]~~records and reports required by the Department;
  - (l) participate in a quality assurance program; and
  - (m) secure and update contracts for required professional and other services not provided directly by the facility.
- (3) The administrator's responsibilities shall be included in a written and signed job description on file in the facility.

**R432-270-8. Personnel.**

- (1) Qualified competent direct-care personnel shall be on the premises 24 hours a day to meet residents' needs as determined by the residents' assessment and service plans. Additional staff shall be employed as necessary to perform office work, cooking, housekeeping, laundering and general maintenance.
- (2) The services provided or arranged by the facility shall be provided by qualified persons in accordance with the resident's written service plan.
- (3) ~~[All-p]~~Personnel who provide personal care to residents in a Type I and Type II facility shall be at least 18 years of age or be a certified nurse aide and shall have related experience in the job assigned or receive on the job training.
- (4) Personnel shall be licensed, certified, or registered in accordance with applicable state laws.
- (5) The administrator shall maintain written job descriptions for each position, including job title, job responsibilities, qualifications or required skills.
- (6) Facility policies and procedures ~~[must]~~shall be available to personnel at all times.

(7) Each employee ~~[must]~~shall receive documented orientation to the facility ~~[and the job]~~for their hired position~~[which they are hired]~~. Orientation shall be completed within 30 days of hire and include the following:

- (a) job description;
- (b) ethics, confidentiality, and residents' rights;
- (c) fire and disaster plan;
- (d) policy and procedures;
- (e) reporting responsibility for abuse, neglect and exploitation; and
- (f) dementia specific training including:
  - ~~(i) communicating with dementia patients and their caregivers;~~
  - ~~(ii) communication methods and when they are appropriate;~~
  - ~~(iii) types and stages of dementia including information on the physical and cognitive declines as the disease progresses;~~
  - ~~(iv) person centered care principles; and~~
  - ~~(v) how to maintain safety in the dementia patient environment.~~

[a Department-approved core competency training.]  
 (8) In addition to completing facility orientation and demonstration of core competency skills, e[ach] direct-care employee shall receive 16 hours of documented one-on-one job training with a direct-care employee, with at least 3 months of experience and who has completed orientation, or with the supervising nurse at the facility.

(a) This training is not transfere[able] to another facility and must include:

- (i) transfer assistance and safety; and
- (ii) activities of daily living.

(b) Direct-care employees hired from a staffing agency must be certified nurse aides and are exempt from the 16 hours of one-on-one training.

(c) Employees who are certified nurse aides are exempt from the 16 hours of one-on-one job training.

(9) Each employee shall receive documented in-service training. The training shall be tailored to annually include ~~[all of]~~the following subjects that are relevant to the employee's job responsibilities:

- (a) principles of good nutrition, menu planning, food preparation, and storage;
- (b) principles of good housekeeping and sanitation;
- (c) principles of providing personal and social care;
- (d) proper procedures in assisting residents with medications;
- (e) recognizing early signs of illness and determining ~~if~~when there is a need for professional help;
- (f) accident prevention, including safe bath and shower water temperatures;
- (g) communication skills, which enhance resident dignity;
- (h) first aid;
- (i) resident's rights~~[and]~~;
- (j) abuse and neglect reporting requirements of Section 62A-3-[201 to 312]305;[and]

(j)k) [D]dementia and [A]Alzheimer's specific training[-];

and

- (l) review of core competency training.

(10) The facility administrator shall annually receive a ~~[total]~~minimum of 4 hours of core competency training that includes Dementia and [A]Alzheimer's specific training.

(11) An employee who reports suspected abuse, neglect, or exploitation may~~shall~~ not be subject to retaliation, disciplinary action, or termination by the facility for that reason alone.

(12) The facility shall establish a personnel health program through written personnel health policies and procedures ~~that~~which protect the health and safety of personnel, residents and the public.

(13) The facility ~~[must]~~shall complete an employee placement health evaluation to include at least a health inventory when an employee is hired. Facilities may use their own evaluation or a Department approved form.

(a) A health inventory shall ~~[obtain]~~include at least the employee's history of the following:

- (i) conditions that may predispose the employee to acquiring or transmitting infectious diseases; and
- (ii) conditions that may prevent the employee from performing certain assigned duties satisfactorily.

(b) The facility shall develop employee health screening and immunization components of the personnel health program.

(c) Employee skin testing by the Mantoux Method or other FDA approved in-vitro serologic test and follow up for tuberculosis shall be done in accordance with Rule R388-804, Special Measures for the Control of Tuberculosis.

(i) The licensee shall ensure ~~[that all]~~employees are skin-tested for tuberculosis within two weeks of:

- (A) initial hiring;
- (B) suspected exposure to a person with active tuberculosis;

and

- (C) development of symptoms of tuberculosis.

(ii) Skin testing shall be exempted for ~~[all]~~employees with known positive reaction to skin tests.

(d) ~~[All]~~Infections and communicable diseases reportable by law shall be reported to the local health department in accordance with ~~[the Communicable Disease Rule,]~~Section R386-702-3.

(14) The facility shall develop and implement policies and procedures governing an infection control program to protect residents, family and personnel; ~~that~~which includes appropriate task related employee infection control procedures and practices.

(15) The facility shall comply with the Occupational Safety and Health Administration's Blood-borne Pathogen Standard.

#### **R432-270-9. Residents' Rights.**

(1) Assisted living facilities shall develop a written resident's rights statement based on this section.

(2) The administrator or designee shall give the resident a written description of the resident's legal rights upon admission, including the following:

(a) a description of the manner of protecting personal funds, in accordance with Section R432-270-20; and

(b) a statement that the resident may file a complaint with the state long term care ombudsman and any other advocacy group concerning resident abuse, neglect, or misappropriation of resident property in the facility.

(3) The administrator or designee shall notify the resident or the resident's responsible person at the time of admission, in writing and in a language and manner that the resident or the resident's responsible person understands, of the resident's rights and ~~[of all]~~rules governing resident conduct and responsibilities during the stay in the facility.

(4) The administrator or designee ~~[must]~~shall promptly notify in writing the resident or the resident's responsible person when there is a change in resident rights under state law.

(5) Resident rights include the following:

(a) the right to be treated with respect, consideration, fairness, and full recognition of personal dignity and individuality;

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- (b) the right to be transferred, discharged, or evicted by the facility only in accordance with the terms of the signed admission agreement;
- (c) the right to be free of mental and physical abuse, and chemical and physical restraints;
- (d) the right to refuse to perform work for the facility;
- (e) the right to perform work for the facility if the facility consents and if:
  - (i) the facility has documented the resident's need or desire for work in the service plan[?];
  - (ii) the resident agrees to the work arrangement described in the service plan[?];
  - (iii) the service plan specifies the nature of the work performed and whether the services are voluntary or paid[?]; and
  - (iv) compensation for paid services is at or above the prevailing rate for similar work in the surrounding community;
- (f) the right to privacy during visits with family, friends, clergy, social workers, ombudsmen, resident groups, and advocacy representatives;
- (g) the right to share a unit with a spouse if both spouses consent, and if both spouses are facility residents;
- (h) the right to privacy when receiving personal care or services;
- (i) the right to keep personal possessions and clothing as space permits;
- (j) the right to participate in religious and social activities of the resident's choice;
- (k) the right to interact with members of the community both inside and outside the facility;
- (l) the right to send and receive mail unopened;
- (m) the right to have access to telephones to make and receive private calls;
- (n) the right to arrange for medical and personal care;
- (o) the right to have a family member or responsible person informed by the facility of significant changes in the resident's cognitive, medical, physical, or social condition or needs;
- (p) the right to leave the facility at any time and not be locked into any room, building, or on the facility premises during the day or night[?];
  - (i) ~~[A]~~assisted living Type II residents who have been assessed to require a secure environment may be housed in a secure unit, provided the secure unit is approved by the fire authority having jurisdiction[-]; and
  - (ii) ~~[F]~~this right does not prohibit the locking of facility entrance doors if egress is maintained;
- (q) the right to be informed of complaint or grievance procedures and to voice grievances and recommend changes in policies and services to facility staff or outside representatives without restraint, discrimination, or reprisal;
- (r) the right to be encouraged and assisted throughout the period of a stay to exercise these rights as a resident and as a citizen;
- (s) the right to manage and control personal funds, or to be given an accounting of personal funds entrusted to the facility, as provided in Section R432-270-20 concerning management of resident funds;
- (t) the right, upon oral or written request, to access within 24 hours ~~[all]~~records pertaining to the resident, including clinical records;
- (u) the right, two working days after the day of the resident's oral or written request, to purchase at a cost not to exceed the community standard photocopies of the resident's records or any portion thereof;
- (v) the right to personal privacy and confidentiality of personal and clinical records;

- (w) the right to be fully informed in advance about care and treatment and of any changes in that care or treatment that may affect the resident's well-being; and
  - (x) the right to be fully informed in a language and in a manner the resident understands of the resident's health status and health rights, including the following:
    - (i) medical condition;
    - (ii) the right to refuse treatment;
    - (iii) the right to formulate an advance directive in accordance with [UCA Section 75-2a]Title 75, Chapter 2a, Advance Health Care Directive Act; and
    - (iv) the right to refuse to participate in experimental research.
  - (6) The following items must be posted in a public area of the facility that is easily accessible and visible by residents and the public:
    - (a) the long term care ombudsmen's notification poster;
    - (b) information on Utah protection and advocacy systems;
- and
- (c) a copy of the resident's rights.
  - (7) The facility shall have available in a public area of the facility the results of the current survey of the facility and any plans of correction.
  - (8) A resident may organize and participate in resident groups in the facility, and a resident's family may meet in the facility with the families of other residents.
    - (a) The facility shall provide private space for resident groups or family groups.
    - (b) Facility personnel or visitors may attend resident group or family group meetings only at the group's invitation.
    - (c) The administrator shall designate an employee to provide assistance and to respond to written requests that result from group meetings.

**R432-270-10. Admissions.**

- (1) The facility shall have written admission, retention, and transfer policies that are available to the public upon request.
- (2) Before accepting a resident, the facility ~~[must]~~shall obtain sufficient information about the person's ability to function in the facility through the following:
  - (a) an interview with the resident and the resident's responsible person; and
  - (b) the completion of the resident assessment.
- (3) If the Department determines during inspection or interview that the facility knowingly and willfully admits or retains residents who do not meet license criteria, then the Department may, for a time period specified, require that resident assessments be conducted by an individual who is independent from the facility.
- (4) A Type I facility:
  - (a) shall accept and retain residents who meet the following criteria:
    - (i) are ambulatory or mobile and are capable of taking life saving action in an emergency without the assistance of another person;
    - (ii) have stable health;
    - (iii) require no assistance or only limited assistance in the activities of daily living (ADL); and
    - (iv) do not require total assistance from staff or others with more than three ADLs.
  - (b) may accept and retain residents who meet the following criteria:
    - (i) are cognitively impaired or physically disabled but able to evacuate from the facility without the assistance of another person; and

(ii) require and receive intermittent care or treatment in the facility from a licensed health care professional either through contract or by the facility, if permitted by facility policy.

(5) A Type II facility may accept and retain residents who meet the following criteria:

(a) require total assistance from staff or others in more than three ADLs, provided that:

(i) the staffing level and coordinated supportive health and social services meet the needs of the resident; and

(ii) the resident is capable of evacuating the facility with the limited assistance of one person.

(b) are physically disabled but able to direct their own care; or

(c) are cognitively impaired or physically disabled but able to evacuate from the facility with the limited assistance of one person.

(6) Type I and Type II assisted living facilities ~~may~~shall not admit or retain a person who:

(a) manifests behavior that is suicidal, sexually or socially inappropriate, assaultive, or poses a danger to self or others;

(b) has active tuberculosis or other chronic communicable diseases that cannot be treated in the facility or on an outpatient basis; or may be transmitted to other residents or guests through the normal course of activities; or

(c) requires inpatient hospital, long-term nursing care or 24-hour continual nursing care that will last longer than 15 calendar days after the day ~~that~~on which the nursing care begins.

(7) Type I and Type II assisted living facilities ~~may~~shall not deny an individual admission to the facility for the sole reason that the individual or the individual's legal representative requests to install or operate a monitoring device in the individual's room in accordance with [UCA Section 26-21-304] Title 26, Chapter 21, Part 304, Monitoring Device -- Facility admission, patient discharge, and posted notice.

(8) The prospective resident or the prospective resident's responsible person ~~must~~shall sign a written admission agreement prior to admission. The admission agreement shall be kept on file by the facility and shall specify at least the following:

(a) room and board charges and charges for basic and optional services;

(b) provision for a 30-day notice prior to any change in established charges;

(c) admission, retention, transfer, discharge, and eviction policies;

(d) conditions ~~when~~under which the agreement may be terminated;

(e) the name of the responsible party;

(f) notice that the Department has the authority to examine resident records to determine compliance with licensing requirements; and

(g) refund provisions that address the following:

(i) thirty-day notices for transfer or discharge given by the facility or by the resident,

(ii) emergency transfers or discharges<sup>[2]</sup>;

(iii) transfers or discharges without notice<sup>[2]</sup>; and

(iv) the death of a resident.

(9) A type I assisted living facility may accept and retain residents who have been admitted to a hospice program, under the following conditions:

(a) the facility keeps a copy of the physician's diagnosis and orders for care;

(b) the facility makes the hospice services part of the resident's service plan ~~that~~which shall explain who is responsible to meet the resident's needs; and

(c) a facility may retain hospice patient residents who are not capable of exiting the facility without assistance with the following conditions:

(i) the facility ~~must~~shall assure that a worker or an individual is assigned solely to each specific hospice patient and is on-site to assist the resident in emergency evacuation 24 hours a day, seven days a week;

(ii) the facility ~~must~~shall train the assigned worker or individual to specifically assist in the emergency evacuation of the assigned hospice patient resident;

(iii) the worker or individual ~~must~~shall be physically capable of providing emergency evacuation assistance to the particular hospice patient resident; and

(iv) hospice residents who are not capable of exiting the facility without assistance comprise no more than 25 ~~%~~percent of the facility's resident census.

(10) A type II assisted living facility may accept and retain hospice patient residents under the following conditions:

(a) the facility keeps a copy of the physician's diagnosis and orders for care;

(b) the facility makes the hospice services part of the resident's service plan ~~that~~which shall explain who is responsible to meet the resident's needs; and

(c) if the hospice patient resident cannot evacuate the facility without significant assistance, the facility ~~must~~shall:

(i) develop an emergency plan to evacuate the hospice resident in the event of an emergency; and

(ii) integrate the emergency plan into the resident's service plan.

#### **R432-270-11. Transfer or Discharge Requirements.**

(1) A resident may be discharged, transferred, or evicted for one or more of the following reasons:

(a) ~~[F]~~the facility is no longer able to meet the resident's needs because the resident poses a threat to health or safety to self or others, or the facility is not able to provide required medical treatment<sup>[-]</sup>;

(b) ~~[F]~~the resident fails to pay for services as required by the admission agreement<sup>[-]</sup>;

(c) ~~[F]~~the resident fails to comply with written policies or rules of the facility<sup>[-]</sup>;

(d) ~~[F]~~the resident wishes to transfer<sup>[-]</sup>; or

(e) ~~[F]~~the facility ceases to operate.

(2) Prior to ~~the~~a facility ~~initiated~~initiating a transfer or discharge of a resident, the facility shall serve a transfer or discharge notice upon the resident and the resident's responsible person.

(a) The notice shall be either hand-delivered or sent by certified mail.

(b) The notice shall be made at least 30 days before the day ~~that~~on which the facility plans to transfer or discharge the resident, unless;

~~(i)~~ notice for a shorter period of time is necessary to protect:

~~(i)~~(A) the safety of individuals in the facility from endangerment due to the medical or behavioral status of the resident;

~~(ii)~~(B) the health of the individuals in the facility from endangerment due to the resident's continued residency;

~~(iii)~~(C) an immediate transfer or discharge is required by the resident's urgent medical needs; or

~~(iv)~~(D) the resident has not resided in the facility for at least 30 days.

(3) The notice of transfer or discharge shall:

(a) be in writing with a copy placed in the resident file;

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(b) be phrased in a manner and in a language that is most likely to be understood by the resident and the resident's responsible person;

(c) detail the reasons for transfer or discharge;

(d) state the effective date of transfer or discharge;

(e) state the location where~~[to which]~~ the resident will be transferred or discharged, if known;

(f) state that the resident may request a conference to discuss the transfer or discharge; and

(g) contain the following information:

(i) the name, mailing address, email address and telephone number of the State Long Term Care Ombudsman;

(ii) for facility residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals established under ~~[part C of]~~ the Developmental Disabilities Assistance and Bill of Rights Act, Part C; and

(iii) for facility residents who are mentally ill, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals established under the Protection and Advocacy for Mentally Ill Individuals Act.

(4) The facility shall:

(i) update the transfer or discharge notice as soon as practicable before the transfer or discharge if information in the notice changes before the transfer or discharge;

(ii) orally explain to the resident, the services available through the ombudsman and the contact information for the ombudsman;

(iii) send a copy, in English, of the notice described in Subsection (2) to the State Long Term Care Ombudsman:

(A) on the same day ~~that~~on which the facility delivers the notice described in Subsection (2) to the resident and the resident's responsible person; and

(B) provide the notice described in Subsection (2) at least 30 days before the day ~~that~~on which the resident is transferred or discharged, unless notice for a shorter period of time is necessary to protect the safety of individuals in the facility from endangerment due to the medical or behavioral status of the resident.

(5) The facility shall provide and document the provisions of preparation and orientation, in a language and manner the resident is most likely to understand, for a resident to ensure a safe and orderly transfer or discharge from the facility.

(6) The resident or the resident's responsible person may contest a transfer or discharge. If the transfer or discharge is contested, the facility shall provide an informal conference, except where undue delay might jeopardize the health, safety, or well-being of the resident or others.

(a) The resident or the resident's responsible person ~~[must]~~shall request the conference within five calendar days of the day of receipt of notice of discharge to determine if a satisfactory resolution can be reached.

(b) Participants in the conference shall include the facility representatives, the resident or the resident's responsible person, and any others requested by the resident or the resident's responsible person.

(7) In the event of a facility closure, provide written notification of the closure to the State Long Term Care Ombudsman, each resident of the facility, and each resident's responsible person.

(8) The facility may not discharge a resident for the sole reason that the resident or the resident's legal representative requests to install or operate a monitoring device in the individual's room in accordance with ~~[UCA Section 26-21-304]~~ Chapter 26, Title 21, Part 304

Monitoring Device -- Facility admission, patient discharge, and posted notice.

**R432-270-12. Resident Assessment.**

(1) A signed and dated resident assessment shall be completed on each resident prior to admission and at least every six months thereafter.

(2) In Type I and Type II facilities, the initial and six-month resident assessment ~~[must]~~shall be completed and signed by a licensed health care professional.

(3) The resident assessment must accurately reflect the resident's status at the time of assessment.

(4) The resident assessment must include a statement signed by the licensed health care professional completing the resident assessment that the resident meets the admission and level of assistance criteria for the facility.

(5) The facility shall use a resident assessment form that is approved and reviewed by the Department to document the resident assessments.

(6) The facility shall revise and update each resident's assessment when there is a significant change in the resident's cognitive, medical, physical, or social condition and update the resident's service plan to reflect the change in condition.

**R432-270-13. Service Plan.**

(1) Each resident ~~[must]~~shall have an individualized service plan that is consistent with the resident's unique cognitive, medical, physical, and social needs, and is developed within seven calendar days of the day the facility admits the resident. The facility shall periodically revise the service plan as needed.

(2) The facility shall use the resident assessment to develop, review, and revise the service plan for each resident.

(3) The service plan shall include a written description of the following:

(a) what services are provided;

(b) who will provide the services, including the resident's significant others who may participate in the delivery of services;

(c) how the services are provided;

(d) the frequency of services; and

(e) changes in services and reasons for those changes.

~~**[R432-270-14. Service Coordinator.**~~

~~(1) If the administrator appoints a service coordinator, the service coordinator must have knowledge, skills and abilities to coordinate the service plan for each resident.~~

~~(2) The duties and responsibilities of the service coordinator must be defined by facility policy and included in the designee's job description.~~

~~(3) The service coordinator is responsible to document that the resident or resident's designated responsible person is encouraged to actively participate in developing the service plan.~~

~~(4) The administrator and designated service coordinator are responsible to ensure that each resident's service plan is implemented by facility staff.]~~

**R432-270-14[5]. Nursing Services.**

(1) The facility ~~[must]~~shall develop written policies and procedures defining the level of nursing services provided by the facility.

(2) A Type I assisted living facility ~~[must]~~shall employ or contract with a registered nurse to provide or delegate medication administration for any resident who is unable to self-medicate or self-direct medication management.

(3) A Type II assisted living facility ~~[must]~~shall employ or contract with a registered nurse to provide or supervise nursing services to include:

- (a) a nursing assessment on each resident;
- (b) general health monitoring on each resident; and
- (c) routine nursing tasks, including those that may be delegated to unlicensed assistive personnel in accordance with ~~[the Utah Nurse Practice Act]~~Section R156-31B-701.

(4) A Type I assisted living facility may provide nursing care according to facility policy. If a Type I assisted living facility chooses to provide nursing services, the nursing services ~~[must]~~shall be provided in accordance with Subsections R432-270-15(3)(a) through (c).

(5) Type I and Type II assisted living facilities ~~[may]~~shall not provide skilled nursing care, but ~~[must]~~shall assist the resident in obtaining required services. To determine whether a nursing service is skilled, the following criteria shall apply:

- (a) ~~[F]~~the complexity or specialized nature of the prescribed services can be safely or effectively performed only by, or under the close supervision of licensed health care professional personnel; ~~or~~
- (b) ~~[C]~~care is needed to prevent, to the extent possible, deterioration of a condition or to sustain current capacities of a resident.
- (6) At least one certified nurse aide must be on duty in a Type II facility 24 hours per day.

#### **R432-270-15[6]. Secure Units.**

(1) A Type II assisted living facility with approved secure units may admit residents with a diagnosis of Alzheimer's~~[d]~~ or dementia if the resident is able to exit the facility with limited assistance from one person.

(2) Each resident admitted to a secure unit must have an admission agreement that indicates placement in the secure unit.

(a) The secure unit admission agreement must document that a wander risk management agreement has been negotiated with the resident or resident's responsible person.

(b) The secure unit admission agreement must identify discharge criteria that would initiate a transfer of the resident to a higher level of care than the assisted living facility is able to provide.

(3) In addition to completing the facility orientation and demonstration of core competency skills, each direct-care employee in the secure unit shall receive a minimum of four hours of the 16 required hours of documented one-on-one job training in the secure unit. ~~There shall be at least one staff with documented training in Alzheimer's/dementia care in the secure unit at all times.~~

(4) There shall be at least one direct-care staff in the secure unit at all times.

(~~[4]~~5) Each secure unit ~~[must]~~shall have an emergency evacuation plan that addresses the ability of the secure unit staff to evacuate the residents in case of emergency.

#### **R432-270-16[7]. Arrangements for Medical or Dental Care.**

(1) The facility shall assist residents in arranging access for ancillary services for medically related care including physician, dentist, pharmacist, therapy, podiatry, hospice, home health, and other services necessary to support the resident.

(2) The facility shall arrange for care through one or more of the following methods:

- (a) notifying the resident's responsible person;
- (b) arranging for transportation to and from the practitioner's office; or
- (c) arrange for a home visit by a health care professional.

(3) The facility ~~[must]~~shall notify a physician or other health care professional when the resident requires immediate medical attention.

#### **R432-270-17[8]. Activity Program.**

(1) Residents shall be encouraged to maintain and develop their fullest potential for independent living through participation in activity and recreational programs.

(2) The facility shall provide opportunities for the following:

- (a) socialization activities;
- (b) independent living activities to foster and maintain independent functioning;
- (c) physical activities; and
- (d) community activities to promote resident participation in activities away from the facility.

(3) The administrator shall designate an activity coordinator to direct the facility's activity program. The activity coordinator's duties include the following:

- (a) coordinate ~~[all]~~recreational activities, including volunteer and auxiliary activities;
- (b) plan, organize, and conduct the residents' activity program with resident participation; and
- (c) develop and post monthly activity calendars, including information on community activities, based on residents' needs and interests.

(4) The facility shall provide sufficient equipment, supplies, and indoor and outdoor space to meet the recreational needs and interests of residents.

(5) The facility shall provide storage for recreational equipment and supplies. Locked storage ~~[must]~~shall be provided for potentially dangerous items such as scissors, knives, and toxic materials.

#### **R432-270-18[9]. Medication Administration.**

(1) A licensed health care professional ~~[must]~~shall assess each resident to determine what level and type of assistance is required for medication administration. The level and type of assistance provided shall be documented on each resident's assessment.

(2) Each resident's medication program ~~[must]~~shall be administered by means of one of the methods described in Subsections (2)(a) through (f) ~~[in this section]~~:

- (a) The resident is able to self-administer medications.
- (i) Residents who have been assessed to be able to self-administer medications may keep prescription medications in their rooms.

(ii) If more than one resident resides in a unit, the facility ~~[must]~~shall assess each person's ability to safely have medications in the unit. If safety is a factor, a resident shall keep his medication in a locked container in the unit.

(b) The resident is able to self-direct medication administration. Facility staff may assist residents who self-direct medication administration by:

- (i) reminding the resident to take the medication;
- (ii) opening medication containers; and
- (iii) reminding the resident or the resident's responsible person when the prescription needs to be refilled.

(c) Family members or a designated responsible person may administer medications. If a family member or designated responsible person assists with medication administration, they shall sign a waiver indicating that they agree to assume the responsibility to fill prescriptions, administer medication, and document that the medication has been administered. Facility staff may not serve as the designated responsible person.

(d) For residents who are unable to self-administer or self-direct medications, facility staff may administer medications only after delegation by a licensed health care professional under the scope of their practice.

(i) If a licensed health care professional delegates the task of medication administration to unlicensed assistive personnel, the delegation shall be in accordance with ~~the~~ Title 58, Chapter 31b, Nurse Practice Act and Section R156-31B-701.

(ii) The medications must be administered according to the prescribing order.

(iii) The delegating authority ~~must~~ shall provide and document supervision, evaluation, and training of unlicensed assistive personnel assisting with medication administration.

(iv) The delegating authority or another registered nurse shall be readily available either in person or by telecommunication.

(e) Residents may independently administer their own personal injections if they have been assessed to be independent in that process. This may be done in conjunction with the administration of medication in methods Subsections (2)(a) through (d) ~~of this section~~.

(f) home health or hospice agency staff may provide medication administration to facility residents exclusively, or in conjunction with Subsections (2)(a) through (e) ~~of this section~~.

(3) The facility ~~must~~ shall have a licensed health care professional or licensed pharmacist review ~~all~~ resident medications at least every six months.

(4) Medication records shall include the following:

- (a) the resident's name;
- (b) the name of the prescribing practitioner;
- (c) medication name including prescribed dosage;
- (d) the time, dose and dates administered;
- (e) the method of administration;
- (f) signatures of personnel administering the medication; and
- (g) the review date.

(5) The licensed health care professional or licensed pharmacist ~~should~~ shall document any change in the dosage or schedule of medication in the medication record. When changes in the medication are documented by the facility staff the licensed health care professional ~~must~~ shall co-sign within 72 hours. The licensed health care professional ~~must~~ shall notify ~~all~~ unlicensed assistive personnel who administer medications of the medication change.

(6) The facility ~~must~~ shall have access to a reference for possible reactions and precautions for ~~all~~ prescribed medications in the facility.

(7) The facility ~~must~~ shall notify the licensed health care professional when medication errors occur.

(8) Medication error incident reports shall be completed ~~if~~ when a medication error occurs or is identified.

(9) Medication errors must be incorporated into the facility quality improvement process.

(10) Medications stored in a central storage area shall be:

- (a) locked to prevent unauthorized access; and
- (b) available for the resident to have timely access to the medication.

(11) Medications that require refrigeration shall be stored separately from food items and at temperatures between 36 - 46 degrees Fahrenheit.

(12) The facility ~~must~~ shall develop and implement policies governing the following:

(a) security and disposal of controlled substances by the licensee or facility staff ~~that are~~ which shall be consistent with the provisions of ~~21 CFR 1307.21~~ Code of Federal Regulations, Title 21, Chapter II, Part 1307; and

(b) destruction and disposal of unused, outdated, or recalled medications.

(13) The facility shall document the return of resident's medication to the resident or to the resident's responsible person upon discharge.

**R432-270-19[20]. Management of Resident Funds.**

(1) Residents have the right to manage and control their financial affairs. The facility may not require residents to deposit their personal funds or valuables with the facility.

(2) The facility ~~need not~~ is not required to handle residents' cash resources or valuables. However, upon written authorization by the resident or the resident's responsible person, the facility may hold, safeguard, manage, and account for the resident's personal funds or valuables deposited with the facility, in accordance with the following:

(a) The licensee shall establish and maintain on the residents' behalf a system that assures a full, complete, and separate accounting according to generally accepted accounting principles of each resident's personal funds entrusted to the facility. The system shall:

(i) preclude any commingling of resident funds with facility funds or with the funds of any person other than another resident, and preclude facility personnel from using residents' monies or valuables as their own;

(ii) separate residents' monies and valuables intact and free from any liability that the licensee incurs in the use of its own or the facility's funds and valuables;

(iii) maintain a separate account for resident funds for each facility and not commingle such funds with resident funds from another facility;

(iv) for records of residents' monies ~~that~~ which are maintained as a drawing account, include a control account for ~~all~~ receipts and expenditures and an account for each resident and supporting receipts filed in chronological order;

(v) keep each account with columns for debits, credits, and balance; and

(vi) include a copy of the receipt that it furnished to the residents for funds received and other valuables entrusted to the licensee for safekeeping.

(b) The facility shall make individual financial records available on request through quarterly statements to the resident or the resident's legal representative.

(c) The facility shall purchase a surety bond or otherwise provide assurance satisfactory to the Department that ~~all~~ resident personal funds deposited with the facility are secure.

(d) The facility shall deposit, within five days of receipt, ~~all~~ resident monies that are in excess of \$150 in an interest-bearing bank account, that is separate from any of the facility's operating accounts, in a local financial institution.

(i) Interest earned on a resident's bank account shall be credited to the resident's account.

(ii) In pooled accounts, there shall be a separate accounting for each resident's share, including interest.

(e) The facility shall maintain a resident's personal funds that do not exceed \$150 in a non-interest-bearing account, interest-bearing account, or petty cash fund.

(f) Upon discharge of a resident with funds or valuables deposited with the facility, the facility shall that day convey the resident's funds, and a final accounting of those funds, to the resident or the resident's legal representative. Funds and valuables kept in an interest-bearing account shall be accounted for and made available within three working days.



(g) Within 30 days following the death of a resident, except in a medical examiner case, the facility shall convey the resident's valuables and funds entrusted to the facility, and a final accounting of those funds, to the individual administering the resident's estate.

**R432-270-20[4]. Facility Records.**

(1) The facility ~~must~~shall maintain accurate and complete records. Records shall be filed, stored safely, and be easily accessible to staff and the Department.

(2) Records shall be protected against access by unauthorized individuals.

(3) The facility shall maintain personnel records for each employee and shall retain such records for at least three years following termination of employment. Personnel records must include the following:

- (a) employee application;
- (b) date of employment;
- (c) termination date;
- (d) reason for leaving;
- (e) documentation of CPR and first aid training;
- (f) health inventory;
- (g) food handlers permits;
- (h) TB skin test documentation;~~and~~
- (i) documentation of criminal background screening~~[-]~~; and
- (j) documentation of core competency initial and annual training.

(4) The facility ~~must~~shall maintain in the facility a separate record for each resident that includes the following:

- (a) the resident's name, date of birth, and last address;
  - (b) the name, address, and telephone number of the person who administers and obtains medications, if this person is not facility staff;
  - (c) the name, address, and telephone number of the individual to be notified in case of accident or death;
  - (d) the name, address, and telephone number of a physician and dentist to be called in an emergency;
  - (e) the admission agreement;
  - (f) the resident assessment; and
  - (g) the resident service plan.
- (5) Resident records must be retained for at least three years following discharge.

(6) There shall be written incident and injury reports to document consumer death, injuries, elopement, fights or physical confrontations, situations that~~which~~ require the use of passive physical restraint, suspected abuse or neglect, and other situations or circumstances affecting the health, safety or well-being of residents. The reports shall be kept on file for at least three years.

**R432-270-21[2]. Food Services.**

(1) Facilities ~~must~~shall have the capability to provide three meals a day, seven days a week, to ~~all~~residents, plus snacks.

(a) The facility shall maintain onsite a one-week supply of nonperishable food and a three day supply of perishable food as required to prepare the planned menus.

(b) There shall be no more than a 14 hour interval between the evening meal and breakfast, unless a nutritious snack is available in the evening.

(c) The facility food service ~~must~~shall comply with the following:

(i) ~~All~~Food shall be of good quality and shall be prepared by methods that conserve nutritive value, flavor, and appearance.

(ii) The facility shall ensure food is palatable, attractively served, and delivered to the resident at the appropriate temperature.

(iii) Powdered milk may only be used as a beverage, upon the resident's request, but may be used in cooking and baking.

(2) The facility shall provide adaptive eating equipment and utensils for residents as needed.

(3) A different menu shall be planned and followed for each day of the week.

(a) ~~All~~Menus must be approved and signed by a certified dietitian.

(b) Cycle menus shall cover a minimum of three weeks.

(c) The current week's menu shall be posted for residents' viewing.

(d) Substitutions to the menu that are actually served to the residents shall be recorded and retained for three months for review by the Department.

(4) Meals shall be served in a designated dining area suitable for that purpose or in resident rooms upon request by the resident.

(5) Residents shall be encouraged to eat their meals in the dining room with other residents.

(6) Inspection reports by the local health department shall be maintained at the facility for review by the Department.

(7) If the facility admits residents requiring therapeutic or special diets, the facility shall have an approved dietary manual for reference when preparing meals. Dietitian consultation shall be provided at least quarterly and documented for residents requiring therapeutic diets.

(8) The facility shall employ food service personnel to meet the needs of residents.

(a) While on duty in food service, the cook and other kitchen staff ~~may~~shall not be assigned concurrent duties outside the food service area.

(b) ~~All~~Personnel who prepare or serve food shall have a current Food Handler's Permit.

(9) Food service shall comply with the ~~Utah Department of Health Food Service Sanitation Regulations,~~ Rule R392-100, Food Service Sanitation.

(10) If food service personnel also work in housekeeping or provide direct resident care, the facility ~~must~~shall develop and implement employee hygiene and infection control measures to maintain a safe, sanitary food service.

**R432-270-22[3]. Housekeeping Services.**

(1) The facility shall employ housekeeping staff to maintain both the exterior and interior of the facility.

(2) The facility shall designate a person to direct housekeeping services. This person shall:

(a) post routine laundry, maintenance, and cleaning schedules for housekeeping staff; and~~[-]~~

(b) ensure ~~all~~furniture, bedding, linens, and equipment are clean before use by another resident.

(3) The facility shall control odors by maintaining cleanliness.

(4) There shall be a trash container in every occupied room.

(5) ~~All~~Cleaning agents, bleaches, insecticides, or poisonous, dangerous, or flammable materials shall be stored in a locked area to prevent unauthorized access.

(6) Housekeeping personnel shall be trained in preparing and using cleaning solutions, cleaning procedures, proper use of equipment, proper handling of clean and soiled linen, and procedures for disposal of solid waste.

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(7) Bathtubs, shower stalls, or lavatories ~~may~~<sup>shall</sup> not be used as storage places.

(8) Throw or scatter rugs that present a tripping hazard to residents are not permitted.

**R432-270-23[4]. Laundry Services.**

(1) The facility shall provide laundry services to meet the needs of the residents, including a sufficient supply of linens.

(2) The facility shall inform the resident or the resident's responsible person in writing of the facility's laundry policy for residents' personal clothing.

(3) Food may not be stored, prepared, or served in any laundry area.

(4) The facility shall make available for resident use at least one washing machine and one clothes dryer.

**R432-270-24[5]. Maintenance Services.**

(1) The facility shall conduct maintenance, including preventive maintenance, according to a written schedule to ensure that the facility equipment, buildings, fixtures, spaces, and grounds are safe, clean, operable, in good repair and in compliance with Rule R432-6.

(a) Fire rated construction and assemblies must be maintained in accordance with Rule R710-3, ~~[Assisted Living Facilities]~~Fire Marshal.

(b) Entrances, exits, steps, and outside walkways shall be maintained in a safe condition, free of ice, snow, and other hazards.

(c) Electrical systems, including appliances, cords, equipment call lights, and switches shall be maintained to guarantee safe functioning.

(d) Air filters installed in heating, ventilation and air conditioning systems must be inspected, cleaned or replaced in accordance with manufacturer specifications.

(2) A pest control program shall be conducted in the facility buildings and on the grounds by a licensed pest control contractor or a qualified employee, certified by ~~[the State]~~<sup>this state</sup>, to ensure the absence of vermin and rodents. Documentation of the pest control program shall be maintained for Department review.

(3) The facility shall document maintenance work performed.

(4) Hot water temperature controls shall automatically regulate temperatures of hot water delivered to plumbing fixtures used by residents. The facility shall maintain hot water delivered to public and resident care areas at temperatures between 105 - 120 degrees Fahrenheit.

**R432-270-25[6]. Disaster and Emergency Preparedness.**

(1) The facility is responsible for the safety and well-being of residents in the event of an emergency or disaster.

(2) The licensee and the administrator are responsible to develop and coordinate plans with state and local emergency disaster authorities to respond to potential emergencies and disasters. The plan shall outline:

(a) the protection or evacuation of ~~[all]~~ residents<sup>[-]</sup>; ~~and include~~

(b) arrangements for staff response or provisions ~~[of]~~ for additional staff to ensure the safety of any resident with physical or mental limitations<sup>[-]</sup>; and

(c) when to notify the Silver Alert program and the resident's emergency contacts.

~~([a]~~<sup>3</sup>) Emergencies and disasters include fire, severe weather, missing residents, death of a resident, interruption of public utilities, explosion, bomb threat, earthquake, flood, windstorm, epidemic, or mass casualty.

~~([b]~~<sup>4</sup>) The emergency and disaster response plan shall be in writing and distributed or made available to ~~[all]~~ facility staff and residents to assure prompt and efficient implementation.

~~([e]~~<sup>5</sup>) The licensee and the administrator ~~[must]~~<sup>shall</sup> review and update the plan as necessary to conform with local emergency plans. The plan shall be available for review by the Department.

~~([3]~~<sup>6</sup>) The facility's emergency and disaster response plan must address the following:

(a) the names of the person in charge and persons with decision-making authority;

(b) the names of persons who shall be notified in an emergency in order of priority;

(c) the names and telephone numbers of emergency medical personnel, fire department, paramedics, ambulance service, police, and other appropriate agencies;

(d) instructions on how to contain a fire and how to use the facility alarm systems;

(e) assignment of personnel to specific tasks during an emergency;

(f) the procedure to evacuate and transport residents and staff to a safe place within the facility or to other prearranged locations;

(g) instructions on how to recruit additional help, supplies, and equipment to meet the residents' needs after an emergency or disaster;

(h) delivery of essential care and services to facility occupants by alternate means;

(i) delivery of essential care and services ~~if~~<sup>when</sup> additional persons are housed in the facility during an emergency; and

(j) delivery of essential care and services to facility occupants ~~if~~<sup>when</sup> personnel are reduced by an emergency.

~~([4]~~<sup>7</sup>) The facility ~~[must]~~<sup>shall</sup> maintain safe ambient air temperatures within the facility.

(a) Emergency heating must have the approval of the local fire department.

(b) Ambient air temperatures of 58 degrees ~~Fahrenheit~~<sup>[-]</sup> or below may constitute an imminent danger to the health and safety of the residents in the facility. The person in charge shall take immediate action in the best interests of the residents.

(c) The facility shall have, and be capable of implementing, contingency plans regarding excessively high ambient air temperatures within the facility that may exacerbate the medical condition of residents.

~~([5]~~<sup>8</sup>) Personnel and residents shall receive instruction and training in accordance with the plans to respond appropriately in an emergency. The facility shall:

(a) annually review the procedures with existing staff and residents and carry out unannounced drills using those procedures;

(b) hold simulated disaster drills semi-annually;

(c) hold simulated fire drills quarterly on each shift for staff and residents in accordance with Rule R710-3; and

(d) document ~~[all]~~ drills, including date, participants, problems encountered, and the ability of each resident to evacuate.

~~([6]~~<sup>9</sup>) The administrator shall be in charge during an emergency. If not on the premises, the administrator shall make every effort to report to the facility, relieve subordinates and take charge.

~~([7]~~<sup>10</sup>) The facility shall provide in-house ~~[all]~~ equipment and supplies required in an emergency including emergency lighting, heating equipment, food, potable water, extra blankets, first aid kit, and radio.

~~([8]~~<sup>11</sup>) The following information shall be posted in prominent locations throughout the facility:

(a) The name of the person in charge and names and telephone numbers of emergency medical personnel, agencies, and appropriate communication and emergency transport systems; and

(b) evacuation routes, location of fire alarm boxes, and fire extinguishers.

**R432-270-26[7]. First Aid.**

(1) There shall be one staff person on duty at all times who has training in basic first aid, the Heimlich maneuver, certification in cardiopulmonary resuscitation and emergency procedures to ensure ~~that~~ each resident receives prompt first aid as needed.

(2) First aid training refers to any basic first aid course.

(3) The facility ~~must~~ shall have a first aid kit available at a specified location in the facility.

(4) The facility shall have a current edition of a basic first aid manual approved by the American Red Cross, the American Medical Association, or a state or federal health agency.

(5) The facility ~~must~~ shall have a clean[-]up kit for blood borne pathogens.

**R432-270-27[8]. Pets.**

(1) The facility may allow residents to keep household pets such as dogs, cats, birds, fish, and hamsters if permitted by local ordinance and by facility policy.

(2) The facility shall ensure [P]pets [must]are [be-]kept clean and disease-free.

(3) The pets' environment shall be kept clean.

(4) Small pets such as birds and hamsters shall be kept in appropriate enclosures.

(5) Pets that display aggressive behavior are not permitted in the facility.

(6) Pets that are kept at the facility or are frequent visitors must have current vaccinations.

(7) Upon approval of the administrator, family members may bring residents' pets to visit.

(8) Each facility with birds shall have procedures ~~that~~ which prevent the transmission of psittacosis. Procedures shall ensure the minimum handling and placing of droppings into a closed plastic bag for disposal.

(9) Pets are not permitted in central food preparation, storage, or dining areas or in any area where their presence would create a significant health or safety risk to others.

**R432-270-28[9]. Respite Services.**

(1) Assisted Living facilities may offer respite services and are not required to obtain a respite license from the Utah Department of Health.

(2) The purpose of respite is to provide intermittent, time limited care to give primary caretakers relief from the demands of caring for a person. Respite services may also be provided for emergency shelter placement of vulnerable adults requiring protection by Adult Protective Services.

(3) Respite services may be provided at an hourly rate or daily rate, but ~~may~~ shall not exceed 14-days for any single respite stay. Stays ~~that~~ which exceed 14 days shall be considered a non-respite assisted living facility admission, subject to the requirements of Rule R432-270.

(4) The facility shall coordinate the delivery of respite services with the recipient of services, case manager, if one exists, and the family member or primary caretaker.

(5) The facility shall document the person's response to the respite placement and coordinate with all provider agencies to ensure an uninterrupted service delivery program.

(6) The facility ~~must~~ shall complete a service agreement to serve as the plan of care. The service agreement shall identify the prescribed medications, physician treatment orders, need for assistance for activities of daily living and diet orders.

(7) The facility shall have written policies and procedures approved by the Department prior to providing respite care. Policies and procedures ~~must~~ shall be available to staff regarding the respite care clients ~~that~~ which include:

(a) medication administration;

(b) notification of a responsible party in the case of an emergency;

(c) service agreement and admission criteria;

(d) behavior management interventions;

(e) philosophy of respite services;

(f) post-service summary;

(g) training and in-service requirement for employees; and

(h) handling personal funds.

(8) Persons receiving respite services shall be provided a copy of the Resident Rights documents upon admission.

(9) The facility shall maintain a record for each person receiving respite services ~~that~~ which includes:

(a) a service agreement;

(b) demographic information and resident identification data;

(c) nursing notes;

(d) physician treatment orders;

(e) records made by staff regarding daily care of the person in service;

(f) accident and injury reports; and

(g) a post-service summary.

(10) Retention and storage of respite records shall comply with Subsections R432-270-20[4](1), (2), and (5).

(11) If a person has an advanced directive, a copy shall be filed in the respite record and staff shall be informed of the advanced directive.

**R432-270-29[b]. Adult Day Care Services.**

(1) Assisted Living Facilities Type I and II may offer adult day care services and are not required to obtain a license from Utah Department of Human Services. If facilities provide adult day care services, they shall submit policies and procedures for Department approval.

(2) "Adult Day Care" means the care and support to three or more functionally impaired adults through a comprehensive program that provides a variety of social, recreational and related support services in a licensed health care setting.

(3) A qualified Director shall be designated by the governing board to be responsible for the day to day program operation.

(4) The Director shall have written records on-site for each consumer and staff person, to include the following:

(a[-]) ~~d[D]~~emographic information;

(b[-]) ~~a[A]~~n emergency contact with name, address and telephone number;

(c[-]) ~~c[C]~~onsumer health records, including the following:

(i) record of medication including dosage and administration;

(ii) a current health assessment, signed by a licensed practitioner; and

(iii) level of care assessment[-];

(d[-]) ~~S[S]~~igned consumer agreement and service plan[-];

(e) Employment file for each staff person ~~that~~ which includes:

(i) health history;

(ii) background clearance consent and release form;

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- (iii) orientation completion, and
- (iv) in-service requirements.
- (5) The program shall have a written eligibility, admission and discharge policy to include the following:
  - (a) intake process;
  - (b) notification of responsible party;
  - (c) reasons for admission refusal that includes a written, signed statement;
  - (d) resident rights notification; and
  - (e) reason for discharge or dismissal.
- (6) Before a program admits a consumer, a written assessment shall be completed to evaluate current health and medical history, immunizations, legal status, and social psychological factors.
- (7) A written consumer agreement, developed with the consumer, the responsible party and the Director or designee, shall be completed, signed by all parties and include the following:
  - (a) rules of the program;
  - (b) services to be provided and cost of service, including refund policy; and
  - (c) arrangements regarding absenteeism, visits, vacations, mail, gifts and telephone calls.
- (8) The Director, or designee, shall develop, implement and review the individual consumer service plan. The plan shall include the specification of daily activities and services. The service plan shall be developed within three working days of admission and evaluated semi-annually.
- (9) There shall be written incident and injury reports to document consumer death, injuries, elopement, fights or physical confrontations, situations that require the use of passive physical restraint, suspected abuse or neglect, and other situations or circumstances affecting the health, safety or well-being of a consumer while in care. Each report will be reviewed by the Director and responsible party. The reports shall be kept on file.
- (10) There shall be a daily activity schedule posted and implemented as designed.
- (11) Consumers shall receive direct supervision at all times and be encouraged to participate in activities.
- (12) There shall be a minimum of 50 square feet of indoor floor space per consumer designated for adult day care during program operational hours.
  - (a) Hallways, office, storage, kitchens, and bathrooms may not be included in the calculation.
  - (b) Indoor and outdoor areas shall be maintained in a clean, secure and safe condition.
  - (c) There shall be at least one bathroom designated for consumers use during business hours. For facilities serving more than 10 consumers, there shall be separate male and female bathrooms designated for consumer use.
- (13) Staff supervision shall be provided continually when consumers are present.
  - (a) When eight or fewer consumers are present, one staff person shall provide direct supervision.
  - (b) When 9-16 consumers are present, two staff shall provide direct supervision at all time. The ratio of one staff per eight consumers will continue progressively. Staff ratios shall be maintained at one staff for every eight consumers.
  - (c) In all programs where one-half or more of the consumers are diagnosed by a physician's assessment with Alzheimer's, or related dementia, the ratio shall be one staff for every six consumers.

**R432-270-30. Penalties.**

Any person who violates any provision of this rule may be subject to the penalties enumerated in Section 26-21-11 and Section R432-3-6 and be punished for violation of a class A misdemeanor as provided in Section 26-21-16.

**KEY: health care facilities**

**Date of Enactment or Last Substantive Amendment:** ~~August 20, 2019~~ 2020

**Notice of Continuation:** February 20, 2019

**Authorizing, and Implemented or Interpreted Law:** 26-21-5; 26-21-1

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	R450-4	Filing No. 52959

**Agency Information**

<b>1. Department:</b>	Heritage and Arts
<b>Agency:</b>	Administration
<b>Building:</b>	Rio Grande Depot
<b>Street address:</b>	300 S Rio Grande St
<b>City, state:</b>	Salt Lake City, UT
<b>Mailing address:</b>	PO Box 147110
<b>City, state, zip:</b>	Salt Lake City, UT 84114-7110

**Contact person(s):**

Name:	Phone:	Email:
Josh Loftin	801-386-4755	jloftin@utah.gov
Nubia Peña		npena@utah.gov

Please address questions regarding information on this notice to the agency.

**General Information**

<b>2. Rule or section catchline:</b>
R450-4. Utah Multicultural Commission

**3. Purpose of the new rule or reason for the change:**

This proposed new rule is required by H.B. 224, passed during the 2019 General Session. This rule supports the statutory authorization (Subsection 9-21-301(9)) of this commission by providing an administrative framework for membership.

**4. Summary of the new rule or change:**

This rule will provide clarity for the public about how the commissioners are appointed, the roles they play, membership duties, and procedures for the Multicultural Commission (Commission). Many of the commissioners are appointed based on their title so this is important for the public to understand.

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**

None--The commissioners are not paid, and meetings are held in the Capitol, so there are no fees. Meals are not typically provided, and administrative support is provided as part of the normal duties for staff in the Division of Multicultural Affairs. It does not generate revenue.

**B) Local governments:**

None--The Commission is an advisory body within state government and doesn't have authority or influence over local government activities.

**C) Small businesses** ("small business" means a business employing 1-49 persons):

None--The Commission is an advisory body within state government and doesn't have authority or influence over small businesses.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):

None--The Commission is an advisory body within state government and doesn't have authority or influence over business.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

None--The Commission is an advisory body within state government.

**F) Compliance costs for affected persons:**

None--The Commission is an advisory body within state government and doesn't regulate any person or organization.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

The Executive Director of the Department of Heritage and Arts, Jill Love, has reviewed and approved this fiscal impact.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

After reviewing this rule, there is no discernible impact on businesses in Utah.

**B) Name and title of department head commenting on the fiscal impacts:**

Jill Love, Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Subsection 9-21-301(9)		
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

NOTICES OF PROPOSED RULES

<b>A) Comments will be accepted until:</b>	08/31/2020
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<b>10. This rule change MAY become effective on:</b>	09/07/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Josh Loftin, Public Information Officer	<b>Date:</b>	07/01/2020
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**R450. Heritage and Arts, Administration**

**R450-4. Multicultural Commission.**

**R450-4-1. Purpose.**

This rule establishes the membership, duties, and procedures of the Utah Multicultural Commission.

**R450-4-2. Authority.**

This rule is required by Subsection 9-21-301(9) and enacted under the authority of Sections 9-21-201, 9-21-202.2, and 9-21-301.

**R450-4-3. Definitions.**

The terms used in this rule are defined in Sections 9-1-102 and 9-21-102.

**R450-4-4. Membership and Duties of the Commission.**

(1) Membership and duties of the Utah Multicultural Commission are outlined in Sections 9-21-301 through 9-21-302.

(2) A quorum of the commission members may select a co-chair of the commission. The co-chair will have the same authority as the chair defined in 9-21-301-2(a).

(3) A majority of the commission may request nominations for board members from organizations outside of the commission. Those nominations shall be submitted to the Governor for appointment.

(4) The commission may recommend the Governor appoint members based on specific job titles with automatic membership on the commission for the person holding that position.

(5) Members may designate a proxy for attendance and voting purposes at individual meetings, as needed.

**R450-4-5. Procedures.**

(1) The commission may adopt standards and procedures governing its internal operations, programs, and meeting protocol, consistent with state statute and its purposes under Sections 9-21-301 through 9-21-302.

(2) Any such standards and procedures shall be set forth in printed or electronic materials and available to the public.

(3) Proposed amendments to internal operating procedures, programs and meeting protocol shall be submitted in writing to all members of the commission in advance of the next regular meeting, at which time a majority of the commission is required for the adoption of the amendment. Amendments become effective immediately upon ratification.

**KEY: multicultural, commissions and boards, diversity**

**Date of Enactment or Last Substantive Amendment: 2020**

**Authorizing, and Implemented or Interpreted Law: 9-21-301**

<b>NOTICE OF PROPOSED RULE</b>		
<b>TYPE OF RULE:</b> Amendment		
<b>Utah Admin. Code Ref (R no.):</b>	<b>R597-3</b>	<b>Filing No. 52954</b>

**Agency Information**

<b>1. Department:</b>	Judicial Performance Evaluation Commission	
<b>Agency:</b>	Administration	
<b>Building:</b>	State Capitol Building	
<b>Street address:</b>	350 N State Street	
<b>City, state:</b>	Salt Lake City, UT 84103	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b> <b>Email:</b>	
Jennifer Yim		jjim@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R597-3. Judicial Performance Evaluations
<b>3. Purpose of the new rule or reason for the change:</b>
The reason for this filing is to make the following changes: to make permanent the emergency rule that was previously filed, to add courtroom observation training requirements, to clarify Judicial Performance Evaluation Commission (JPEC) actions related to judicial retirement notifications, and to bring JPEC into full compliance with Sections 78A-12-205 regarding consideration of judicial discipline. (EDITOR'S NOTE: The emergency filing on Section R597-3-3 that is effective as of 05/12/2020 is under Filing No. 52759 in the June 1, 2020, issue of the Bulletin.)
<b>4. Summary of the new rule or change:</b>
The rule was amended to allow for alternative courtroom observation options and to clarify evaluation duties with respect to judicial retirement notifications and judicial discipline

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**

The only amendments that will impact state budgets are those made to courtroom observation. This change to alternative courtroom observation options will save state monies paid to courtroom observers to reimburse travel. Total savings will depend on the ability of the court system to return to in-person hearings, both percentage of return and time of return. At its current rate, at the current in-person court hearing rate, savings is approximately \$53.42 per observation. Estimated cost-savings are based on the anticipation that courts will not return to a normal state of in-person hearings until then end of 2020. After that point in time, JPEC estimates that electronic observations may continue to account for approximately 1/4 of all observations.

FY2021:

Average observations per year = 203; per month = 17  
 July through December 2020 = 6 months at 17 observations = 102 Observations

Pandemic-missed observations in March and April = 17 x 2 make-up observations to complete = 34

Projected savings: 102 +34 = 136 electronic observations (136 x \$53.42 = \$7,265.12 *subtotal*)

January – June 2021 assume non-COVID environment. Estimate 1/4 of observations will be electronic and 3/4 in person (3/4 x 17 = 12.75 a month); 6 months at 12.75 visits at \$53.42 a visit = \$4,086.63; 6 full months is \$7,265.12

Projected savings: \$7,265.12 - \$4,086.63 = \$3,178.49 (subtotal)

Add two subtotals = \$7,265.12 + \$3,178.49 = \$10,443.61 FY2020 savings

FY2022 and FY2023

Assume FY22 matches last half of FY21, where 1/4 of the visits for JPEC will be completed electronically. 6 months = \$3,178.49 cost savings x 2 = \$6,356.98 each year.

**B) Local governments:**

There are no anticipated costs or savings to local governments. Local governments have been given access to the technology required to conduct online hearings and make them available to the public electronically by the Utah State Courts.

**C) Small businesses** ("small business" means a business employing 1-49 persons):

There are no anticipated costs or savings to small businesses. Small businesses do not participate in this process.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):

There are no anticipated costs or savings to non-small businesses. Non-small businesses do not participate in this process.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There are no anticipated costs or savings to persons other than small businesses, non-small business, state or local government entities. Persons other than those listed do not participate in this process.

**F) Compliance costs for affected persons:**

There are no anticipated compliance costs for affected persons. Local governments have been given access to the technology required to conduct online hearings and make them available to the public electronically by the Utah State Courts.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

**Regulatory Impact Table**

<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$10,443.61	\$6,356.98	\$6,356.98
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$10,443.61</b>	<b>\$6,356.98</b>	<b>\$6,356.98</b>
<b>Net Fiscal Benefits</b>	<b>\$10,443.61</b>	<b>\$6,356.98</b>	<b>\$6,356.98</b>

**H) Department head approval of regulatory impact analysis:**

The Executive Director of the Judicial Performance Evaluation Commission, Jennifer Yim, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

There are no anticipated fiscal impacts that this rule may have on businesses. Businesses do not participate in this process.

**B) Name and title of department head commenting on the fiscal impacts:**

Jennifer Yim, Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Section 78A-12-201	Section 78A-12-204	Section 78A-12-203
Section 78A-12-202	Section 78A-12-205	Section 78A-12-206

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 09/02/2020

**10. This rule change MAY become effective on:** 09/09/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Gil Miller, Chairperson	<b>Date:</b>	07/15/2020
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**R597. Judicial Performance Evaluation Commission.**

**R597-3. Judicial Performance Evaluations.**

**R597-3-3. Courtroom Observation.**

(1) Courtroom observations shall be conducted according to the evaluation cycles described in R597-3-1(1) and R597-3-1(2).

(2) Courtroom observers shall be volunteers, recruited by the commission through public outreach and advertising.

(3) For the purpose of courtroom observation, commission staff shall:

(a) notify each judge at the beginning of each survey cycle of the courtroom observation process and of the observation instrument to be used by the courtroom observers; ~~and~~

(b) select courtroom observers based on written applications and an interview process ~~[-]; and~~

(c) track and report the method by which each observation was conducted, as outlined in Subsection R597-3-3(8).

(4) Only the summary of the individual courtroom observation reports shall be included in the retention report published for each judge.

(5) Individuals with a broad and varied range of life experiences shall be sought to volunteer as courtroom observers, except that the following individuals may be excluded from eligibility:

(a) individuals who currently have, or have previously had, professional or personal involvement with the court system, or the judge;

(b) individuals with a fiduciary relationship with the judge;

(c) individuals within a third degree of relationship with a state or justice court judge (grandparents, parents or parents-in-law, aunts or uncles, children, nieces and nephews and their spouses);

(d) individuals lacking computer access or basic computer literacy skills;

(e) individuals currently involved in litigation in state or justice courts; or

(f) individuals whose background or experience suggests they may have a bias that would prevent them from objectively serving in the courtroom observation program.

(6) Courtroom observers shall:

(a) serve at the will of the commission staff;

(b) refrain from disclosing the content of their courtroom evaluations in any form or to any person except as designated by the commission;

(c) satisfactorily complete a courtroom observation training program developed by the commission before engaging in courtroom observation;

(d) conduct ~~[in-person]~~ courtroom observations of in-court proceedings for each judge they are assigned to observe, for a minimum of two hours ~~[while court is in session]~~; and

(e) upon completion of the observation of a judge, complete the observation instrument, which will be electronically transferred to commission staff.

(7) Courtroom observations may be completed in one sitting or over several courtroom ~~[visits]~~ calendars.

(8) Courtroom observations may be conducted using the following methods, as necessary to complete the required number of observations for a judge:

(a) in-person;

(b) by video, including web conferencing, live-streamed video, and pre-recorded video;

(c) by audio recordings; or

(d) a combination of the methods.



(~~8~~) The commission shall develop a courtroom observation training program that shall include:

- (a) orientation and overview of commission processes and the courtroom observation program;
- (b) classroom training addressing each level of court;
- (c) in-court group observations, with subsequent classroom discussions, for each level of court;
- (d) training on proper use of the observation instrument;
- (e) training on confidentiality and non-disclosure issues;

~~and~~ (f) training on electronic access methods to conduct observations;

(g) training on observation dynamics based on type of method; and

(~~f~~h) such other periodic trainings as are necessary for effective observations.

(~~9~~)<sup>10</sup> During each midterm and retention evaluation cycle, a minimum of four different courtroom observers shall observe each judge subject to that evaluation cycle.

(~~10~~)<sup>11</sup> Courtroom observers may observe a judge sitting in more than one geographic location or a justice court judge serving in more than one jurisdiction, in any location or combination of locations in which the judge holds court.

(~~11~~)<sup>12</sup> Courtroom observers, though volunteers, may be eligible to receive compensation in exchange for successful completion of a specified amount of additional courtroom observation work.

(~~12~~)<sup>13</sup> Courtroom observers shall evaluate the judicial behavior observed in court as it relates to procedural fairness by responding in narrative form to principles and behavioral standards which shall include:

- (a) neutrality, including but not limited to the judge:
  - (i) displaying fairness and impartiality toward all court participants;
  - (ii) acting as a fair and principled decision maker who applies rules consistently across court participants and cases;
  - (iii) explaining transparently and openly how rules are applied and how decisions are reached; and
  - (iv) listening carefully and impartially;
- (b) respect, including but not limited to the judge:
  - (i) demonstrating courtesy toward attorneys, court staff, and others in the court;
  - (ii) treating all people with dignity;
  - (iii) helping interested parties understand decisions and what the parties must do as a result;
  - (iv) maintaining decorum in the courtroom;
  - (v) demonstrating adequate preparation to hear scheduled cases;
  - (vi) acting in the interests of the parties, not out of demonstrated personal prejudices;
  - (vii) managing caseload efficiently and demonstrating awareness of the effect of delay on court participants; and
  - (viii) demonstrating interest in the needs, problems, and concerns of court participants;
- (c) voice, including but not limited to the judge:
  - (i) giving parties the opportunity, where appropriate, to give voice to their perspectives or situations and demonstrating that they have been heard;
  - (ii) behaving in a manner that demonstrates full consideration of the case as presented through witnesses, arguments, pleadings, and other documents; and

(iii) attending, where appropriate, to the participants' comprehension of the proceedings;

(d) any other questions necessary to help the commission assess the overall performance of the judge with respect to procedural fairness.

#### **R597-3-6. Judicial Retirements and Resignations.**

(1) For purposes of judicial performance evaluation, the commission shall evaluate each judge ~~until~~ unless the judge:

- (a) provides written notice of resignation or retirement to the ~~Governor~~ appointing authority;
- (b) is removed from office;
- (c) becomes subject to mandatory judicial retirement due to age;
- (d) otherwise vacates the judicial office; or
- (e) fails to properly file for retention.

(2) For purposes of judicial performance evaluation, when one of the events in Subsection R597-3-6(1) occurs, then the commission shall end its evaluation of the judge when the judge's last day in office will be:

(a) on or before December 31 of the year of the judge's retention election, if the judge's evaluation is a retention evaluation, or

(b) on or before April 1 of the year following the judge's midterm survey, if the judge's evaluation is a midterm evaluation.

(~~2~~)<sup>3</sup> The retention evaluation for a judge who provides written notice of resignation or retirement following completion of the retention evaluation but before distribution of the retention evaluation, shall be sent to the Judicial Council.

(4) If, pursuant to Subsections R597-3-6(1)(a) and R597-3-6(2), the commission ends the evaluation of a judge, and the judge does not leave office as indicated, the commission may choose to publish only the data collected prior to ending the evaluation, or to complete the evaluation, and

(a) if the judge is subject to a retention evaluation, the commission may elect not to issue a retention recommendation, if it also notes the reason for the election in the judge's report, as in Subsection 78A-12-206(4)(e); or

(b) if the judge is subject to a midterm evaluation, the commission may send the report to the judge without qualifying it as a partial midterm, as in Subsection 78A-12-203(7)(d).

#### **R597-3-9. Judicial Discipline.**

(1) For the purposes of judicial performance evaluation and pursuant to section 78A-12-205, the commission shall consider any public sanction of a judge issued by the Supreme Court during the judge's current term, including any public sanctions:

(a) issued during the judge's midterm and retention evaluation cycles; and

(b) issued after the end of the judge's retention evaluation cycle until the commission votes whether to recommend the judge for retention.

(2) If the Utah Supreme Court issues a public sanction of a judge after the reconsideration period is no longer available, as set forth in Subsection 78A-12-203(6), but before Election Day, the commission may elect to reconsider the commission's recommendation, using the reconsideration process outlined in Subsection 78A-12-203(6), even if the results of the reconsideration cannot be printed in the Voter Information Pamphlet, so long as the reconsideration is communicated through some public means.

NOTICES OF PROPOSED RULES

(3) If the Utah Supreme Court issues a public sanction of a judge after the retention election of the judge, but before the end of the judge's term of office, and if the judge is retained by voters, the commission shall consider the public sanction as part of the judge's next judicial performance evaluation.

**KEY:** judicial performance evaluations, judges, evaluation cycles, surveys  
**Date of Enactment or Last Substantive Amendment:** ~~September 23, 2019~~ 2020  
**Notice of Continuation:** February 5, 2019  
**Authorizing, and Implemented or Interpreted Law:** 78A-12

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R597-4-2	Filing No. 52955

**Agency Information**

<b>1. Department:</b>	Judicial Performance Evaluation Commission	
<b>Agency:</b>	Administration	
<b>Building:</b>	State Capitol Building	
<b>Street address:</b>	350 N State Street	
<b>City, state:</b>	Salt Lake City, UT 84103	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jennifer Yim		jyim@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R597-4-2. Mid-level Evaluation of Justice Court Judges
<b>3. Purpose of the new rule or reason for the change:</b>
The reason for the filing is to make permanent the COVID-19 modifications previously filed as an emergency rule. (EDITOR'S NOTE: The emergency filing on Section R597-4-2 that is effective as of 05/12/2020 is under Filing No. 52760 in the June 1, 2020, issue of the Bulletin.)
<b>4. Summary of the new rule or change:</b>
Due to the physical restrictions created by COVID-19, mid-level evaluations for justice court judges are currently not available. The emergency rule modifications to mid-level evaluations also have substantive value, including more thorough evaluations, increased internal flexibility to respond to changing environments, and cost savings.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
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<b>A) State budget:</b>
Judicial Performance Evaluation Commission (JPEC) estimates that there will be temporary and permanent cost savings. Assuming that in-person court hearings do not resume statewide until January 1, 2021, JPEC will save travel costs by substituting courtroom observation for approximately 1/2 of all its travel visits. After September 30, 2021, JPEC would encounter a permanent annual cost savings (\$950) by substituting courtroom observation any time a third interview visit would otherwise be required due to low numbers of interviews collected across the first two visits.
<b>B) Local governments:</b>
There are no anticipated costs or savings to local governments. Local governments have been given access to the technology required to conduct online hearings and make them available to the public electronically by the Utah State Courts.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
There are no anticipated costs or savings to small businesses. Small businesses do not participate in this process.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
There are no anticipated costs or savings to non-small businesses. Non-small businesses do not participate in this process.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):
There are no anticipated costs or savings to persons other than small businesses, non-small business, state or local government entities. Persons other than listed above do not participate in this process.
<b>F) Compliance costs for affected persons:</b>
There are no anticipated compliance costs for affected persons. Local governments have been given access to the technology required to conduct online hearings and make them available to the public electronically by the Utah State Courts.
<b>G) Regulatory Impact Summary Table</b> (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$1,340	\$1,610	\$950
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$1,340</b>	<b>\$1,610</b>	<b>\$950</b>
<b>Net Fiscal Benefits</b>	<b>\$1,340</b>	<b>\$1,610</b>	<b>\$950</b>
<b>H) Department head approval of regulatory impact analysis:</b>			
The Executive Director of the Judicial Performance Evaluation Commission, Jennifer Yim, has reviewed and approved this fiscal analysis.			
<b>6. A) Comments by the department head on the fiscal impact this rule may have on businesses:</b>			
There are no anticipated fiscal impacts that this rule may have on businesses. Businesses do not participate in this process.			
<b>B) Name and title of department head commenting on the fiscal impacts:</b>			
Jennifer Yim, Executive Director			

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Section 78A-12-201	Section 78A-12-204	Section 78A-12-203
Section 78A-12-202	Section 78A-12-205	Section 78A-12-206

**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2020

**10. This rule change MAY become effective on:** 09/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Gil Miller, Chairperson	<b>Date:</b>	07/15/2020
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**R597. Judicial Performance Evaluation Commission, Administration.**

**R597-4. Justice Courts**

**R597-4-2. Mid-level Evaluation of Justice Court Judges.**

(1) Mid-level evaluations shall include an intercept survey, as specified in Subsection 78A-12-207(3), which may include follow-up interviews by phone, as necessary;

(2) A mid-level evaluation may include courtroom observation, conducted using the methods in Subsection R597-3-2(8), in order to allow for sufficient data collection to conduct an evaluation.

(3) When a mid-level evaluation includes data collection methods beyond an intercept survey, as allowed in Subsection R597-4-2(2), commission staff shall track and report the additional methods used.

**KEY:** justice court evaluations, justice court multiple jurisdictions, justice court classifications, justice court multiple election years

**Date of Enactment or Last Substantive Amendment:** ~~September 23, 2019~~ 2020

**Notice of Continuation:** March 22, 2019

**Authorizing, and Implemented or Interpreted Law:** 78A-12-201 through 78A-12-206

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R597-5	Filing No. 52958

**Agency Information**

<b>1. Department:</b>	Judicial Performance Evaluation Commission	
<b>Agency:</b>	Administration	
<b>Building:</b>	State Capitol Building	
<b>Street address:</b>	350 N State Street	
<b>City, state:</b>	Salt Lake City, UT 84103	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jennifer Yim		jyim@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R597-5. Electronic Meetings
<b>3. Purpose of the new rule or reason for the change:</b>
The Utah Public Notice Website needed to be added to the rule.
<b>4. Summary of the new rule or change:</b>
The change adds that notice shall also be provided to the Utah Public Notice Website.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There are no anticipated cost or savings to the state budget. The amendment is simply adding location notice of the meeting.
<b>B) Local governments:</b>
There are no anticipated costs or savings to local governments. The amendment is simply adding location notice of the meeting.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
There are no anticipated costs or savings to small businesses. The amendment is simply adding location notice of the meeting.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):

There are no anticipated costs or savings to non-small businesses. The amendment is simply adding location notice of the meeting.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There are no anticipated costs or savings to persons other than small businesses, non-small business, state or local government entities. The amendment is simply adding location notice of the meeting.

**F) Compliance costs for affected persons:**

There are no anticipated compliance costs for affected persons.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>H) Department head approval of regulatory impact analysis:</b>
The Executive Director of the Judicial Performance Evaluation Commission, Jennifer Yim, has reviewed and approved this fiscal analysis.
<b>6. A) Comments by the department head on the fiscal impact this rule may have on businesses:</b>
There are no anticipated fiscal impacts that this rule may have on businesses.
<b>B) Name and title of department head commenting on the fiscal impacts:</b>
Jennifer Yim, Executive Director

**Citation Information**

<b>7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):</b>
Section 52-4-207

**Public Notice Information**

<b>9. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)
<b>A) Comments will be accepted until:</b> 08/31/2020

<b>10. This rule change MAY become effective on:</b> 09/07/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b> Gil Miller, Chairperson	<b>Date:</b> 07/15/2020
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**R597. Judicial Performance Evaluation Commission, Administration.**

**R597-5. Electronic Meetings.**

**R597-5-1. Authority and Purpose.**

(1) This rule is authorized by Section 52-4-207(2)(a) which requires any public body that convenes or conducts an electronic meeting to adopt a rule governing the use of electronic meetings.

(2) The purpose of this rule is to establish procedures for the public bodies created in Title 63M, Chapter 7 and Title 77, Chapter 32 to hold open meetings by electronic means.

**R597-5-2. Procedures.**

(1) The following provisions govern any meeting at which one or more commissioners appear telephonically or electronically pursuant to Utah Code Section 52-4-207:

(a) If one or more members of the commission may participate electronically or telephonically, public notices of the meeting shall so indicate. In addition, the notice shall specify the anchor location where the members of the commission not participating electronically or telephonically will be meeting and where interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

(b) Notice of the meeting and the agenda shall be posted at the anchor location. Written or electronic notice shall also be provided to the Utah Public Notice Website or to at least one newspaper of general circulation within the state and to a local media correspondent. These notices shall be provided at least 24 hours before the meetings.

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

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

(e) The anchor location, unless otherwise designated in the notice, shall be at the Commission on Criminal and Juvenile Justice, located in the Utah State Capitol Complex, in suite 330 of the Senate Building, Salt Lake City, Utah. The anchor location is the physical location from which the electronic meeting originates or from which the participants are connected. In addition, the anchor location shall have space and facilities so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

**KEY: electronic meetings, procedures**

**Date of Enactment or Last Substantive Amendment:** ~~January 2, 2018~~ 2020

**Authorizing, and Implemented or Interpreted Law:** 52-4-207

<b>NOTICE OF PROPOSED RULE</b>		
<b>TYPE OF RULE:</b> Repeal and Reenact		
<b>Utah Admin. Code Ref (R no.):</b> R657-56	<b>Filing No.</b> 52844	

**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Wildlife Resources	
<b>Room no.:</b>	Suite 2110	
<b>Building:</b>	Department of Natural Resources	
<b>Street address:</b>	1594 W North Temple	
<b>City, state:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146301	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-6301	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>
R657-56. Recreational Lease of Private Lands for Free Public Walk-in Access
<b>3. Purpose of the new rule or reason for the change:</b>
This rule is being repealed and reenacted pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) rule pursuant to the walk-in access program.
<b>4. Summary of the new rule or change:</b>
The proposed changes to this rule: 1) repeals the current rule, and 2) reenacts the proposed rule amendments. Due to the amount of changes a repeal and reenact was the best option. The Walk in Access program in Utah provides hunters and anglers access to privately held lands and waters for the purpose of hunting, trapping, and fishing. Approximately 82,000 acres of land, 55 miles of stream, and 200 acres of ponds are made available for free public access through this program. The proposed rule amendments simplify the program, update administrative procedures, clarify rule requirements and expectations, and expand opportunities. Substantive changes are as follows: in Section R657-56-3, provides more definitive requirements for proof of ownership of property; in Section R657-56-4, simplifies acreage requirements to expand new opportunities for smaller properties and discontinue option for multiple owners to form landowner association Walk in Access property; adds emphasis to the quality of the habitat and wildlife for program participation; in Section R657-56-5, clarifies how an agreement is established and basic terms of all Walk in Access agreements; in Section R657-56-6, clarifies factors that may affect compensation; in Section R657-56-7, clarifies landowner responsibilities; discontinue use of registration boxes; discontinue landowner requirement for

individual permission for each public access; in Section R657-56-8, clarifies DWR responsibilities; in Section R657-56-9, clarifies terms and conditions for termination of agreements; in Section R657-56-11, standardizes open seasons and clarify exceptions, and special provisions; in Section R657-56-12, updates process of obtaining authorization and clarify its purposes; in Section R657-56-13, clarifies restriction of individuals from Walk in Access properties; and in Section R657-56-15, adds section to enable current agreements to continue under the terms and conditions which pertained at the time they were established.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The proposed rule amendments simplify the program, update administrative procedures and clarify the rule requirements and expectations, these changes can be initiated within the current workload and resources. The DWR has determined that these amendments do not create a cost or savings impact to the state budget or DWR's budget since the changes will not increase workload and can be carried out with existing budget.
<b>B) Local governments:</b>
Since the proposed amendments only clarify and simplify a program already in place, this filing does not create any direct cost or savings impact to local governments. Nor are local governments indirectly impacted because this rule does not create a situation requiring services from local governments.
<b>C) Small businesses ("small business" means a business employing 1-49 persons):</b>
The proposed rule amendments will not directly impact small businesses because a service is not required of them.
<b>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</b>
The proposed rule amendments will not directly impact non-small businesses because a service is not required of them.
<b>E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):</b>
These amendments do not have the potential to create a cost impact to those individuals wishing to participate in the Walk in Access program.

<b>F) Compliance costs for affected persons:</b>			
DWR has determined that this amendment will not create additional costs for those participating in the Walk in Access program.			
<b>G) Regulatory Impact Summary Table</b> (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)			
<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Natural Resources, Brian Steed, has reviewed and approved this fiscal analysis.			
<b>6. A) Comments by the department head on the fiscal impact this rule may have on businesses:</b>			
After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses.			

<b>B) Name and title of department head commenting on the fiscal impacts:</b>
Brian Steed, Executive Director

**Citation Information**

<b>7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):</b>		
Section 23-14-18	Section 23-14-19	

**Public Notice Information**

<b>9. The public may submit written or oral comments to the agency identified in box 1.</b> (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)	
<b>A) Comments will be accepted until:</b>	08/31/2020

<b>10. This rule change MAY become effective on:</b>	09/07/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Mike Fowlks, DWR Director	<b>Date:</b>	07/10/2020
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**R657. Natural Resources, Wildlife Resources.**

~~**R657-56. Recreational Lease of Private Lands for Free Public Walk-in Access.**~~

~~**R657-56 1. Purpose and Authority.**~~

~~Under the authority of Sections 23-14-3(2), 23-14-18, and 23-14-19, this rule provides the procedures, standards, and requirements to administer a Walk In Access program in the State of Utah designed to compensate private landowners for leasing private property for the purpose of allowing free public access for wildlife dependent recreation.~~

~~**R657-56 2. Definitions.**~~

- ~~(1) Terms used in this rule are defined in Section 23-13-2.~~
- ~~(2) In addition:~~
  - ~~(a) "Base rate fee" is the minimum payment that a landowner is eligible for excluding all bonus payments.~~

NOTICES OF PROPOSED RULES

(b) "Contiguous" means parcels of real property that share a common property line and are otherwise connected as a single mass, excluding parcels that adjoin only at corners.

(c) "Landowner association" means a landowner or group of landowners of private land organized as a single entity for the purpose of applying for and becoming a WIA property.

(d) "Landowner association chair" means an individual designated by a landowner association as their representative.

(e) "Landowner association member" means an individual landowner participating in the landowner association.

(f) "Private landowner" means any individual, partnership, corporation, or association that possesses the legal right on private property to grant a recreational lease.

(g) "Recreational lease activities" mean wildlife dependent recreation limited to fishing, hunting or trapping as provided in the wildlife dependent recreational lease agreement.

(h) "WIA" means walk in access.

**R657-56-3. Walk-In Access Landowner Enrollment Procedures.**

(1) A private landowner with eligible property may participate in the WIA program provided they submit an application to the appropriate division office by June 30, with the following information:

(a) evidence of property ownership, or if leasing the private property a copy of the lease agreement; and

(b) county recorder plat maps or equivalent maps, dated by receipt of purchase within 30 days of the initial or renewal enrollment deadline, depicting boundaries and ownership of all property enrolled in the WIA.

(c) the private landowner's signature.

(3) two or more landowners with contiguous properties may join together to form a landowner association provided the combined properties meet the minimum requirements in R657-56-5.

(4) Application forms are available at the appropriate division office.

**R657-56-4. Walk-In Access Recreational Lease Agreement.**

(1) The division and private landowner shall prepare and agree to the terms in a WIA recreational lease agreement by July 1.

(2) Terms in the WIA recreational lease agreement shall include private landowner and division responsibilities, including the provisions in Sections R657-56-8 and R657-56-9, and compensation necessary to provide free public access for wildlife dependent recreational activities on private property.

(3) The amount of compensation paid to the private landowner participating in the WIA program shall be determined by:

(a) the type of wildlife dependent recreational lease activity allowed on the private property;

(b) the duration of the recreational lease agreement; and

(c) the number of acres of private land or pond, or miles of stream or river available for free public walk in access.

(4) Upon mutual agreement, the division may provide habitat improvement, materials, or labor on the WIA property in lieu of all or part of the monetary compensation otherwise due for free public walk-in access.

(a) If habitat improvement, materials, and/or labor are provided by the division then the duration of the agreement shall be determined upon mutual agreement and based on the divisions cost estimate for the project.

**R657-56-5. Walk-In Access Program Requirements.**

(1) Private property enrolled in the WIA program must provide suitable habitat that can support the wildlife dependent recreational lease activity described in the WIA recreational lease agreement, and:

(a) contain no less than an 80 acre contiguous block of land for hunting or trapping;

(b) contain no less than a 40 acre contiguous block of wetland or riparian land for hunting or trapping;

(c) contain a minimum of .25 miles of stream or river;

(d) contain a minimum 5 acres of pond;

(e) the property provides an access corridor to comparable tracts of isolated public land or fishing waters open to free wildlife dependent recreational activities.

(2) If two or more landowners are joining private property to form a landowner association for the WIA program the property must:

(a) contain no less than a 320 acre contiguous block of land for hunting or trapping;

(b) contain no less than a 160 acre contiguous block of wetland or riparian land for hunting or trapping;

(c) contain a minimum of 1 mile of stream or river.

(3) No land parcel may be included in more than one WIA.

(4)(a) Division personnel shall evaluate proposed WIA property to determine if the property provides suitable wildlife or fish populations and habitat for the designated recreational lease activity.

(b) The property must be capable of independently maintaining the respective species and harboring them during the period of the designated recreational lease.

(c) If the property is approved for the designated wildlife dependent recreational lease activity, the division and private landowner may enter into the WIA recreational lease agreement as provided in Section R657-56-4.

**R657-56-7. Walk-In Access Compensation.**

(1) The amount of compensation payment to a landowner is determined by the acreage or miles of stream used for the WIA program and the type of recreational activity allowed on the private property.

(a) Payments to a landowner association will be issued to the WIA landowner chair who will be responsible for disbursement of funds to other participating landowners.

(b) The landowner association will receive a base rate fee for the qualifying property and activity in addition to a bonus of 25% of the base rate.

(2) A bonus fee will be added to the base rate fee when a private landowner enrolls private property in the recreational lease agreement for additional consecutive years as follows:

(a) five percent will be added for two years; or

(b) ten percent will be added for three years; or

(c) fifteen percent will be added for four years; or

(d) twenty percent will be added for five years.

(3) Upon mutual agreement, the division may provide habitat improvement, materials, or labor on the WIA property in lieu of all or part of the monetary compensation otherwise due for free public walk-in access.

(a) Employees of the division will provide evaluation of the property for habitat improvement.

(b) A habitat project proposal must be completed, reviewed, and approved through the divisions Habitat Council, Blue Ribbon Fisheries Council, or the Watershed Restoration Initiative.



~~(c) The division and the private landowner will agree to the duration of the agreement based on the estimated value of the habitat project as determined by the division.~~

**R657-56-8. Walk In Access Program Landowner Responsibilities.**

~~(1) Each private landowner enrolled in the WIA program must provide:~~

~~(a) free public walk in access for wildlife dependent recreational lease activities as provided in the recreational lease agreement; and~~

~~(b) private land with suitable habitat that can support the recreational lease activity; or~~

~~(c) an access corridor to comparable tracts of isolated public land open to free public access for wildlife dependent recreational activities.~~

~~(2) Each private landowner must indicate the type of landowner authorization required for the public to use the WIA for wildlife dependent recreational activities as follows:~~

~~(a) WIA authorization is the only requirement to access the property;~~

~~(b) registration at a WIA site is required prior to accessing the property; or~~

~~(c) contacting the landowner is required prior to accessing the property.~~

~~(3) The private landowner must transfer to the division, the recreational lease of their property for the wildlife dependent recreational lease activities designated in the WIA recreational lease agreement.~~

**R657-56-9. Walk In Access Program Division Responsibilities.**

~~The division shall provide:~~

~~(1) evaluations of habitat, wildlife or fish on the proposed WIA property as provided in Section R657-56-5;~~

~~(2) WIA recreational lease agreement forms;~~

~~(3) WIA authorization program;~~

~~(4) WIA registration forms and boxes when applicable;~~

~~(5) maps, requirements, and signs for enrolled WIA property as provided in the recreational lease agreement; and~~

~~(6) law enforcement during applicable wildlife dependent recreational activities; and~~

~~(7) compensation payments to landowners following successful completion of the terms of the WIA recreational lease agreement.~~

**R657-56-10. Termination of Walk In Access Recreational Lease Agreement.**

~~(1) The WIA recreational lease agreement may be:~~

~~(a) terminated for any reason by either party upon 30 days written notice; or~~

~~(b) amended at any time upon written agreement by the landowner and the division.~~

~~(2) If a WIA recreational lease agreement is terminated as provided in Subsection (1)(a), prior to the ending date specified in the recreational lease agreement, the compensation fee shall be prorated based upon the recreational lease activity provided and the number of days that access was provided.~~

~~(3) Restriction of public use by the landowner of the private property enrolled in the WIA program in violation of the recreational lease agreement may void all or a portion of the WIA recreational lease agreement.~~

~~(4) Any change in private land ownership of enrolled WIA property may terminate the WIA recreational lease agreement.~~

~~(5) Misrepresentation of enrolled private property in the WIA program shall terminate the WIA recreational lease agreement.~~

~~(6) If a habitat project is provided by the division and the landowner terminates the contract prior to the agreed term, the landowner will be required to reimburse the division the value of the project, which shall be prorated based on termination date.~~

**R657-56-11. Liability Protection for Walk In Access Private Landowner.**

~~Landowner liability may be limited when free public access is allowed on private property enrolled in the WIA program for the purpose of any recreational lease activities as provided in Title 57, Chapter 14 of the Utah Code.~~

**R657-56-12. Licenses, Permits and Seasons.**

~~(1) Any person accessing WIA private lands for wildlife dependent recreational activities must obtain and possess the required valid license or permit for the recreational lease activity, and must adhere to the respective rules and proclamations established by the Wildlife Board.~~

~~(2)(a) If enrolled WIA property requires prior private landowner authorization or any other requirement as provided in the recreational lease agreement, any person entering enrolled WIA private lands for wildlife dependent recreation must comply with said requirements.~~

~~(b) The division shall provide to the public maps of approved and enrolled WIA locations and requirements as determined in the recreational lease agreement.~~

**R657-56-13. Walk in Access Authorization Program (WIAA).**

~~(1) Any person 14 years of age and older must obtain an annual Walk in Access Authorization registration number to access properties enrolled in the Walk in Access Program and may be required, while in the field, to prove they have registered.~~

~~(2) WIA authorization numbers will be valid from January 1 to December 31 for the year that they are obtained.~~

~~(3) To obtain an WIA authorization number, a person must call the telephone number published on line or on signs available at WIA access points and provide the following information:~~

~~(a) combination, fishing, or hunting license number;~~

~~(b) license code or type;~~

~~(c) name;~~

~~(d) address;~~

~~(e) phone number;~~

~~(f) birth date; and~~

~~(g) information about their use of Walk in Access areas.~~

**R657-56-14. Right to Deny Access.**

~~The division or the private landowner reserves the right to deny a person access to the WIA property described in the recreational lease agreement for causes related to, but not limited to, intoxication, damage to WIA property, violations of conditions provided in the recreational lease agreement, failure to obtain a WIA authorization number, or any wildlife violation committed on WIA property.~~

**R657-56-15. Prohibited Activities.**

~~(1) It is unlawful for any person to access WIA property in violation of the recreational lease agreement, or refuse to leave WIA property when requested by the landowner, a division representative, or a peace officer.~~

~~(2) Any person accessing WIA property in violation of Subsection (1) may further be subject to criminal trespass prosecution as provided in Sections 23-20-14 and 76-6-206.]~~

**R657-56. Lease of Private Lands for Free Public Walk-in Access.**  
**R657-56-1. Purpose and Authority.**

Under the authority of Sections 23-14-18, 23-14-19, and Subsection 23-14-3(2), this rule provides the procedures, standards, and requirements to administer a Walk-In Access program designed to compensate private landowners for leasing private property for the purpose of allowing free public access for wildlife-dependent recreation.

**R657-56-2. Definitions.**

- (1) Terms used in this rule are defined in Section 23-13-2.
- (2) In addition:
  - (a) "Contiguous" means parcels of real property that share a common property line and are otherwise connected as a single mass, excluding parcels that adjoin only at corners.
  - (b) "Division" means Utah Division of Wildlife Resources.
  - (c) "Private landowner" means any individual, partnership, corporation, lessee, or association that possesses the legal right on private property to grant rights for hunting, trapping, or fishing within a lease agreement.
  - (d) "Recreational lease activities" means specific wildlife-dependent recreation activities that are made available to the public on a Walk-in Access property, through a Walk-in Access lease agreement.
  - (e) "WIA" means Walk-in Access, a program of the Utah Division of Wildlife Resources.
  - (f) "Wildlife-dependent recreation" means hunting, trapping, or fishing.

**R657-56-3. Walk-In Access Private Landowner Enrollment Procedures.**

- (1) A private landowner with eligible property as outlined in Section (4) may be considered for a WIA recreational lease agreement upon providing:
  - (a) evidence of property ownership;
  - (b) evidence of a lease agreement or other form of certification verifying a lessee's right to enter a WIA recreational lease agreement with the division, if applicable; and
  - (c) county recorder plat or equivalent map depicting property boundaries and ownership.
- (2) Verification of property ownership shall be obtained prior to finalization of a WIA agreement.
- (3) The division may require additional supporting documentation to verify property ownership, boundaries, statements or claims.

**R657-56-4. Walk-In Access Program Minimum Requirements.**

- (1) Private property enrolled in the WIA program must provide suitable habitat to support the recreational lease activities described in the WIA recreational lease agreement, and contain:
  - (a) no less than a 40 acre contiguous block of land, wetland, or riparian area for hunting or trapping;
  - (b) a minimum of 0.25 continuous miles of stream or river;  
or
    - (c) a minimum of one contiguous acre of lake, reservoir, or pond.
- (2)(a) A private property which does not meet the minimum acreage or mileage requirements may be considered for approval based on the division's determination that the property holds

a unique value which is highly beneficial to the public and not otherwise attainable.

(b) The statewide WIA coordinator must give specific approval for any property which does not meet the minimum acreage or mileage requirements.

(c) The property shall not be exempt from any other minimum requirement.

(3)(a) A WIA lease agreement may be developed for a property which provides a corridor to public lands or waters suitable for hunting, trapping, or fishing that are otherwise inaccessible, or reasonably inaccessible without such corridor or easement.

(b) Agreement terms for a WIA property containing an access corridor to public lands may be compensated with a rate consistent to the amount of land or water being made available to the public.

(4) No land parcel may be included in more than one WIA agreement, nor may a WIA property be in another lease or other agreement regarding the same hunting, trapping, or fishing access privileges.

(5)(a) The division shall evaluate a prospective WIA property to determine suitable wildlife and habitat for the designated recreational lease activities.

(b) The property must be capable of independently maintaining and harboring the respective species for the recreational lease activities identified for the period designated in the recreational lease agreement.

(c) The division may review the property periodically throughout the term of the lease agreement to determine if quality is maintaining, improving, or declining.

(d) The access, area, and boundaries of the property must be practicable to and suitable for the wildlife recreational lease activities.

(6)(a) Enrollment and participation in the WIA program is a privilege, not guaranteed, and at the sole discretion of the division, even if an applicant satisfies the minimum program requirements.

(b) The division may prioritize program enrollments and allocate lease compensation amounts based upon identified public recreational access needs, wildlife resource management objectives, and administrative limitations.

**R657-56-5. Walk-In Access Lease Agreement.**

(1) A WIA property is established through a written WIA lease agreement between the private landowner and the division.

(2) Terms of the agreement shall include private landowner and division responsibilities and compensation amount for the term of the agreement.

(3)(a) The private landowner transfers all access rights for the wildlife activities included in the WIA lease agreement for the agreement's term.

(b) WIA leases containing corridors to public land or water, or that are immediately adjacent to public land or water, transfer all access rights to cross through the WIA property to the division for the wildlife activities included in the WIA recreational lease agreement.

(c) Public access on a WIA property shall be by foot only, unless otherwise authorized by the private landowner.

(d) Public access on a WIA property does not authorize trespass on adjacent private lands or waters.

(4) The terms and provisions of the WIA recreational lease agreement may be formally amended in writing at any time upon the mutual agreement of the division and the private landowner.

**R657-56-6. Walk-In Access Compensation.**

(1) The amount of compensation paid to the private landowner may be determined by the:

- (a) type of recreational activities allowed;
- (b) duration of the recreational lease agreement;
- (c) actual acreage of land or flat water, or length of stream or river which is legally allowed to be hunted, trapped, or fished; and
- (d) quality of the habitat, location, species abundance or opportunities, and potential for public use.

(2)(a) Total compensation may be reduced or increased by the division based upon: (a) the type of recreational lease activities allowed:

- (b) quality of public accessibility;
- (c) number of consecutive years within an agreement;
- (d) number of persons using the property;
- (e) number of visits to the property per year by the public; and

(f) quality of the wildlife experience provided by the property.

(3) Final payment for an agreement which is terminated prior to the established expiration date, for which was given a higher rate of compensation due to the term length of the agreement, may be reduced according to the rate equivalent to the actual term length of the agreement.

(4)(a) Upon mutual agreement, the division may provide habitat improvement, materials, or labor on the WIA property in lieu of all or part of the monetary compensation otherwise due for free public walk-in access.

(b) If a habitat improvement project performed or funded by the division is used as compensation for a walk-in access agreement, the division will provide an evaluation of the property, a summary of the proposed project, and an estimated in-kind value estimate to the landowner.

(c) A habitat project proposal must be completed, reviewed, and approved through the Habitat Council, Blue Ribbon Fisheries Council, or the Watershed Restoration Initiative to qualify for use in the walk-in access program.

(d) The division and the private landowner must mutually agree to the use of a habitat project, its estimated cost, and in-kind value to be used as compensation for a WIA lease agreement.

(e) A private landowner that received habitat improvement, materials, or labor in lieu of compensation, who ends a WIA lease agreement prior to the compensatory conditions of the habitat project agreement being fulfilled, may be assessed the balance of the predetermined cost.

**R657-56-7. Walk-In Access Program Private Landowner Responsibilities.**

(1) Each WIA property with an active lease agreement must provide for the duration of the agreement:

- (a) free public walk-in access for recreational lease activities described within the agreement;
- (b) at least one designated and reasonable public access point to enter the property; and
- (c) at least one designated and reasonable public parking area in close proximity to the access point.

(2) The private landowner is responsible to verify accuracy of their WIA property map, description, conditions and other details as displayed on the division's webpage and must report any inaccuracy immediately to the division.

**R657-56-8. Walk-In Access Program Division Responsibilities.**

(1) The division shall provide:

- (a) an evaluation of the property prior to entering into a WIA agreement;
- (b) an annual WIA authorization document which public users must obtain prior to entering WIA properties;
- (c) a webpage displaying active properties, maps, authorized wildlife recreation activities, access points, designated parking areas, and special terms or conditions;
- (d) WIA signage and adequate posting of signs as determined by the division; and
- (e) discretionary law enforcement during seasons relative to the lease activities.

**R657-56-9. Termination of Walk-In Access Recreational Lease Agreement.**

(1) The WIA recreational lease agreement may be terminated with 30 days notice for any reason by either party.

(2) The WIA recreational lease agreement shall be terminated immediately upon:

- (a) sale of any portion of the WIA property that is under lease;
- (b) any change in ownership of a WIA property;
- (c) misrepresentation, deceit, or fraud pertaining to the agreement or any of its provisions; or
- (d) any uncured breach or default of the WIA recreation lease agreement.

(3) The WIA recreational lease agreement may be terminated immediately upon:

- (a) unauthorized restriction of public use by the private landowner; or
- (b) any habitat or property evaluation occurring within the term of the agreement indicating the property is no longer capable of supporting the recreational lease activities listed within the agreement.

(4) Agreements having been terminated prior to the term completion may be subject to reduced compensation, prorated according to the number of days recreational lease activities were prematurely ended.

**R657-56-10. Liability Protection for Walk-In Access Private Landowner.**

Private landowner liability may be limited when free public access is allowed on private property enrolled in the WIA program for the purpose of any recreational lease activities as provided in Title 57, Chapter 14, Limitations on Landowner Liability.

**R657-56-11. Licenses, Permits, Seasons and Boundaries**

(1) Any person hunting, trapping, or fishing must obtain and possess the valid and necessary licenses or permits while participating in those activities on a WIA property.

(2) Seasons and field regulations on WIA properties are consistent with the respective hunting and fishing guidebooks published by the division.

(3) Public access to a WIA property may be restricted during times of the year when there is not a hunting, trapping or fishing season for the wildlife recreational activities in the WIA lease agreement.

(4) Additional weapon type restrictions may be established for WIA properties and listed in the WIA recreational lease agreement and on the division's webpage.

NOTICES OF PROPOSED RULES

(5) Special closures, restrictions or conditions regarding WIA properties shall be published on the division's website respective to each WIA property.

(6) Boundaries for WIA properties shall be provided on the division's website.

**R657-56-12. Walk-in Access Authorization.**

(1) Any person accessing a WIA property must obtain an annual WIA Authorization and be able to show proof of authorization while on any WIA property.

(2) WIA authorizations are available on the division's website and are valid for a one year period from the date issued.

(3) A WIA authorization grants access to WIA properties to participate in the wildlife recreational lease activities listed in the WIA lease agreements.

(4) A WIA authorization may grant access through an active WIA property to access other public land or water, or private land the person has legal right to enter.

(5) The WIA authorization document may be used to authorize individual public access, monitor usage and satisfaction rates and other purposes respective to wildlife-dependent recreation on WIA properties.

(6) An annual report or survey may be required for a person to obtain a WIA authorization.

**R657-56-13. Right to Deny Access.**

(1) The division reserves the right to deny public access to any WIA property or a portion thereof for any reason and without notice.

(2) The private landowner reserves the right to deny a member of the public access to the WIA property for the following causes:

- (a) the member of the public being intoxicated;
- (b) causing property damage or vandalism;
- (c) violation of property use terms or conditions in the WIA lease agreement or this rule;

(d) failure to possess a WIA authorization;

(e) committing any wildlife violation or crime on the WIA property; or

(f) any situation reasonably deemed an emergency.

(3)(a) A private landowner may give verbal notice to a member of the public who is being restricted or denied public access under Subsection (2) and must immediately notify the division.

(b) The private landowner may not otherwise restrict, limit, or prohibit public access.

(4) The division may revoke a WIA authorization and prohibit access to WIA properties for a person who has committed a wildlife violation or other civil or criminal offense while on a WIA property.

**R657-56-14. Prohibited Activities.**

(1) It is unlawful for any person to access or use a WIA property in violation of the terms and conditions of the WIA recreational lease agreement, Title 23 Wildlife Resources Code of Utah, all rules and proclamations of the Wildlife Board.

(2) It is unlawful to refuse to leave a WIA property when requested by the private landowner, a division representative, or other peace officer.

(3) Any person accessing WIA property in violation of Subsections (1) or (2) may further be subject to criminal trespass prosecution as provided in Sections 23-20-14 and 76-6-206.

**R657-56-15. Effective Date and Prior WIA Lease Agreements.**

(1) Amendments to this rule do not invalidate the terms of a valid WIA lease agreement, unless those terms are otherwise unlawful or unenforceable.

(2) Renewal of a WIA lease is contingent upon the private landowner agreeing and complying with the rule's terms in effect at the time the WIA lease renewal is executed.

**KEY: wildlife, private landowners, public access**

**Date of Enactment or Last Substantive Amendment:** ~~August 9, 2018~~ **2020**

**Notice of Continuation:** October 5, 2015

**Authorizing, and Implemented or Interpreted Law:** 23-14-18; 23-14-19; 57-14-1

**NOTICE OF PROPOSED RULE**

**TYPE OF RULE:** Amendment

<b>Utah Admin. Code Ref (R no.):</b>	<b>R657-60</b>	<b>Filing No.</b>	<b>52843</b>
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**Agency Information**

<b>1. Department:</b>	Natural Resources	
<b>Agency:</b>	Wildlife Resources	
<b>Room no.:</b>	Suite 2110	
<b>Building:</b>	Department of Natural Resources	
<b>Street address:</b>	1594 W North Temple	
<b>City, state:</b>	Salt Lake City, UT 84116	
<b>Mailing address:</b>	PO Box 146301	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-6301	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Staci Coons	801-450-3093	stacicoons@utah.gov

Please address questions regarding information on this notice to the agency.

**General Information**

**2. Rule or section catchline:**  
R657-60. Aquatic Invasive Species Interdiction

**3. Purpose of the new rule or reason for the change:**

This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) rule pursuant to aquatic invasive species.

**4. Summary of the new rule or change:**

The proposed amendments to this rule: 1) create the process and protocol for use of the "Aquatic Invasive Species Interdiction Account" which was created in H.B. 255 that was passed in the 2020 General Session; 2) set

the criteria for a non-resident fee that was set pursuant to Section 23-27-308 to fund AIS prevention and containment efforts; 3) require the removal of the drain plug in all watercraft during transportation in Utah as set by the newly created Drain Plug Law; 4) add a new definition of "Vessel"; 5) set the requirements for the mandatory education course and proof of fee payment; 6) prohibit the alteration of an attached seal to an inspected vessel; 7) clarify the mandatory 30-day dry time for watercraft with complex mechanical or water systems; and 8) rule clarifications and technical changes as needed.

**Fiscal Information**

**5. Aggregate anticipated cost or savings to:**

**A) State budget:**

The proposed rule amendments will be implemented using funds from the "Aquatic Invasive Species Interdiction Account" as set in statute, therefore, DWR has determined that these amendments do not create a cost or savings impact to the current state budget or the DWR's budget, however, it will increase the AIS account by \$20 per watercraft that is launched by a non-resident in Utah. It is estimated that 15,000 watercrafts are launched each year, resulting in a possible increase of \$300,000. It is impossible to predict year to year exactly how many watercrafts may be launched by non-residents, so these are estimates based on previous years.

**B) Local governments:**

The proposed amendments do not directly nor indirectly impact local governments therefore, this filing does not create any direct cost or savings impact to local governments.

**C) Small businesses** ("small business" means a business employing 1-49 persons):

The proposed rule amendments will not directly impact small businesses because a service is not required of them.

**D) Non-small businesses** ("non-small business" means a business employing 50 or more persons):

The proposed rule amendments will not directly impact non-small businesses because a service is not required of them.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

These amendments do have the potential to create a cost impact to those non-residents of Utah wishing to launch watercrafts in bodies of water in Utah. It is estimated that 15,000 non-residents launch watercrafts in Utah each year

with an additional fee of \$20 per watercraft to launch, the increased estimated amount could be \$300,000.

**F) Compliance costs for affected persons:**

DWR has determined that this amendment will create an additional cost of \$20 per watercraft for those non-residents participating in launching watercrafts in Utah.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

**Regulatory Impact Table**

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$300,000	\$300,000	\$300,000
<b>Total Fiscal Cost</b>	<b>\$300,000</b>	<b>\$300,000</b>	<b>\$300,000</b>
<b>Fiscal Benefits</b>			
State Government	\$300,000	\$300,000	\$300,000
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$300,000</b>	<b>\$300,000</b>	<b>\$300,000</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

The Executive Director of the Department of Natural Resources, Brian Steed, has reviewed and approved this fiscal analysis.

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses.

**B) Name and title of department head commenting on the fiscal impacts:**

Brian Steed, Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Section 23-14-18	Section 23-14-19	Section 23-27-401
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>	08/31/2020
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<b>10. This rule change MAY become effective on:</b>	09/07/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Mike Fowlks, DWR Director	<b>Date:</b>	07/10/2020
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**R657. Natural Resources, Wildlife Resources.**

**R657-60. Aquatic Invasive Species Interdiction.**

**R657-60-1. Purpose and Authority.**

(1) The purpose of this rule is to define procedures and regulations designed to prevent and control the spread of aquatic invasive species within ~~the State of~~ Utah.

(2) This rule is promulgated pursuant to authority granted to the Wildlife Board in Sections 23-27-401, 23-14-18, and 23-14-19.

**R657-60-2. Definitions.**

(1) Terms used in this rule are defined in ~~Section~~ Sections 23-13-2 and 23-27-102.

(2) In addition:

(a) "Conveyance" means a terrestrial or aquatic vehicle, including a vessel, or a vehicle part that may carry or contain a Dreissena mussel.

(b) "Decontaminate" or "Decontaminated" means to comply with one of the following methods:

(i) ~~If~~if no adult mussels are attached to the conveyance after exiting the water body, an owner or operator may self-decontaminate equipment or a conveyance that has been in an infested water in the previous 30 days by:

(A) removing all plants, fish, and mud from the equipment or conveyance;

(B) draining all water from the equipment or conveyance, including water held in ballast tanks, bilges, livewells, and motors; and

(C) drying the equipment or conveyance for no less than ~~7~~seven days in June, July and August; 18 days in September, October, November, March, April and May; 30 days in December, January and February; or expose the equipment or conveyance to sub-freezing temperatures for 72 consecutive hours; or

(D) if all water cannot be drained from the conveyance, or the conveyance has a complex water or mechanical system that the division determines poses a significant risk that Dreissena mussels could remain on the conveyance after the dry time identified in Subsection (C), fulfilling the requirements of Subsection (A) and (B) to the extent practicable and drying the conveyance for no less than 30 days;

(ii) ~~Professionally~~professionally decontaminate equipment or a conveyance that has been in an infested water in the previous 30 days by:

(A) ~~Using~~using a professional decontamination service approved by the division to apply scalding water, ~~[f]140 degrees Fahrenheit~~, to completely wash the equipment or conveyance and flush any areas where water is held, including ballast tanks, bilges, livewells, and motors; and

(B) complete a mandatory 30 day dry time after the scalding water wash is completed if the division determines that ~~there is~~, due to the complexity of water or mechanical systems on the conveyance, a significant risk that Dreissena mussels remain ~~attached to~~present on the conveyance ~~after the~~regardless of receiving a scalding water wash ~~complete a mandatory 30 day dry time after the hot water wash is completed~~ described in Subsection (A); or

(iii) ~~Complying~~complying with all protocols identified in a certificate of registration.

(c) "Detected Water" or "Detected" means a water body, facility, or water supply system where the presence of a Dreissena mussel is indicated in two consecutive sampling events using visual identification or microscopy and the results of each sampling event is confirmed in two polymerase chain reaction tests, each conducted at independent laboratories.

(d) "Dreissena mussel" means a mussel of the genus Dreissena at any life stage, including a zebra mussel, a quagga mussel and a Conrad's false mussel.

(e) "Controlling entity" means the owner, operator, or manager of a water body, facility, or a water supply system.

(f) "Equipment" means an article, tool, implement, or device capable of carrying or containing water or Dreissena mussel.

(g) "Facility" means a structure that is located within or adjacent to a water body.

(h) "Highway" has the same meaning as Subsection 72-1-102(7).

(i) "Infested Water" or "Infested" means a water body, facility, water supply system, or geographic region where the presence of multiple age classes of attached Dreissena mussels is indicated in two or more consecutive sampling events using visual detection or microscopy and the result of each sampling event is confirmed in two polymerase chain reaction tests, each conducted at independent laboratories.

(j) "Juvenile or adult Dreissena mussel" means a macroscopic Dreissena mussel that is not a veliger.

(k) "Quarantine" means imposing a required minimum period of time where a conveyance must stay at a predetermined location in order to minimize the risk that Dreissena mussels are spread.

(l) "Suspected Water" or "Suspected" means a water body, facility, or water supply system where the presence of a Dreissena mussel is indicated through a single sampling event using visual identification or microscopy and the result of that sampling event is confirmed in two independent polymerase chain reaction tests, each conducted at independent laboratories.

(m) "Veliger" means a microscopic, planktonic larva of Dreissena mussel.

~~(n) "Vessel" means every type of watercraft used or capable of being used as a means of transportation on water.~~ "Vessel" has the same meaning as Subsection 73-18-2(19).

(o) "Water body" means natural or impounded surface water, including a stream, river, spring, lake, reservoir, pond, wetland, tank, and fountain.

(p) "Water supply system" means a system that treats, conveys, or distributes water for irrigation, industrial, wastewater treatment, or culinary use, including a pump, canal, ditch or, pipeline.

(q) "Water supply system" does not include a water body.

**R657-60-4. Reporting of invasive species required.**

(1) A person who discovers a Dreissena mussel within this state or has reason to believe a Dreissena mussel may exist at a specific location shall immediately report the discovery to the division.

(2) The report shall include the following information:

- (a) location of the Dreissena mussels;
- (b) date of discovery;
- (c) identification of any conveyance or equipment in which mussels may be held or attached; and
- (d) identification of the reporting party with their contact information.

(3) The report shall be made in person or in writing:

- (a) at any division regional or headquarters office~~[or]~~;
- (b) to the division's toll free hotline at 1-800-662-3337; or
- (c) on the division's website at ~~[www.wildlife.utah.gov/law/hsp/pf.php]~~ [www.wildlife.utah.gov/law/hsp/pf.php](http://www.wildlife.utah.gov/law/hsp/pf.php).

(4) Reporting requirements under this Section do not apply to:

- (a) Dreissena mussels found in an Infested waterbody:

~~(b) a conveyance or equipment that is subject to a quarantine or mandatory dry time and has been documented by the division; or~~

~~(c) a person lawfully in possession of a Dreissena mussel pursuant to Section R657-60-3.~~

**R657-60-5. [Transportation]Requirements for Transportation and Launching of Equipment and Conveyances [That Have Been in Waters Containing Dreissena Mussels].**

(1) Before transporting a conveyance on a highway, as defined in Section 72-1-102, in the state, a person shall:

~~(a) remove all drain plugs and similar devices that prevent drainage of raw water systems on the conveyance; and~~

~~(b) to the extent feasible, drain all water from live wells, bilges, ballast tanks, and similar compartments on the conveyance.~~

~~(2)(a) Before launching a conveyance in a Utah waterbody, a nonresident vessel owner shall:~~

~~(i) pay the annual aquatic invasive species fee;~~

~~(ii) successfully complete the aquatic invasive species education course; and~~

~~(iii) provide proof of compliance with this Subsection to the vessel operator.~~

~~(b) The vessel operator is responsible for verifying compliance with this Section while recreating on a Utah waterbody.~~

~~(c) Except as provided in Subsection (6), a person must satisfy all decontamination requirements before launching or placing equipment or a conveyance in a waterbody if that equipment or conveyance has been in a waterbody or water supply system subject to decontamination requirements in the previous 30 days.~~

~~(3) The owner, operator, or possessor of any equipment or conveyance that has been in [an infested water or in any other water]a waterbody subject to [a closure order under R657-60-8 or control plan under R657-60-9 that requires ]decontamination [of conveyances and equipment upon leaving the water]requirements shall[:~~

~~(a) immediately remove the drain plug or similar mechanical feature and drain all water from the equipment or conveyance at the take out site, including water held in ballast tanks, bilges, livewells, motors, and other areas of containment; and]~~

~~(b) immediately] inspect the interior and exterior of the equipment or conveyance [at the take out site.]for the presence of Dreissena mussels immediately upon exiting the waterbody and prior to leaving the take out site.~~

~~(2)(4)(a) If all water in the equipment or conveyance is drained and the inspection undertaken pursuant to Subsection ([1)(b)3] reveals the equipment and conveyance are free from mussels or shelled organisms, fish, plants and mud, the equipment and conveyance may be transported in or through the state directly from the take out site to the location where it will be:~~

~~(i) decontaminated; or~~

~~(ii) temporarily stored and subsequently returned to the same water body and take out site as provided in Subsection ([5]6).~~

~~(b) [To the extent feasible, any]All drain [plug or]plugs and similar [mechanical feature]devices that [may retain]prevent drainage of raw water [or conceal aquatic invasive species]systems on the conveyance shall [remain open]be removed during the transport and storage of a conveyance.~~

~~(3) If all the water in the equipment or conveyance is not drained or the inspection undertaken pursuant to Subsection (1)(b) reveals the equipment or conveyance has attached mussels or shelled organisms, fish, plants, or mud, the equipment and conveyance shall not be moved from the take out site until the division provides the~~

~~conveyance]~~5) Equipment and conveyances may not be moved from a take out site of an infested, suspected, or detected water body, or a water body subject to a closure order or control plan requiring decontamination, unless:

~~(a) the operator satisfies the requirements of Subsection (4); or~~

~~(b) the operator receives prior written [or electronic] authorization to move the equipment or conveyance to a designated location [for professional] to complete decontamination requirements.~~

~~[(4) Except as provided in Subsection (5), a person shall not place any equipment or conveyance into a water body or water supply system in the state without first decontaminating the equipment and conveyance when the equipment or conveyance in the previous 30 days has been in:~~

~~(a) an infested water; or~~

~~(b) other water body or water supply system subject to a closure order under R657-60-8 or control plan under R657-60-9 that requires decontamination of conveyances and equipment upon leaving the water.]~~

~~[(5)6] Decontamination is not required when a conveyance or equipment is removed from an infested water or other water body subject to decontamination requirements, provided the conveyance and equipment is:~~

~~(a) inspected and drained at the take out site, and is free from attached mussels, shelled organisms, fish, plants, and mud as required in Subsections (1) and (2);~~

~~(b) returned to the same water body and launched at the same take out site; and~~

~~(c) not placed in or on any other Utah water body in the interim without first being decontaminated.~~

~~[(6)7] (a) Division personnel may provide the operator of a vessel leaving an infested water, or any water subject to a closure order under Section R657-60-8 or control plan under Section R657-60-9, with an inspection certification indicating the date [which] that vessel left the water body.~~

~~(b) An individual who receives a certification of inspection from the division must retain that certification of inspection until:~~

~~(i) the operator returns to the same body of water and receives a new certification of inspection upon leaving the water body;~~

~~(ii) the operator completes a certification of decontamination; or~~

~~(iii) the operator receives a professional decontamination certificate.~~

**R657-60-6. Certification of Inspection; Certification of Decontamination; Certificate of Registration to Perform Decontamination.**

(1) The owner, operator or possessor of a vessel desiring to launch on a water body in Utah must:

(a) present an inspection certificate to division personnel if required; and

(b) verify the vessel and any launching device, in the previous 30 days, have not been in an infested water or in any other water subject to closure order under Section R657-60-8 or control plan under Section R657-60-9 that requires decontamination of conveyances and equipment upon leaving the water; or

~~[(b)c] certify the vessel and launching device have been decontaminated.~~

(2) Certification of decontamination is satisfied by:

(a) previously completing self-decontamination since the vessel and launching device were last in a water described in Subsection (1)(b) and completely filling out and dating a decontamination certification form which can be obtained from the division; or

(b) providing a signed and dated certificate by a division approved professional decontamination service verifying the vessel and launching device were professionally decontaminated since the vessel and launching device were last in a water described in Subsection (1)(b); or

(c) complying with the terms identified in a certificate of registration issued for alternative decontamination measures.

(3) A certificate of registration to complete alternate forms of decontamination may be issued to an individual who:

(a) operates conveyances as a part of their business;

(b) whose conveyances cannot be decontaminated using self decontamination or professional decontamination as defined in Subsections R657-60-2(b)(i) and R657-60-2(b)(ii).

(4) Both the decontamination certification form and the professional decontamination certificate, where applicable, must be signed and placed in open view in the window of the launching vehicle prior to launching or placing the vessel in a body of water.

(5)(a) It is unlawful under Section 76-8-504 to knowingly falsify a decontamination certification form.

(b) It is unlawful under ~~[Section]~~Subsection 23-13-11(2) to alter or destroy a certificate of inspection or other official indicator verifying inspection prior to completing a decontamination certification form.

(c) The division may suspend, revoke, or terminate a certificate of registration if the business entity or an employee thereof has violated a term of this rule, the Wildlife Resources Code, or a certificate of registration.

**R657-60-7. Wildlife Board Designations of Infested Waters.**

(1) The Wildlife Board may designate a geographic area, water body, facility, or water supply system as Infested with Dreissena mussels pursuant to ~~[Section]~~Sections 23-27-102 and 23-27-401 without taking the proposal to or receiving recommendations from the regional advisory councils.

(2) The Wildlife Board may designate a particular water body, facility, or water supply system within the state as Infested with Dreissena mussels when sampling indicates the water body, facility, or water supply system meets the minimum criteria for an Infested Water as defined in this rule.

(3) The Wildlife Board may designate a particular water body, facility, or water supply system outside the state as Infested with Dreissena mussels when it has credible evidence suggesting the presence of a Dreissena mussel in that water body, facility, or water supply system.

(4) Where the number of Infested Waters in a particular area is numerous or growing, or where surveillance activities or infestation containment actions are deficient, the Wildlife Board may designate geographic areas as Infested with Dreissena mussels.

(5) The following water bodies and geographic areas are classified as infested:

(a) all coastal and inland waters in:

(i) California;

(ii) Nevada;

(iii) Arizona;

(iv) all states east of Montana, Wyoming, Colorado, and New Mexico;



- (v) the provinces of Ontario and Quebec Canada; and
- (vi) Mexico;
- (b) Lake Powell and that portion of the:
  - (i) Colorado River within the boundaries of Glen Canyon National Recreation Area;
  - (ii) Escalante River between Lake Powell and the Coyote Creek confluence;
  - (iii) Dirty Devil River between Lake Powell and the Highway 95 bridge; and
  - (iv) San Juan River between Lake Powell and Clay Hills Crossing; and
- (c) other waters established by the Wildlife Board and published on the DWR website.
- (6) The Wildlife Board may remove an infested classification if:

(a) the division samples the affected water body for seven (7) consecutive years without a single sampling event producing evidence sufficient to satisfy the criteria for a "suspected" classification, as defined in this rule; or

(b) the controlling entity eradicates all Dreissena mussels at the water body, facility, or water supply system through chemical or biological treatments, desiccation, or freezing, and the division verifies in writing that Dreissena mussels are no longer present.

**R657-60-8. Closure Order for a Water Body, Facility, or Water Supply System.**

(1)(a) The division may classify a water body, facility, or water supply system as suspected or detected if it meets the minimum criteria for suspected or detected, as defined in this rule.

(b) If the division classifies a water body, facility, or water supply system as either suspected or detected, the division director or designee may, with the concurrence of the executive director, issue an order closing the water body, facility, or water supply system to the introduction or removal of conveyances or equipment.

(c) The director shall consult with the controlling entity of the water body, facility, or water supply system when determining the scope, duration, level and type of closure that will be imposed in order to avoid or minimize disruption of economic and recreational activities.

(d) A closure order may;

(i) close the water entirely to conveyances and equipment;

(ii) authorize the introduction and removal of conveyances and equipment subject to the decontamination requirements in Subsection R657-60-2(2)(b) and Section R657-60-5; or

(iii) impose any other condition or restriction necessary to prevent the movement of Dreissena mussels into or out of the subject water.

(iv) a closure order may not restrict the flow of water without the approval of the controlling entity.

(2)(a) A closure order issued pursuant to Subsection (1) shall be in writing and identify the:

(i) water body, facility, or water supply system subject to the closure order;

(ii) nature and scope of the closure or restrictions;

(iii) reasons for the closure or restrictions;

(iv) conditions upon which the order may be terminated or modified; and

(v) sources for receiving updated information on the presence of Dreissena mussels and closure order.

(b) The closure order shall be mailed, electronically transmitted, or hand delivered to:

(i) the controlling entity of the water body, facility, or water supply system;

and

(ii) any governmental agency or private entity known to have economic, political, or recreational interests significantly impacted by the closure order; and

(iii) any person or entity requesting a copy of the order.

(c) The closure order or its substance shall further be:

(i) posted on the division's web page; and

(ii) published in a newspaper of general circulation in the state of Utah or the affected area.

(3)(a) If a closure order lasts longer than seven days, the division shall provide the controlling entity and post on its web page a written update every ~~[40]~~ten days on its efforts to address the Dreissena mussel infestation.

(b) The ~~[40]~~ten day update notice cycle will continue for the duration of the closure order.

(4)(a) Notwithstanding the closure authority in Subsection (1), the division may not unilaterally close or restrict a suspected or detected water supply system where the controlling entity has prepared and implemented a control plan in cooperation with the division that effectively controls the spread of Dreissena mussels from the water supply system.

(b) The control plan shall comply with the requirements in Section R657-60-9.

(5) Except as authorized by the Division in writing, a person may not violate any provision of a closure order.

(6) A closure order or control plan shall remain effective so long as the water body, water supply system, or facility remains classified as suspected or detected.

(7) The director or his designee may remove a Suspected classification if:

(a) the division samples the affected water body for three (3) consecutive years without a single sampling event producing evidence sufficient to satisfy the criteria for a "suspected" classification, as defined in this rule; or

(b) the controlling entity eradicates all Dreissena mussels at the water body, facility, or water supply system through chemical or biological treatments, desiccation, or freezing, and the division verifies that Dreissena mussels are no longer present.

(8) The director or his designee may remove a detected classification if:

(a) the division samples the affected water body for five (5) consecutive years without a single sampling event producing evidence sufficient to satisfy the criteria for a "suspected" classification, as defined in this rule; or

(b) the controlling entity eradicates all Dreissena mussels at the water body, facility, or water supply system through chemical or biological treatments, desiccation, or freezing, and the division verifies that Dreissena mussels are no longer present.

**R657-60-9. Control Plan Required.**

(1) The controlling entity of a water body, facility, or water supply system may develop and implement a control plan in cooperation with the division prior to infestation designed to:

(a) avoid the infestation of Dreissena mussels; and

(b) control or eradicate an infestation of Dreissena mussels that might occur in the future.

(2) A pre-infestation control plan developed consistent with the requirements in Subsection (3) and approved by the division will eliminate or minimize the duration and impact of a closure order issued pursuant to ~~[Section]~~Sections 23-27-303 and R657-60-8.

## NOTICES OF PROPOSED RULES

(3) If a water body, facility, or water supply system within the state is classified as infested, detected, or suspected, and it does not have an approved control plan, the controlling entity shall cooperate with the division in developing and implementing a control plan to address the:

- (a) scope and extent of the presence of Dreissena mussels;
- (b) actions proposed to control the pathways of spread of Dreissena mussels;
- (c) actions proposed to control the spread or eradicate the presence of Dreissena mussels;
- (d) methods to decontaminate the water body, facility, or water supply system, if possible;
- (e) actions required to systematically monitor the presence of Dreissena mussels; and
- (f) requirements and methods to update and revise the plan with scientific advances.

(4) All control plans prepared pursuant to Subsection (3) shall be approved by the Division before implementation.

(5) A control plan prepared pursuant to this Section may require that all conveyances and equipment entering or leaving the subject water to comply with the decontamination requirements in Subsection R657-60-2(2)(b) and Section R657-60-5.

(6) Except as authorized by the Division and the controlling entity in writing, a person may not violate any provision of a control plan.

### **R657-60-11. Conveyance or Equipment Detainment.**

(1) To eradicate and prevent the infestation of a Dreissena mussel, the division may:

- (a) temporarily stop, detain, inspect, quarantine, and impound a conveyance or equipment that the division reasonably believes is in violation of ~~[Section]~~Sections 23-27-201, 23-27-306, or R657-60-5;
- (b) order a person to decontaminate a conveyance or equipment that the division reasonably believes is in violation of ~~[Section]~~Sections 23-27-201, 23-27-306, or R657-60-5.

(2) The division, a port-of-entry agent or a peace officer may detain, quarantine, or impound a conveyance or equipment if:

- (a) the division, agent, or peace officer reasonably believes that the person transporting the conveyance or equipment is in violation of ~~[Section]~~Sections 23-27-201, 23-27-306, or R657-60-5.

(3) The detainment, quarantine, or impoundment authorized by Subsection (2) may continue for:

- (a) up to five days; or
- (b) the period of time necessary to:
  - (i) decontaminate the conveyance or equipment; and
  - (ii) ensure that a Dreissena mussel is not living on or in the conveyance or equipment.

### **R657-60-12. Penalty for Violation.**

(1) ~~[A]~~Except as provided in Section 23-27-306, a violation of any provision of this rule is punishable as provided in Section 23-13-11.

(2) A violation of any provision of a closure order issued under Section R657-60-8 or a control plan created under Section R657-60-9 is punishable as a criminal infraction as provided in Section 23-13-11.

### **R657-60-13. Inspection Stations.**

(1) Inspection stations may be established for administrative purposes to interdict the spread of Dreissena mussels

consistent with ~~[Utah Code]~~ Title 23, Chapter 27, ~~[A]~~ Aquatic Invasive Species Act, ~~[A]~~ and ~~[this rule]~~ Rule R657-60.

(2) The Division may establish inspection stations at locations authorized under Section 23-27-301 where:

- (a) there is a high probability of intercepting conveyances or equipment transporting Dreissena mussels;
  - (b) there is typically a high level of boat and trailer traffic;
- or

(c) inspection of conveyances or equipment will provide increased protection against the introduction of Dreissena mussels into a water body that is not classified as infested, suspected, or detected under Section R657-60-2.

(3) Inspection stations shall have adequate space for conveyances or equipment to be stopped, inspected, and if necessary, decontaminated, without interfering with the public's use of highways or presenting a safety risk to the public.

(4) Inspection stations shall have adequate signage providing the public:

- (a) notice that the inspection station is open and operational;
- (b) notice that all persons transporting conveyances or equipment must stop at the inspection station and submit their conveyance and equipment for inspection; and
- (c) an adequate opportunity to safely stop at the inspection station.

(5) Any person transporting a conveyance or equipment is required to stop at an inspection station during its hours of operation and submit that conveyance or equipment to the Division for inspection.

(6) The Division shall conduct an inspection of a conveyance or equipment that is stopped at an inspection station as follows:

- (a) Division personnel will determine whether the conveyance or equipment has been in an infested, suspected, or detected water body within the past 30 days.

(b) If the conveyance or equipment has not been in an infested, suspected, or detected water body within the past 30 days, the Division will:

- (i) conduct a brief visual inspection of the conveyance or equipment to ensure that there are no visible Dreissena mussels;
- (ii) provide educational materials regarding aquatic invasive species risks and regulations in Utah; and
- (iii) provide a certificate of inspection to the person in possession of the conveyance or equipment.

(c) If the conveyance or equipment has been in an infested, suspected, or detected water body within the past 30 days, the Division will:

- (i) verify all water is drained from the conveyance or equipment, including water held in ballast tanks, bilges, livewells, motors, and other areas of containment;

(ii) verify that the surface of the conveyance or equipment is free of Dreissena mussels, shelled organisms, fish, plants, and mud; and

(iii) verify that the conveyance or equipment has been or will be decontaminated as defined in Subsection R657-60-2(b) before launching in a Utah water body.

(d) The Division may require professional decontamination of conveyances or equipment that have been in an infested, suspected, or detected water within the past 30 days and failed to comply with the draining and cleaning requirements established in Subsection R657-60-5(3).

(7) The Division may issue a certification of inspection and decontamination to persons who complete inspections and any applicable decontamination at an inspection station.

(8) Inspection stations shall be operated in a manner that minimizes the length of time of an inspection while ensuring that conveyances are free from the presence of Dreissena mussels.

**KEY:** fish, wildlife, wildlife law

**Date of Enactment or Last Substantive Amendment:** ~~March 13, 2017~~ **2020**

**Notice of Continuation:** July 19, 2018

**Authorizing, and Implemented or Interpreted Law:** 23-27-401; 23-14-18; 23-14-19

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R926-11	Filing No. 52931

**Agency Information**

<b>1. Department:</b>	Transportation	
<b>Agency:</b>	Program Development	
<b>Room no.:</b>	Administration Suite	
<b>Building:</b>	Calvin Rampton Building	
<b>Street address:</b>	4501 S 2700 W	
<b>City, state:</b>	Salt Lake City, UT	
<b>Mailing address:</b>	PO Box 148455	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-8455	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Linda Hull	801-965-4253	lhull@utah.gov
James Palmer	801-965-4197	jimpalmer@agutah.gov
Lori Edwards	801-965-4048	loriedwards@agutah.gov

Please address questions regarding information on this notice to the agency.

**General Information**

<b>2. Rule or section catchline:</b>
R926-11. Clean Fuel Vehicle Decal Program
<b>3. Purpose of the new rule or reason for the change:</b>
The rule is being changed to align the state's clean fuel vehicle program with federal statutes and regulations that changed.

<b>4. Summary of the new rule or change:</b>
The federal statutes that permitted gasoline hybrids to qualify as clean fuel vehicles expired in 2019. This proposed rule change will only allow electric, plug-in-hybrid, and alternative fuel vehicles to qualify for a clean vehicle permit.

**Fiscal Information**

<b>5. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
The Department of Transportation (Department) does not anticipate this proposed rule change will lead to any material change in the state's budget. The state's clean vehicle program will remain essentially the same. This proposed change only reduces the number of qualifying vehicles by eliminating eligibility for hybrids.

<b>B) Local governments:</b>
The Department does not anticipate this proposed rule change will lead to any material change for local governments. The clean vehicle program is a state-run program, local governments have no direct involvement.

<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
The Department anticipates the proposed changes may have a fiscal impact on small businesses if they choose to continue to access the high occupancy vehicle lane as a single occupant vehicle. The state's clean vehicle program is voluntary. Some small businesses may have been availing themselves of the benefits provided by the state's clean vehicle program for their eligible vehicles, including their hybrid vehicles. Small business owners that have been taking advantage of the state's clean vehicle program by enrolling their hybrid vehicles will no longer be able to do so, and those small businesses may see an impact.

<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
The Department anticipates the proposed changes may have a fiscal impact on non-small businesses if they choose to continue to access the high occupancy vehicle lane as a single occupant vehicle. The state's clean vehicle program is voluntary. Some non-small businesses may have been availing themselves of the benefits provided by the state's clean vehicle program for their eligible vehicles, including their hybrid vehicles. Non-small business owners that have been taking advantage of the state's clean vehicle program by enrolling their hybrid vehicles will no longer be able to do so. Those non-small businesses may see an impact.

**E) Persons other than small businesses, non-small businesses, state, or local government entities** ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The Department anticipates the proposed changes may have a fiscal impact on persons other than small businesses, non-small businesses, state, or local government entities if those persons choose to continue to access the high occupancy vehicle lane as a single occupant vehicle. Some of these non-commercial, non-governmental persons may have been availing themselves of the benefits provided by the state's voluntary clean vehicle program for their hybrid vehicles. This proposed change will cost each person approximately \$175 per year for each hybrid vehicle a person has enrolled in the program.

**F) Compliance costs for affected persons:**

This proposed rule change will remove a total of 4,545 hybrid vehicles from the state's clean vehicle program. Hybrid vehicle owners who utilize the Express Lanes used the lane an average of 13 times per month. The average value of for each tolled trip that they would have been charged if using an Express Pass is \$1.51. This equates to \$14.51 each month, or a savings of approximately \$175 each. Vehicle owners will incur that same cost each year if they choose to continue accessing the HOV lane as a single occupant vehicle at the same rate of 13 times per month. Vehicle owners could choose to reduce the cost by reducing the number of times they access the HOV lane as a single occupant vehicle, or save all costs by carpooling to access the HOV lane for free or drive for free as a single occupant vehicle in the general purpose lanes. These figures are estimates based on historical data and provided for informational purposes only.

**G) Regulatory Impact Summary Table** (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 will be included in narratives above.)

<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2020</b>	<b>FY2021</b>	<b>FY2022</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head approval of regulatory impact analysis:**

I approve the regulatory analysis as set forth above.  
 Carlos M. Braceras, Executive Director

**6. A) Comments by the department head on the fiscal impact this rule may have on businesses:**

This proposed rule change may have a fiscal impact on businesses of \$175 per year per hybrid vehicle that they will no longer be able to enroll in the state's clean vehicle program if they choose to continue to access the high occupancy vehicle lane as a single occupant vehicle.

**B) Name and title of department head commenting on the fiscal impacts:**

Carlos M. Braceras, Executive Director

**Citation Information**

**7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

23 CFR, Subsection 166(b)	Section 41-6a-702	Section 72-6-121
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**Public Notice Information**

**9. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/31/2020

<b>10. This rule change MAY become effective on:</b>	09/07/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Carlos M. Braceras, Executive Director	<b>Date:</b>	07/10/2020
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**R926. Transportation, Program Development.****R926-11. Clean Fuel Vehicle Decal Program.****R926-11-1. Purpose and Authority.**

(1) As authorized in ~~[Utah Code]~~ Sections 41-6a-702 and 72-6-121 this rule establishes procedures for regulating access to high occupancy vehicle lanes by vehicles with a clean fuel vehicle decal regardless of the number of occupants.

(2) ~~[United States Code Title]~~ 23~~;~~ U.S.C. Subsection 166(b) authorizes states to allow the use of high-~~[-]~~occupancy vehicle (HOV) lanes by inherently low emission and energy efficient vehicles (LEEV)~~(HLEV)~~ and ~~[low-emission and energy-efficient] alternative fuel~~ vehicles with only a single occupant. ~~[United States Code Title]~~ 23~~;~~ U.S.C. Subsection 166(d) requires a state to limit or discontinue the use of these single-occupant vehicles if the presence of such vehicles has degraded the operation of the HOV facility.

**R926-11-2. Definitions.**

(1) ~~["Hybrid"]~~ "Clean vehicle" means a ~~[Low Emission and Energy Efficient vehicle as defined by the United States Environmental Protection Agency as authorized in 23 United States Code Section 166.]~~ vehicle operating solely on an alcohol-based fuel; natural gas; liquefied petroleum gas; solar energy; biofuels; or electricity; including a vehicle that is propelled to a significant extent by and electric motor or both an electric motor and an internal combustion engine.

~~["HLEV"]~~ "HLEV" means an Inherently Low Emission Vehicle as defined by the United States Environmental Protection Agency as authorized in 23 United States Code Section 166(b).

~~{3}~~(2) ~~["C-Decal"]~~ "Clean Vehicle Pass" means a clean vehicle radio frequency identification transponder issued by the department.

~~{4}~~(3) ~~["C-Sticker"]~~ "Clean Vehicle Sticker" means a clean vehicle sticker issued by the department.

~~{5}~~(4) ~~["C-Permit"]~~ "Clean Vehicle Permit" means a permit issued by the department to the owner of ~~[an eligible HLEV or Hybrid vehicle]~~ a clean vehicle.

~~{6}~~(5) "Department" means the Utah Department of Transportation.

~~{7}~~(6) "HOV" means a highway lane that has been designated for the use of high occupancy vehicles pursuant to ~~[Utah Code]~~ Section 41-6a-702.

**R926-11-3. Permitting of Eligible Vehicles.**

(1) Owners of an eligible ~~[HLEV and Hybrid] alternative fuel~~ vehicle registered in the state~~[-of Utah]~~ shall qualify for a ~~[C-Decal]~~ Clean Vehicle Pass, ~~[C-Sticker]~~ Clean Vehicle Sticker, and ~~[C-~~

~~Permit]~~ Clean Vehicle Permit upon application to the Department under permitting processes and payment of a fee defined under this rule.

(2) The owner of a vehicle issued a ~~[C-Decal]~~ Clean Vehicle Pass, ~~[C-Sticker]~~ Clean Vehicle Sticker, and a ~~[C-Permit]~~ Clean Vehicle Permit is prohibited from placing the ~~[C-Decal]~~ Clean Vehicle Pass, and ~~[C-Sticker]~~ Clean Vehicle Sticker on any vehicle other than the vehicle for which the Department has issued a ~~[C-Decal]~~ Clean Vehicle Pass, Clean Vehicle Sticker and ~~[C-Permit]~~ Clean Vehicle Permit. Posting a ~~[C-Decal]~~ Clean Vehicle Pass and Clean Vehicle Sticker on a vehicle other than the vehicle for which the Department has issued a ~~[C-Decal]~~ Clean Vehicle Pass, ~~[C-Sticker]~~ Clean Vehicle Sticker, and ~~[C-Permit]~~ Clean Vehicle Permit will render the vehicle owner ineligible to participate in the Clean Fuel Vehicle Program.

(3) The owner of a vehicle issued a ~~[C-Decal]~~ Clean Vehicle Pass and ~~[C-Sticker]~~ Clean Vehicle Sticker must have in the person's immediate possession the ~~[C-Permit]~~ Clean Vehicle Permit issued by the Department for that vehicle.

(4) The ~~[C-Decal]~~ Clean Vehicle Pass must be placed ~~[i]~~ on the windshield of the vehicle, ~~[entered near the rearview mirror and 4 inches from the top of the windshield. If the vehicle has an AS-1 line, the C-Decal must be mounted below the line]~~ according to the requirements of Section 41-6a-1635. The ~~[C-Decal]~~ Clean Vehicle Pass must be mounted directly ~~[on]~~ to the windshield and cannot be mounted with tape or any other device.

(5) The ~~[C-Sticker]~~ Clean Vehicle Sticker must be placed on the ~~[vehicle's right side on the]~~ rear of the vehicle in the upright position. The ~~[C-Sticker]~~ Clean Vehicle Sticker must be placed using the sticker's adhesive backing and ~~[can]~~ may not be affixed with tape or any other device.

(6) The Department shall maintain and publish a listing online of ~~[all]~~ each ~~[HLEV]~~ alternative fuel ~~[and Hybrid]~~ vehicle makes and models eligible for a ~~[C-Decal]~~ Clean Vehicle Pass, ~~[C-Sticker]~~ Clean Vehicle Sticker, and ~~[C-Permit]~~ Clean Vehicle Permit.

(7) The Department will charge a fee for the issuance of a ~~[C-Decal]~~ Clean Vehicle Pass, Clean Vehicle Sticker and ~~[C-Sticker]~~ Clean Vehicle Permit. The amount of the fee will be posted on the application in the amount established by the Department in accordance with ~~[Utah Code]~~ Section 63J-1-504.

(8) The Department may restrict use of the HOV facility by single-occupant vehicles with ~~[C-Decals and C-Stickers]~~ Clean Vehicle Passes, Clean Vehicle Stickers and Clean Vehicle Permits if the operation of the facility becomes degraded. For the purposes of this rule, an HOV facility is considered degraded if vehicles operating on the facility are failing to maintain a minimum average operating speed of 45 miles per hour 90%~~[-percent]~~ of the time over a consecutive 180 day period, during morning or evening weekday peak hour periods ~~{}~~ or both~~}~~.

**R926-11-4. Issuance of ~~[C-Decals and C-Permits]~~ Clean Vehicle Passes, Clean Vehicle Stickers and Clean Vehicle Permits.**

(1) Except as set forth in subsection (2), the Department may not issue more than 6,000 ~~[C-Permits]~~ Clean Vehicle Permits and their associated ~~[C-Decals and C-Stickers]~~ Clean Vehicle Passes and Clean Vehicle Stickers.

(2) Not more frequently than once a year, the Department may evaluate the operation of the HOV facility and determine whether the facility will continue to operate at an acceptable level of service. For the purposes of this rule, an HOV facility is considered to be operating at an acceptable level of service if vehicles operating on the facility are maintaining a minimum average operating speed of ~~{55}~~ 45 miles per hour 90%~~[-percent]~~ of the time over a consecutive 180 day period, during morning or evening weekday peak hour periods (or both). Based

NOTICES OF PROPOSED RULES

on that evaluation and if the Department determines that additional single-occupant vehicles with a ~~[C-Decal]~~Clean Vehicle Pass, Clean Vehicle Sticker, and Clean Vehicle Permit may operate in the HOV lane without compromising operation of the facility, the Department may increase the number of ~~[clean fuel decals]~~Clean Vehicle Passes, Clean Vehicle Stickers, and Clean Vehicle Permits issued beyond the minimum set forth in subsection R926-11-4(1) and shall issue the appropriate number of ~~[C-Decals]~~Clean Vehicle Passes, Clean Vehicle Stickers, and Clean Vehicle Permits to eligible applicants as set forth under subsection R926-11-4(5).

(3) Vehicle owners with an eligible ~~[HEV or Hybrid]~~alternative fuel vehicle as defined by this rule must submit an application to the Department for a ~~[C-Decal, C-Sticker and C-Permit]~~Clean Vehicle Pass, Clean Vehicle Sticker, and Clean Vehicle Permit. The application, approved and issued by the Department, shall contain the vehicle owner's name, the license plate number, the vehicle identification number, and the ~~[HEV or Hybrid]~~alternative fuel vehicle make and year model as a condition for obtaining a ~~[C-Decal, C-Sticker and C-Permit]~~Clean Vehicle Pass, Clean Vehicle Sticker, and Clean Vehicle Permit.

(4) A vehicle owner must pay the fee for the issuance of a ~~[C-Decal, C-Sticker, and C-Permit]~~Clean Vehicle Pass, Clean Vehicle Sticker and Clean Vehicle Permit within 30 days of the application being approved. If the owner does not pay the fee within 30 days, the application will be closed. After the application is closed, a vehicle

owner must submit a new application for a ~~[C-Decal, C-Sticker, and C-Permit]~~Clean Vehicle Pass, Clean Vehicle Sticker, and Clean Vehicle Permit.

(5) If more applications for ~~[C-Decals, C-Stickers, and C-Permits]~~Clean Vehicle Passes, Clean Vehicle Stickers, and Clean Vehicle Permits are received than the total number the Department may issue at any one time, ~~[C-Decals, C-Stickers, and C-permits]~~Clean Vehicle Passes, Clean Vehicle Stickers, and Clean Vehicle Permits will be offered to applicants in the order that applications are approved as ~~[C-Decals]~~Clean Vehicle Passes, Clean Vehicle Stickers, and Clean Vehicle Permits become available. The number of available ~~[C-Decals]~~Clean Vehicle Passes, Clean Vehicle Stickers, and Clean Vehicle Permits will be published on the ~~[C-Decal]~~Express Lanes website.

**KEY:** ~~[hybrid vehicles]~~alternative fuel, [C-Decals, C-Stickers, C-Permits]clean vehicle pass, clean vehicle sticker, clean vehicle permit

**Date of Enactment or Last Substantive Amendment:** ~~[August 23, 2017]~~2020

**Notice of Continuation:** December 14, 2018

**Authorizing, and Implemented or Interpreted Law:** 41-6a-702; 72-6-121

**End of the Notices of Proposed Rules Section**

## NOTICES OF CHANGES IN PROPOSED RULES

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After an agency has published a **PROPOSED RULE** in the *Utah State Bulletin*, it may receive comment that requires the **PROPOSED RULE** to be altered before it goes into effect. A **CHANGE IN PROPOSED RULE** allows an agency to respond to comments it receives.

As with a **PROPOSED RULE**, a **CHANGE IN PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **CHANGE IN PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends August 31, 2020.

Following the **RULE ANALYSIS**, the text of the **CHANGE IN PROPOSED RULE** is usually printed. The text shows only those changes made since the **PROPOSED RULE** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (example). Deletions made to the rule appear struck out with brackets surrounding them (~~example~~). A row of dots in the text between paragraphs (. . . . .) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **CHANGE IN PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of rules that are too long to print is available from the agency or from the Office of Administrative Rules.

From the end of the 30-day waiting period through November 29, 2020, an agency may notify the Office of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses.

**CHANGES IN PROPOSED RULES** are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

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

NOTICE OF CHANGE IN PROPOSED RULE		
Utah Admin. Code Ref (R no.):	R523-21	Filing No. 52768

**Agency Information**

<b>1. Department:</b>	Human Services	
<b>Agency:</b>	Substance Abuse and Mental Health	
<b>Room no.:</b>	Second Floor	
<b>Building:</b>	Multi Agency State Office Building	
<b>Street address:</b>	195 N 1950 W	
<b>City, state, zip:</b>	Salt Lake City, UT	
<b>Mailing address:</b>	195 N 1950 W	
<b>City, state, zip:</b>	Salt Lake City, UT 84116	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Thom Dunford	801-538-4181	tdunford@utah.gov
Jonah Shaw	801-538-4219	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule or section catchline:</b>		
R523-21. Behavioral Health Receiving Centers Standards		
<b>3. Change in Proposed Rule:</b>		
Changes Name, Publication date of prior filing:	FILING	Behavioral Health Receiving Centers Standards, Filing No. 52768, Published 06/01/2020
<b>4. Reason for this change:</b>		
The Division has received several comments that were considered to be useful clarifications, and reasonable requests for change.		
<b>5. Summary of this change:</b>		
This Change to Proposed Rule (CPR): 1) adds additional clarification to the types of assessments that are provided to all individuals entering a Behavioral Crisis Receiving Center (BCRC), 2) provides expected staff to client ratios for all shifts, and 3) provides additional guidance on the exacted availability of a licensed mental health clinician.		

**Fiscal Information**

<b>6. Aggregate anticipated cost or savings to:</b>
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<b>A) State budget:</b>
The changes proposed in this CPR are clarifying and will not place additional financial burdens or savings on state budgets beyond that which has already been identified in the proposed new rule submission.
<b>B) Local government:</b>
The changes proposed in this CPR are clarifying and will not place additional financial burdens or savings on local governments for counties that build a BCRC, beyond that which has already been identified in the proposed new rule submission.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
The changes proposed in this CPR are clarifying and do not change the role small businesses play in the contracting or delivery of BCRC services, and will not place additional financial burdens or savings on small businesses beyond that which has already been identified in the proposed new rule submission.
<b>D) Non-small businesses</b> ("non-small business" means a business employing 50 or more persons):
The changes proposed in this CPR are clarifying and do not change the role non-small businesses play in the contracting or delivery of BCRC services, and will not place additional financial burdens or savings on non-small businesses beyond that which has already been identified in the proposed new rule submission.
<b>E) Persons other than small businesses, non-small businesses, or state or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):
The changes proposed in this CPR are clarifying and do not change the role persons other than small businesses, non-small businesses, or state or local government entities play in the contracting or delivery of BCRC services, and will not place additional financial burdens or savings on persons other than small businesses, non-small businesses, or state or local government entities beyond that which has already been identified in the proposed new rule submission.
<b>F) Compliance costs for affected persons:</b>
No compliance costs are associated with this CPR.
<b>G) Regulatory Impact Summary Table</b> (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)



<b>Regulatory Impact Table</b>			
<b>Fiscal Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fiscal Benefits</b>			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>H) Department head approval of regulatory impact analysis:</b>			
The Executive Director of the Department of Human Services, Ann Williamson, has reviewed and approved this fiscal analysis.			
<b>7. A) Comments by the department head on the fiscal impact the rule may have on businesses:</b>			
Businesses will not be financially impacted by this CPR.			
<b>B) Name and title of department head commenting on the fiscal impacts:</b>			
Ann Williamson, Executive Director			

**Citation Information**

**8. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):**

Section 62A-15-118		
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**Public Notice Information**

**10. The public may submit written or oral comments to the agency identified in box 1.** (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

**A) Comments will be accepted until:** 08/30/2020

**B) A public hearing (optional) will be held:**

**11. This rule change MAY become effective on:** 09/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 11, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Mark Brasher, Deputy Director	<b>Date:</b>	07/14/2020
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**R523. Human Services, Substance Abuse and Mental Health. R523-21. Behavioral Health Receiving Centers Standards.**

**R523-21-1. Authority.**

(1) This rule establishes guidelines, procedures and standards for the establishment of Behavioral Health Receiving Centers as directed in Section 62A-15-118.

**R523-21-2. Purpose.**

(1) This rule is enacted for the purpose of promoting the availability of comprehensive behavioral health crisis services throughout the state, by:

(a) creating standards of certification, care and practice for behavioral health receiving centers;

(b) outlining the responsibilities of behavioral health receiving centers including interaction with the civil commitment and assisted outpatient court ordered system; and

(c) awarding grants as directed by Section 62A-15-118, by application through qualified Local Mental Health Authorities.

NOTICES OF CHANGES IN PROPOSED RULES

**R523-21-3. Definitions.**

(1) General Provision means the general provisions described in the Behavioral Health Crisis Response Systems Standards rule in Section R523-17-5, General Provisions.

**R523-21-4. Minimum Guidelines and Standards of Care.**

(1) ~~[A grantee shall ensure that funded receiving]~~Receiving centers will adhere to the following:

(a) Accept each referral, offer walk-in and first responder drop-offs options, and ~~[assess]~~provide both a basic medical and targeted biopsychosocial assessments for individuals who walk in or are dropped off for services.

(b) Prohibit any medical clearance requirements prior to admission.

(c) Assess and support individuals for medical stability while in the program.

(d) Design services to address mental health and substance use crisis issues.

(e) Employ staff at a capacity able to assess an individual's physical health needs, and deliver care for most minor physical health challenges with an identified path to transfer the individual to additional medically staffed services if needed.

(f) Staff the center at all times, 24 hours a day, 7 days a week, 365 days a year, with a multidisciplinary team capable of meeting the needs of individuals experiencing any level of behavioral health crisis in the community. Minimum staffing ratios for shifts excluding graveyard shifts should be 6 staff to 16 clients, or 4 staff to 8 clients, and graveyard shifts with ratios of 5 staff to 16 clients, or 4 staff to 8 clients. Multi-disciplinary teams must ~~[including]~~include:

(i) psychiatrists or psychiatric nurse practitioners, which may satisfy the a center's staffing requirement though the use of telehealth~~[;]~~,

(ii) registered nurses~~[;]~~,

(iii) licensed and credentialed ~~[clinicians]~~mental health therapists capable of completing assessments, with at least 1 licensed mental health therapist present 24 hours a day, 7 days a week,

(iv) a licensed mental health therapist may be off-site during graveyard hours, if they can respond on-site within an average response time of 30 minutes~~[;]~~, and

~~[(iv)]~~(v) certified Peer Support Specialists with lived behavioral health experience similar to the experience of the population served.

(g) Structure the center to accept each referral including any referral from a first responder.

(h) Provide recliners for up to 23 hours for assessment, observation, stabilization, crisis management and support.

(i) Screen for suicide risk, and complete comprehensive suicide risk assessments and planning when clinically indicated.

(j) Screen for violence risk, and complete more comprehensive violence risk assessments and planning when clinically indicated.

(k) Provide or coordinate with the broad health and behavioral health treatment and recovery system in order to provide connection to appropriate levels of care including immediate placements into services such as detox units, social detox, withdrawal management, medication management, residential treatment, intensive outpatient treatment for mental illness or substance use disorders, and warm-handoffs or referrals to ongoing, long term, services~~[;]~~ such as case management, ~~[counseling]~~peer support, psychotherapy, medication management, medication assisted treatment, addiction services, housing and employment.

**KEY: behavioral health receiving center standards, behavioral health crisis centers, crisis receiving centers, crisis centers**

**Date of Enactment or Last Substantive Amendment: 2020**

**Authorizing, and Implemented or Interpreted Law: 62A-15-118**

**End of the Notices of Changes in Proposed Rules Section**

## NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a **120-DAY (EMERGENCY) RULE** when it finds that regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **PROPOSED RULE**, a **120-DAY RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **120-DAY RULE** including the name of a contact person, justification for filing a **120-DAY RULE**, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **120-DAY RULE** is printed. New text is underlined (example) and text to be deleted is struck out with brackets surrounding the deleted text (~~example~~). An emergency rule that is new is entirely underlined. Likewise, an emergency rule that repeals an existing rule shows the text completely struck out. A row of dots in the text (. . . . .) indicates that unaffected text was removed to conserve space.

A **120-DAY RULE** is effective when filed with the Office of Administrative Rules, or on a later date designated by the agency. A **120-DAY RULE** is effective for 120 days or until it is superseded by a permanent rule. Because of its temporary nature, a **120-DAY RULE** is not codified as part of the *Utah Administrative Code*.

The law does not require a public comment period for **120-DAY RULES**. However, when an agency files a **120-DAY RULE**, it may file a **PROPOSED RULE** at the same time, to make the requirements permanent.

Emergency or **120-DAY RULES** are governed by Section 63G-3-304, and Section R15-4-8.

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R414-42	Filing No. 52935

### Agency Information

<b>1. Department:</b>	Health	
<b>Agency:</b>	Health Care Financing, Coverage and Reimbursement Policy	
<b>Building:</b>	Cannon Health Building	
<b>Street address:</b>	288 N 1460 West	
<b>Mailing address:</b>	PO Box 143102	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-3102	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Please address questions regarding information on this notice to the agency.		

### General Information

<b>2. Rule or section catchline:</b>
R414-42. Telemedicine

<b>3. Effective Date:</b>
07/13/2020
<b>4. Purpose of the new rule or reason for the change:</b>
This emergency rule filing supersedes the previous Filing No. 52797 that was effective 05/27/2020. The purpose of this change is to allow easier access to Medicaid services during the Coronavirus (COVID-19) Pandemic. (EDITOR'S NOTE: The emergency filing on Rule R414-42 that was effective on 05/27/2020 was published under Filing No. 52797 in the June 15, 2020, issue of the Bulletin.)
<b>5. Summary of the new rule or change:</b>
This emergency rule filing provides members easier access to services through teledentistry and synchronous telehealth. It further specifies that coverage for telehealth is the same as coverage for any given service, changes the title to "telehealth", includes new definitions, and makes other technical changes.
<b>6. Regular rulemaking would:</b>
X cause an imminent peril to the public health, safety, or welfare;
cause an imminent budget reduction because of budget restraints or federal requirements; or

place the agency in violation of federal or state law.
<b>Specific reason and justification:</b>
This emergency rule filing is necessary to provide Medicaid members access to services during the COVID-19 Pandemic, and to supersede the emergency filing that became effective 05/27/2020, as funding for "asynchronous telehealth" has been removed from the original building block for telehealth services.

**Fiscal Information**

<b>7. Aggregate anticipated cost or savings to:</b>
<b>A) State budget:</b>
There is an estimated total cost of \$78,900 through statewide utilization.
<b>B) Local governments:</b>
There is no impact on local governments because they neither fund nor provide telehealth under the Medicaid program.
<b>C) Small businesses</b> ("small business" means a business employing 1-49 persons):
Small businesses may see a share of revenue through statewide utilization based on the total amount of \$78,900.
<b>D) Persons other than small businesses, non-small businesses, state, or local government entities</b> ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <b>agency</b> ):
Medicaid providers may see a share of revenue through statewide utilization based on the total amount of \$78,900. Medicaid members, however, will not see a fiscal impact as their services will remain the same even with the change in venue.
<b>8. Compliance costs for affected persons:</b>
There are no compliance costs to a single Medicaid member because services will remain the same even with the change in venue.
<b>9. A) Comments by the department head on the fiscal impact this rule may have on businesses:</b>
Businesses may see a share of revenue through their use of the new telehealth services.
<b>B) Name and title of department head commenting on the fiscal impacts:</b>
Joseph K. Miner, MD, Executive Director

**Citation Information**

<b>10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):</b>		
Section 26-1-5	Section 26-18-3	Section 26-18-13

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Joseph K. Miner, MD, Executive Director	<b>Date:</b>	07/12/2020
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**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

**R414-42. Tele[medicine]health.**

**R414-42-1. Introduction and Authority.**

This rule outlines [eligibility,]access requirements, coverage, limitations, and reimbursement for telehealth services[telemedicine]. This rule is authorized by Section 26-18-13.

**R414-42-2. Definitions.**

(1) "Tele[medicine]health services" means the transmission of health-related services or information through the use of electronic communication or information technology[is two-way, real-time interactive communication between the member and the physician or authorized provider at the distant site. This electronic communication uses interactive telecommunications equipment that includes, at a minimum, audio and video equipment].

[ (2) "Authorized provider" means a provider in compliance with requirements as specified in Section I: General Information of the Utah Medicaid Provider Manual, Chapter 3, Provider Participation and Requirements.

(3) "Distant site" is the location of the provider when delivering the service via the telecommunications system.]

(2) "Teledentistry" means the use of information technology and telecommunications for dental care, consultation, and education.

[ (4) "Originating site" is the location of the Medicaid member at the time the service is furnished via a telecommunications system.]

([5]3) "Telepsychiatric consultation" means a consultation between a [physician]licensed provider and a board-certified psychiatrist that utilizes:

(a) the health records of the [patient]member, provided from the [patient]member or the referring [physician]provider; and

(b) a written, evidence-based [patient]member questionnaire.

(4) "Authorized provider" means a provider that signs a provider agreement with the Utah Medicaid Program, in which the provider agrees to abide by all state and federal laws related to the Medicaid program.

(5) "Distant site" means the physical location of a licensed provider that delivers health care services via a telecommunication system.

(6) "Originating site" means the physical location of a member at the time the service is being furnished via a telecommunication system.

(7) "Synchronous interaction" means real-time communication through interactive technology that enables a provider at a distant site and a member at an originating site to interact simultaneously through two-way audio or video transmission.

**R414-42-3. Covered Services.**

~~[Covered services may be delivered by means of telemedicine]~~ A licensed provider may deliver services via synchronous telehealth, as clinically appropriate. Services include consultation services, evaluation and management services, teledentistry services, mental health services, substance use disorder services, and telepsychiatric consultations.

**R414-42-4. Limitations.**

(1) Tele~~[medicine]~~health services ~~[encounters]~~ must comply with privacy and security measures set forth under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical Health (HITECH) Act, Pub. L. No. 111-5, 123 Stat. 226, 467, ~~[as amended]~~ to ensure that all patient communications and records, including recordings of tele~~[medicine]~~health encounters, are secure and remain confidential. The provider is responsible to ensure the encounter is HIPAA compliant. Security measures for transmission may include password protection, encryption, and other reliable authentication techniques.

(2) A provider must comply ~~[Compliance]~~ with the Utah Health Information Network (UHIN) standards for telehealth ~~[must be~~

~~maintained]~~. These standards provide a uniform standard of billing for claims and encounters delivered via telehealth.

(3) The originating site receives no reimbursement for the use of tele~~[medicine]~~health services.

(4) Medicaid does not cover services via telehealth which are not otherwise covered.

**R414-42-5. Reimbursement of Services.**

The Department pays the lesser of the amount billed or the rate on the fee schedule. A provider ~~[shall]~~may not charge the Department a fee that exceeds the provider's usual and customary charges for the provider's private pay patients.

**KEY: Medicaid**

**Date of Enactment or Last Substantive Amendment: July 13, 2020**

**Notice of Continuation: July 2, 2018**

**Authorizing, and Implemented or Interpreted Law: 26-18-13**

**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.

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R131-15	Filing No. 50226

### Agency Information

<b>1. Department:</b>	Capitol Preservation Board (State)	
<b>Agency:</b>	Administration	
<b>Building:</b>	State Capitol	
<b>Street address:</b>	350 N State Street	
<b>City, state, zip:</b>	Salt Lake City, UT 84103	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Michael Kelley		mkelley@agutah.gov
Please address questions regarding information on this notice to the agency.		

### General Information

<b>2. Rule catchline:</b>
R131-15. State Construction Contracts and Drug and Alcohol Testing
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
The purpose of this rule is to comply with the provisions of Section 63G-6a-1303. This rule is authorized under Subsection 63C-9-301(3)(a).
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
There have been no written comments received during and since the last five-year review of this rule.

<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
The statutes listed above mandates the rule. Therefore, this rule should be continued.

### Agency Authorization Information

<b>Agency head or designee, and title:</b>	Allyson Gamble, Executive Director	<b>Date:</b>	06/10/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R156-60d	Filing No. 50298

### Agency Information

<b>1. Department:</b>	Commerce	
<b>Agency:</b>	Occupational and Professional Licensing	
<b>Building:</b>	Heber M. Wells Building	
<b>Street address:</b>	160 E 300 S	
<b>City, state, zip:</b>	Salt Lake City UT 84111-2316	
<b>Mailing address:</b>	PO Box 146741	
<b>City, state, zip:</b>	Salt Lake City UT 84114-6741	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Jennifer Falkenrath	801-530-7632	jzaelit@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>	
R156-60d. Substance Use Disorder Counselor Act Rule	
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>	
Title 58, Chapter 60, Part 5, provides for the licensure and regulation of various classifications of substance use disorder counselor. Subsection 58-1-106(1)(a) provides that the Division of Occupational and Professional Licensing may adopt and enforce rules to administer Title 58. Subsection 58-60-503(3) provides that the Substance Use Disorder Counselor Board's duties and responsibilities shall be in accordance with Section 58-1-202. Subsection 58-1-202(1)(a) provides that the Substance Use Disorder Counselor Board's duties, functions, and responsibilities includes recommending to the director appropriate rules. This rule was enacted to clarify the provisions of Title 58, Chapter 60, Part 5, with respect to various classifications of substance use disorder counselor.	
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>	
Since this rule was last reviewed in January 2016, the Division has received no written comments with respect to this rule.	
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>	
This rule should be continued as it provides a mechanism to inform potential licensees of the requirements for licensure as allowed under statutory authority provided in Title 58, Chapter 60, Part 5, with respect to various classifications of substance use disorder counselor. This rule should also be continued as it provides information to ensure applicants for licensure are adequately trained and meet minimum licensure requirements, and provides licensees with information concerning unprofessional conduct, definitions, and ethical standards relating to the profession.	

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Mark B. Steinagel, Director	<b>Date:</b>	07/14/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R277-100	Filing No. 50371

**Agency Information**

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state, zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state, zip:</b>	Salt Lake, UT 84114-4200	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>	
R277-100. Definitions for Utah State Board of Education (Board) Rules	
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>	
This rule is authorized by Utah Constitution, Article X, Section 3, which vests general control and supervision of public education in the Board; and Subsection 53E-3-401(4) which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.	
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>	
There were no written comments received.	
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>	
This rule continues to be necessary because it provides definitions that are used in the Board rules beginning with Title R277. Therefore, this rule should be continued.	

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent	<b>Date:</b>	07/14/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R277-602	Filing No. 50502



**Agency Information**

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state, zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R277-602. Carson Smith Scholarships -- Funding and Procedures
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is authorized by Utah Constitution, Article X, Section 3, which vests general control and supervision of the public school system under the Board; Subsection 53E-3-401(4) which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and Section 53F-4-305, which authorizes the Board to make rules establishing: the eligibility of students to participate in the scholarship program; and the application process for the scholarship program.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
There were no written comments received.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule continues to be necessary because it outlines responsibilities of a parent, a local education agency (LEA), an eligible private school, and the Board in providing choice for a parent of a special needs student who chooses to have a student served in a private school; and provides accountability for the citizenry in the administration and distribution of the scholarship funds. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent	<b>Date:</b>	07/14/2020
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R277-606</b>	<b>Filing No. 50500</b>
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**Agency Information**

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state, zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R277-606. Dropout Prevention and Recovery Program
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is authorized by Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board; and Section 53A-15-1903, which requires the Board to develop rules to set policies related to a dropout prevention and recovery program; Section 53A-1-401, which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
There were no written comments received.
<b>5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:</b>
This rule continues to be necessary because it develops policies related to a local education agencies (LEA's) dropout

prevention and recovery program; and sets reporting requirements for LEAs with a dropout prevention and recovery program. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Superintendent	<b>Date:</b>	07/14/2020
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R277-707</b>	<b>Filing No. 50526</b>
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**Agency Information**

<b>1. Department:</b>	Education	
<b>Agency:</b>	Administration	
<b>Building:</b>	Board of Education	
<b>Street address:</b>	250 E 500 S	
<b>City, state, zip:</b>	Salt Lake City, UT 84111	
<b>Mailing address:</b>	PO Box 144200	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-4200	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R277-707. Enhancement for Accelerated Students Program
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
This rule is authorized by Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the Board; Section 53F-2-408 which requires the Board to establish a distribution formula for the expenditure of funds appropriated for the Enhancement for Accelerated Students Program; and Subsection 53E-3-401(4) which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.
<b>4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:</b>
There were no written comments received.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

This rule continues to be necessary because it specifies the procedures for distributing funds appropriated under Section 53F-2-408 to local education agencies (LEAs). The intent of this appropriation is to provide resources to LEAs to enhance the academic growth of students whose academic achievement is accelerated. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Angie Stallings, Deputy Director	<b>Date:</b>	07/14/2020
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R356-1</b>	<b>Filing No. 50847</b>
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**Agency Information**

<b>1. Department:</b>	Governor	
<b>Agency:</b>	Criminal and Juvenile Justice (State Commission on)	
<b>Room no.:</b>	330	
<b>Building:</b>	Senate Building	
<b>Street address:</b>	Utah State Capitol Complex, 350 N State Street	
<b>City, state, zip:</b>	Salt Lake City, UT 84114	
<b>Mailing address:</b>	PO Box 142330	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-2330	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Kim Cordova	801-425-7346	kimcordova@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R356-1. Procedures for the Calculation and Distribution of Funds to Reimburse County Correctional Facilities Housing State Probationary Inmates or State Parole Inmates
<b>3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:</b>
Subsection 64-13e-104(5)(b) establishes calculations to reimburse counties for incarcerating inmates.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

No written comments have been received.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

The ability to house state inmates in county correctional facilities is a necessary and crucial function of the criminal justice system. Due to the infrastructure of this system, state and local governments must support and collaborate with each other to maintain the work of the courts, county jails, and the Department of Corrections. Our communities, as well as the administration of justice rely in this system and it must be maintained. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Kim Cordova, Executive Director	<b>Date:</b>	07/09/2020
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R434-45</b>	<b>Filing No. 51092</b>
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**Agency Information**

<b>1. Department:</b>	Health	
<b>Agency:</b>	Family Health and Preparedness, Primary Care and Rural Health	
<b>Room no.:</b>	361	
<b>Street address:</b>	3760 S Highland Drive	
<b>City, state, zip:</b>	Salt Lake City, UT 84106	
<b>Mailing address:</b>	PO Box 142005	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-2005	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ashley Moretz	801-273-6605	amoretz@utah.gov

Please address questions regarding information on this notice to the agency.

**General Information**

<b>2. Rule catchline:</b>
R434-45. Rural Physician Loan Repayment Program Rules

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

This rule is required by Subsection 26-46a-103(6)(a) and is promulgated under the authority of Sections 26-1-5 and 26-1-17. Rule R434-45 implements the Rural Physician Loan Repayment Program, which governs the award of funds to rural physicians to repay eligible bona fide loans taken for educational expenses.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

No written comments have been received since the last five-year review of this rule from interested persons supporting or opposing this rule.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

This rule should be continued because it has met the requirements of its authorizing statute and this rule has facilitated a well-administered program that meets the statutory purposes of Sections 26-1-5 and 26-1-17, awarding funds to rural physicians to repay eligible bona fide loans taken for educational expenses.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Joseph Miner, MD, Executive Director	<b>Date:</b>	06/30/2020
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	<b>R628-15</b>	<b>Filing No. 51521</b>
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**Agency Information**

<b>1. Department:</b>	Money Management Council	
<b>Agency:</b>	Administration	
<b>Room no.:</b>	Room 180	
<b>Building:</b>	State Capitol	
<b>Street address:</b>	350 N State Street	
<b>City, state, zip:</b>	Salt Lake City, UT 84114	
<b>Mailing address:</b>	PO Box 2315	
<b>City, state, zip:</b>	Salt Lake City, Utah 84114-2315	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Ann Pedroza	801-538-1883	Apedroza@utah.gov

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Please address questions regarding information on this notice to the agency.

**General Information**

**2. Rule catchline:**

R628-15. Certification as an Investment Adviser

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

The definition of a certified investment adviser under Section 51-7-3 requires that any adviser wishing to become certified to do business with Utah public treasurers must meet criteria of Money Management Council (Council) rule. Section 51-7-11.5 requires certified investment advisers to meet requirements of Council rule. In addition, Subsection 51-7-18(2) gives the authority to make rules governing certified investment advisers and provides requirements for the regulation and qualification of certified investment advisers.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

There have been no written comments received on this rule since the last five-year review.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

This rule needs to be continued to provide requirements for certification which include insurance coverage, minimum accounting standards, forum and methods for dispute resolution and requiring Investment advisers to be familiar with the Act and rules of the Council, to help protect and safeguard public funds as there are millions of dollars being invested by Certified Investment Advisers on behalf of public entities in the . The Council reviewed this rule in the last meeting and agreed that the requirements for certification are needed and that the rule is up to date.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Douglas L. DeFries, Chairman	<b>Date:</b>	07/10/2020
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	R895-5	<b>Filing No.</b>	52088
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**Agency Information**

<b>1. Department:</b>	Technology Services
<b>Agency:</b>	Administration

<b>Room no.:</b>	6th Floor	
<b>Street address:</b>	1 State Office Building	
<b>City, state, zip:</b>	Salt Lake City, UT 84114	
<b>Mailing address:</b>	1 State Office Building, 6th Floor	
<b>City, state, zip:</b>	Salt Lake City, UT 84114	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Stephanie Weteling	801-538-3284	stephanie@utah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

**2. Rule catchline:**

R895-5. Acquisition of Information Technology

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

The rule is issued by the Chief Information Officer under the authority of Sections 63F-1-205 and 63F-1-206 of the Utah Technology Governance Act, and Section 63G-3-201 of the Utah Rulemaking Act.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

No written comments were received during and since the last five-year review of this rule from interested persons supporting or opposing the rule.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

The purpose of this rule is to identify the standards under which an agency of the executive branch must obtain approval from the Chief Information Officer before acquiring information technology and technology related services. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Michael Hussey, Executive Director and CIO	<b>Date:</b>	07/07/2020
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**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

<b>Utah Admin. Code Ref (R no.):</b>	R920-8	<b>Filing No.</b>	52124
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**Agency Information**

<b>1. Department:</b>	Transportation	
<b>Agency:</b>	Operations, Traffic and Safety	
<b>Room no.:</b>	First Floor Administration Suite	
<b>Building:</b>	Calvin Rampton	
<b>Street address:</b>	4501 S 2700 W	
<b>City, state, zip:</b>	Salt Lake City, UT 84129	
<b>Mailing address:</b>	PO Box 148455	
<b>City, state, zip:</b>	Salt Lake City, UT 84114-8455	
<b>Contact person(s):</b>		
<b>Name:</b>	<b>Phone:</b>	<b>Email:</b>
Linda Hull	801-965-4253	lhull@utah.gov
James Palmer	801-965-4197	jimpalmer@agutah.gov
Lori Edwards	801-965-4048	loriedwards@agutah.gov
Please address questions regarding information on this notice to the agency.		

**General Information**

<b>2. Rule catchline:</b>
R920-8. Flashing Light Usage on Highway Construction or Maintenance Vehicles

**3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:**

Section 41-6a-1617 requires the Department of Transportation (Department) to, "make rules providing specifications governing the design and use of special flashing lights on vehicles engaged in highway construction or maintenance operations." This rule satisfies that requirement.

**4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:**

The Department has received no written comments during and since the last five-year review of this rule from interested persons supporting or opposing this rule.

**5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:**

Section 41-6a-1617, which requires the Department to maintain this rule, is still effective law. Therefore, this rule should be continued.

**Agency Authorization Information**

<b>Agency head or designee, and title:</b>	Carlos M. Braceras, Executive Director	<b>Date:</b>	07/08/2020
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**End of the Five-Year Notices of Review and Statements of Continuation Section**



## NOTICES OF FIVE-YEAR EXPIRATIONS

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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).

NOTICE OF EXPIRED RULE		
Utah Admin. Code Ref (R no.):	R357-10	Filing No. 50851

### Agency Information

<b>1. Department:</b>	Governor
<b>Agency:</b>	Economic Development
<b>Room no.:</b>	Third Floor
<b>Street address:</b>	60 E South Temple
<b>City, state, zip:</b>	Salt Lake City, UT 84111
<b>Mailing address:</b>	60 E South Temple, Third Fl
<b>City, state, zip:</b>	Salt Lake City, UT 84111

Contact person(s):		
Name:	Phone:	Email:
Nancy Lancaster	801-957-7102	nllancaster@utah.gov

### General Information

<b>2. Title of rule (catchline):</b>	R357-10. Small Business Jobs Act or Utah New Market Tax Credit
<b>3. Effective Date:</b>	07/09/2020
<b>4. Summary:</b>	The five-year review was not filed by the deadline so the rule has expired and will be removed from the Administrative Code.

**End of the Notices of Notices of Five Year Expirations Section**





## NOTICES OF RULE EFFECTIVE DATES

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State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Office of Administrative Rules that the rules listed below have been made effective.

**NOTICES OF EFFECTIVE DATE** are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

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### Agriculture and Food

#### Animal Industry

No. 52706 (New Rule): R58-26 Custom Exempt Slaughter Verification of Ownership  
Published: 5/15/2020  
Effective: 7/7/2020

#### Chemistry Laboratory

No. 52729 (Repeal): R63-1 Fee Schedule  
Published: 5/15/2020  
Effective: 7/7/2020

### Commerce

#### Consumer Protection

No. 52767 (New Rule): R152-57 Maintenance Funding Practices Act Rule  
Published: 6/1/2020  
Effective: 7/9/2020

#### Real Estate

No. 52654 (Amendment): R162-2c Justin Barney  
Published: 5/15/2020  
Effective: 7/8/2020

### Education

#### Administration

No. 52770 (Amendment): R277-101 Public Participation in Utah State Board of Education Meetings  
Published: 6/1/2020  
Effective: 7/9/2020

No. 52771 (Amendment): R277-301 Educator Licensing  
Published: 6/1/2020  
Effective: 7/9/2020

No. 52773 (New Rule): R277-302 Educator Licensing Renewal  
Published: 6/1/2020  
Effective: 7/9/2020

No. 52774 (Amendment): R277-306 Educator Preparation Programs for School Psychologists, Audiologists, Speech-Language Pathologists, Speech-Language Technicians, Counselors, and School Social Workers  
Published: 6/1/2020  
Effective: 7/9/2020

No. 52803 (Amendment): R277-309 Appropriate Licensing and Assignment of Teachers  
Published: 6/15/2020  
Effective: 7/23/2020

No. 52775 (New Rule): R277-326 Early Learning Professional Learning Grant Program  
Published: 6/1/2020  
Effective: 7/9/2020

No. 52776 (New Rule): R277-327 School Leadership Development Grant.  
Published: 6/1/2020  
Effective: 7/9/2020

No. 52777 (Amendment): R277-406 Early Literacy Program and Benchmark Reading Assessment  
Published: 6/1/2020  
Effective: 7/9/2020

No. 52769 (Amendment): R277-419 Pupil Accounting  
Published: 6/1/2020  
Effective: 7/9/2020

NOTICES OF RULE EFFECTIVE DATES

No. 52778 (New Rule): R277-476 Civics Engagement Pilot Program.  
Published: 6/1/2020  
Effective: 7/9/2020

No. 52779 (Amendment): R277-489 Kindergarten Entry and Exit Assessment - Early Intervention Program  
Published: 6/1/2020  
Effective: 7/9/2020

No. 52780 (Amendment): R277-490 Beverley Taylor Sorenson Elementary Arts Learning Program (BTSALP)  
Published: 6/1/2020  
Effective: 7/9/2020

No. 52781 (Repeal): R277-493 Kindergarten Supplemental Enrichment Program  
Published: 6/1/2020  
Effective: 7/9/2020

No. 52782 (Repeal): R277-500 Educator Licensing Renewal, Timelines, and Required Fingerprint Background Checks  
Published: 6/1/2020  
Effective: 7/9/2020

No. 52783 (Amendment): R277-603 Autism Awareness Restricted Account Distribution  
Published: 6/1/2020  
Effective: 7/9/2020

Financial Institutions

Nondepository Lenders

No. 52788 (Repeal): R343-10 Title Lenders Registration with the Nationwide Database  
Published: 6/15/2020  
Effective: 7/23/2020

Governor

Economic Development

No. 52785 (New Rule): R357-29 Rural County Grant Program Rule  
Published: 6/1/2020  
Effective: 7/9/2020

Health

Disease Control and Prevention, Health Promotion

No. 52772 (Amendment): R384-201 School-Based Vision Screening for Students in Public Schools  
Published: 6/1/2020  
Effective: 7/9/2020

Health Care Financing, Coverage and Reimbursement Policy

No. 52745 (Amendment): R414-401 Assessment  
Published: 5/15/2020  
Effective: 7/1/2020

No. 52746 (Amendment): R414-506 Hospital Provider Assessments  
Published: 5/15/2020  
Effective: 7/1/2020

No. 52747 (Amendment): R414-517 Inpatient Hospital Provider Assessments  
Published: 5/15/2020  
Effective: 7/1/2020

Insurance

Administration

No. 52794 (Amendment): R590-131 Accident and Health Coordination of Benefits Rule  
Published: 6/15/2020  
Effective: 7/22/2020

No. 52802 (Amendment): R590-237 Access to Health Care Providers in Rural Counties  
Published: 6/15/2020  
Effective: 7/22/2020

Natural Resources

Oil, Gas and Mining; Oil and Gas

No. 52804 (Amendment): R649-1 Definitions  
Published: 6/15/2020  
Effective: 7/27/2020

No. 52805 (Amendment): R649-2 General Rules  
Published: 6/15/2020  
Effective: 7/27/2020

No. 52806 (Amendment): R649-3 Drilling and Operating Practices  
Published: 6/15/2020  
Effective: 7/27/2020

Navajo Trust Fund

Trustees

No. 52699 (Amendment): R661-6 Utah Navajo Trust Fund Higher Education Financial Assistance and Scholarship Program  
Published: 5/15/2020  
Effective: 7/17/2020

No. 52700 (Amendment): R661-7 Utah Navajo Trust Fund Housing Projects Program  
Published: 5/15/2020  
Effective: 7/17/2020

No. 52701 (Amendment): R661-9 Funding  
Published: 5/15/2020  
Effective: 7/17/2020

No. 52702 (Amendment): R661-10 UNTF STT Funding  
Published: 5/15/2020  
Effective: 7/17/2020

No. 52703 (Amendment): R661-13 Veterans' Housing Program Policy  
Published: 5/15/2020  
Effective: 7/17/2020

Public Service Commission

Administration  
No. 52732 (Amendment): R746-8 Calculation and Application of UUSF Surcharge  
Published: 6/1/2020  
Effective: 7/8/2020

Utility Facility Review Board  
No. 52739 (New Rule): R747-1 Utility Facility Review Board Rule  
Published: 6/1/2020  
Effective: 7/9/2020

Tax Commission

Auditing  
No. 52764 (Amendment): R865-19S-35 Residential or Commercial Use of Gas, Electricity, Heat, Coal, Fuel Oils or Other Fuels Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-104  
Published: 6/1/2020  
Effective: 7/9/2020

No. 52763 (Amendment): R865-19S-85 Sales and Use Tax Exemptions for Certain Purchases by a Manufacturing Facility Pursuant to Utah Code Ann. Section 59-12-104  
Published: 6/1/2020  
Effective: 7/9/2020

No. 52762 (Amendment): R865-19S-99 Sales and Use Taxes on Vehicles Purchased in Another State Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-104  
Published: 6/1/2020  
Effective: 7/9/2020

Motor Vehicle Enforcement

No. 52761 (Amendment): R877-23V-23 Secure Areas  
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No. 52694 (Amendment): R877-23V-24 Advisory Board Procedures  
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Transportation Commission

Administration  
No. 52798 (Repeal and Reenact): R940-3 Procedures for Transportation Infrastructure Loan Fund Assistance  
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**End of the Notices of Rule Effective Dates Section**